

**1992**

**SESSION LAWS**

OF THE

**STATE OF WASHINGTON**

REGULAR SESSION  
FIFTY-SECOND LEGISLATURE  
Convened January 13, 1992. Adjourned March 12, 1992.



Published at Olympia by the Statute Law Committee under  
Chapter 6, Laws of 1969.

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Code Reviser

## WASHINGTON SESSION LAWS GENERAL INFORMATION

### 1. EDITIONS AVAILABLE.

- (a) *General Information.* The session laws are printed successively in two editions:
- (i) a temporary pamphlet edition consisting of a series of one or more paper bound pamphlets, which are published as soon as possible following the session, at random dates as accumulated; followed by
  - (ii) a permanent bound edition containing the accumulation of all laws adopted in the legislative session. Both editions contain a subject index and tables indicating code sections affected.
- (b) *Temporary pamphlet edition—where and how obtained—price.* The temporary session laws may be ordered from the Statute Law Committee, Legislative Building, P.O. Box 40552, Olympia, Washington 98504-0552 at \$5.40 per set (\$5.00 plus \$.40 for state and local sales tax of 7.9%). All orders must be accompanied by payment.
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### 2. PRINTING STYLE — INDICATION OF NEW OR DELETED MATTER

Both editions of the session laws present the laws in the form in which they were enacted by the legislature. This style quickly and graphically portrays the current changes to existing law as follows:

- (a) In amendatory sections
- (i) underlined matter is new matter.
  - (ii) ~~deleted matter is ((lined out and bracketed between double parentheses)).~~
- (b) Complete new sections are prefaced by the words NEW SECTION.

### 3. PARTIAL VETOES

- (a) Vetoed matter is *printed in bold italics*.
- (b) Pertinent excerpts of the governor's explanation of partial vetoes are printed at the end of the chapter concerned.

### 4. EDITORIAL CORRECTIONS. Words and clauses inserted in the session laws under the authority of RCW 44.20.060 are enclosed in [brackets].

### 5. EFFECTIVE DATE OF LAWS

- (a) The state Constitution provides that unless otherwise qualified, the laws of any session take effect ninety days after adjournment sine die. The Secretary of State has determined the pertinent date for the Laws of the 1992 regular session to be June 11, 1992 (midnight June 10th).
- (b) Laws that carry an emergency clause take effect immediately upon approval by the Governor.
- (c) Laws that prescribe an effective date, take effect upon that date.

### 6. INDEX AND TABLES

A cumulative index and tables of all 1992 laws may be found at the back of the final pamphlet edition and the permanent bound edition.

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## CHAPTER 1

[Initiative 120]

## REPRODUCTIVE PRIVACY ACT

Effective Date: 12/24/91

AN ACT Relating to reproductive privacy; adding new sections to chapter 9.02 RCW; repealing RCW 9.02.010, 9.02.020, 9.02.030, 9.02.040, 9.02.060, 9.02.070, 9.02.080, and 9.02.090; and prescribing penalties.

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

**NEW SECTION. Sec. 1.** The sovereign people hereby declare that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions.

Accordingly, it is the public policy of the state of Washington that:

(1) Every individual has the fundamental right to choose or refuse birth control;

(2) Every woman has the fundamental right to choose or refuse to have an abortion, except as specifically limited by this act;

(3) Except as specifically permitted by this act, the state shall not deny or interfere with a woman's fundamental right to choose or refuse to have an abortion; and

(4) The state shall not discriminate against the exercise of these rights in the regulation or provision of benefits, facilities, services, or information.

**NEW SECTION. Sec. 2.** The state may not deny or interfere with a woman's right to choose to have an abortion prior to viability of the fetus, or to protect her life or health.

A physician may terminate and a health care provider may assist a physician in terminating a pregnancy as permitted by this section.

**NEW SECTION. Sec. 3.** Unless authorized by section 2 of this act, any person who performs an abortion on another person shall be guilty of a class C felony punishable under chapter 9A.20 RCW.

**NEW SECTION. Sec. 4.** The good faith judgment of a physician as to viability of the fetus or as to the risk to life or health of a woman and the good faith judgment of a health care provider as to the duration of pregnancy shall be a defense in any proceeding in which a violation of this chapter is an issue.

**NEW SECTION. Sec. 5.** Any regulation promulgated by the state relating to abortion shall be valid only if:

(1) The regulation is medically necessary to protect the life or health of the woman terminating her pregnancy,

(2) The regulation is consistent with established medical practice, and

(3) Of the available alternatives, the regulation imposes the least restrictions on the woman's right to have an abortion as defined by this act.

**NEW SECTION. Sec. 6.** No person or private medical facility may be required by law or contract in any circumstances to participate in the performance of an abortion if such person or private medical facility objects to so doing. No person may be discriminated against in employment or professional privileges because of the person's participation or refusal to participate in the termination of a pregnancy.

**NEW SECTION. Sec. 7.** If the state provides, directly or by contract, maternity care benefits, services, or information to women through any program administered or funded in whole or in part by the state, the state shall also provide women otherwise eligible for any such program with substantially equivalent benefits, services, or information to permit them to voluntarily terminate their pregnancies.

**NEW SECTION. Sec. 8.** For purposes of this chapter:

(1) "Viability" means the point in the pregnancy when, in the judgment of the physician on the particular facts of the case before such physician, there is a reasonable likelihood of the fetus's sustained survival outside the uterus without the application of extraordinary medical measures.

(2) "Abortion" means any medical treatment intended to induce the termination of a pregnancy except for the purpose of producing a live birth.

(3) "Pregnancy" means the reproductive process beginning with the implantation of an embryo.

(4) "Physician" means a physician licensed to practice under chapter 18.57 or 18.71 RCW in the state of Washington.

(5) "Health care provider" means a physician or a person acting under the general direction of a physician.

(6) "State" means the state of Washington and counties, cities, towns, municipal corporations, and quasi-municipal corporations in the state of Washington.

(7) "Private medical facility" means any medical facility that is not owned or operated by the state.

**NEW SECTION. Sec. 9.** The following acts or parts of acts are each repealed:

(1) RCW 9.02.010 and 1909 c 249 s 196, Code of 1881 s 821, 1873 p 188 s 42, 1869 p 209 s 40, & 1854 p 81 s 38;

(2) RCW 9.02.020 and 1909 c 249 s 197;

(3) RCW 9.02.030 and 1909 c 249 s 198;

(4) RCW 9.02.040 and 1909 c 249 s 199;

(5) RCW 9.02.060 and 1970 ex.s. c 3 s 1;

(6) RCW 9.02.070 and 1970 ex.s. c 3 s 2;

(7) RCW 9.02.080 and 1970 ex.s. c 3 s 3; and

(8) RCW 9.02.090 and 1970 ex.s. c 3 s 5.

**NEW SECTION. Sec. 10.** This act shall not be construed to define the state's interest in the fetus for any purpose other than the specific provisions of this act.

**NEW SECTION. Sec. 11.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 12.** This act shall be known and may be cited as the Reproductive Privacy Act.

**NEW SECTION. Sec. 13.** Sections 1 through 8 and 10 through 12 of this act are each added to chapter 9.02 RCW.

**CHAPTER 2**

[House Bill 2295]

**LAKE WASHINGTON TECHNICAL COLLEGE CAPITAL APPROPRIATION**

**Effective Date: 2/19/92**

AN ACT Relating to amending the capital appropriation for Lake Washington Technical College; amending 1991 sp.s. c 14 s 31 (uncodified); making appropriations; and declaring an emergency.

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

**Sec. 1.** 1991 sp.s. c 14 s 31 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**

When the transfer of the vocational-technical institutes to the jurisdiction of the state board for community and technical colleges under chapter 238, Laws of 1991 (Engrossed Substitute Senate Bill No. 5184, work force training and education) takes effect, remaining balances in the appropriations in this section shall be transferred to the state board for community and technical colleges.

- (1) Clover Park Vocational Technical Institute business education complex renovation (91-2-001)

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	2,500,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>2,500,000</b>

- (2) Bellingham Vocational Technical Institute student services and administration offices renovation (91-3-002)

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	1,612,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>1,612,000</b>

- (3) Lake Washington ((Vocational)) Technical ((Institute)) College: For the administrative addition, classroom space, and aerospace laboratory

Expenditures from the appropriation in this subsection shall be reduced by any amount spent for the same purpose from the common school construction fund.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	<del>(5,800,000)</del>
		6,851,000
Prior Biennia (Expenditures) . . . . .	\$	4,316,645
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b><del>(10,116,645)</del></b>
		<u>11,167,645</u>

- (4) Renton Vocational Technical Institute: For a business technology building

Expenditures from the appropriation in this subsection shall be reduced by any amount spent for the same purpose from the common school construction fund.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	3,985,000
Prior Biennia (Expenditures) . . . . .	\$	443,000
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>4,428,000</b>

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House January 31, 1992.  
 Passed the Senate February 11, 1992.  
 Approved by the Governor February 19, 1992.  
 Filed in Office of Secretary of State February 19, 1992.

## CHAPTER 3

[Substitute Senate Bill 6186]

EDUCATION ASSOCIATION OFFICIALS—RETIREMENT SERVICE CREDIT  
FOR PERIODS OF UNPAID LEAVE FOR SERVICE AS ELECTED OFFICIAL

Effective Date: 6/11/92

AN ACT Relating to providing service credit for periods of unpaid leave of absence as an elected official of a Washington education association; reenacting and amending RCW 41.32.010; adding new sections to chapter 41.32 RCW; and creating a new section.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 41.32 RCW, under the subchapter heading "provisions applicable to plan I and plan II," to read as follows:

(1) Any member of the retirement system who prior to June 30, 1992, was on a leave of absence authorized by a school district or a community and technical college district to work as an elected official of an education association in the state of Washington shall be granted service credit for that leave period, subject to the conditions and procedures provided in subsections (2) and (3) of this section.

(2) A member shall be granted service credit under subsection (1) of this section for periods of leave prior to June 30, 1992, if the district reported compensation to the department for the period of authorized leave.

(3) Members for whom employer or employee contributions have not yet been submitted for service for leave during the 1990-91 or 1991-92 school year shall have until January 1, 1993, to submit such contributions, with interest as determined by the department, if they wish to receive service credit under this section.

Any member who received a distribution of contributions from the department in 1990 or 1991 as a result of the department's administration of prior law regarding educational association leave shall have the option to establish credit for such service, provided the conditions of this section are met and the member reimburses the department for the amount of contributions distributed, with interest as determined by the department, no later than January 1, 1993.

NEW SECTION. **Sec. 2.** A new section is added to chapter 41.32 RCW, under the subchapter heading "plan I," to read as follows:

(1) A member shall be eligible to receive a maximum of four years of service credit for periods spent after June 30, 1992, on an unpaid leave of absence authorized by a school district or a community and technical college district to work as an elected official of an education association in the state of Washington, subject to the conditions and procedures specified in subsection (2) of this section.

(2) In order to receive credit under subsection (1) of this section, the member must make both the employer and employee contributions, plus interest as determined by the department, within five years of resumption of service or

prior to retirement, whichever comes first. The contributions required for members employed by a school district shall be based on the earnable compensation the member would have received for the position the member occupied immediately prior to taking leave, as established in the district's collective bargaining agreement for nonsupervisory certificated employees. The contributions required for members employed by a community and technical college district shall be based on the average of the member's earnable compensation at both the time the authorized leave of absence was granted and the time the member resumed employment.

**Sec. 3.** RCW 41.32.010 and 1991 c 343 s 3 and 1991 c 35 s 31 are each reenacted and amended to read as follows:

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

(1)(a) "Accumulated contributions" for plan I members, means the sum of all regular annuity contributions with regular interest thereon.

(b) "Accumulated contributions" for plan II members, means the sum of all contributions standing to the credit of a member in the member's individual account together with the regular interest thereon.

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

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

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

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

(6)(a) "Beneficiary" for plan I members, means any person in receipt of a retirement allowance or other benefit provided by this chapter.

(b) "Beneficiary" for plan II members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

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

(8) "Creditable service" means membership service plus prior service for which credit is allowable. This subsection shall apply only to plan I members.

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

(10) "Disability allowance" means monthly payments during disability. This subsection shall apply only to plan I members.

(11)(a) "Earnable compensation" for plan I members, means:

(i) All salaries and wages paid by an employer to an employee member of the retirement system for personal services rendered during a fiscal year. In all

cases where compensation includes maintenance the employer shall fix the value of that part of the compensation not paid in money.

(A) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation and the individual shall receive the equivalent service credit.

(B) If a leave of absence, without pay, is taken by a member for the purpose of serving as a member of the state legislature, and such member has served in the legislature five or more years, the salary which would have been received for the position from which the leave of absence was taken shall be considered as compensation earnable if the employee's contribution thereon is paid by the employee. In addition, where a member has been a member of the state legislature for five or more years, earnable compensation for the member's two highest compensated consecutive years of service shall include a sum not to exceed thirty-six hundred dollars for each of such two consecutive years, regardless of whether or not legislative service was rendered during those two years.

(ii) For members employed less than full time under written contract with a school district, or community college district, in an instructional position, for which the member receives service credit of less than one year in all of the years used to determine the earnable compensation used for computing benefits due under RCW 41.32.497, 41.32.498, and 41.32.520, the member may elect to have earnable compensation defined as provided in RCW ((41.32.014)) 41.32.345. For the purposes of this subsection, the term "instructional position" means a position in which more than seventy-five percent of the member's time is spent as a classroom instructor (including office hours), a librarian, or a counselor. Earnable compensation shall be so defined only for the purpose of the calculation of retirement benefits and only as necessary to insure that members who receive fractional service credit under RCW 41.32.270 receive benefits proportional to those received by members who have received full-time service credit.

(iii) For members who receive service credit pursuant to section 1 or 2 of this act for a period of authorized leave from a school district, the earnable compensation allowable for calculation of the member's average final compensation shall be the salary the member would have been paid by the district for the position the member occupied immediately prior to taking leave, as established in the district's collective bargaining agreement for nonsupervisory certificated employees.

(iv) For members who receive service credit pursuant to section 1 or 2 of this act for a period of authorized leave from a community or technical college district, the earnable compensation allowable for calculation of average final compensation for periods of service authorized under this chapter shall be the

average of the member's compensation earnable at both the time the authorized leave of absence was granted and the time the member resumed employment.

(b) "Earnable compensation" for plan II members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation, to the extent provided above, and the individual shall receive the equivalent service credit.

(ii) In any year in which a member serves in the legislature the member shall have the option of having such member's earnable compensation be the greater of:

(A) The earnable compensation the member would have received had such member not served in the legislature; or

(B) Such member's actual earnable compensation received for teaching and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions.

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

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

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

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

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

(17) "Membership service" means service rendered subsequent to the first day of eligibility of a person to membership in the retirement system: PROVIDED, That where a member is employed by two or more employers the individual shall receive no more than one service credit month during any

calendar month in which multiple service is rendered. The provisions of this subsection shall apply only to plan I members.

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

(19) "Pension reserve fund" is a fund in which shall be accumulated an actuarial reserve adequate to meet present and future pension liabilities of the system and from which all pension obligations are to be paid.

(20) "Prior service" means service rendered prior to the first date of eligibility to membership in the retirement system for which credit is allowable. The provisions of this subsection shall apply only to plan I members.

(21) "Prior service contributions" means contributions made by a member to secure credit for prior service. The provisions of this subsection shall apply only to plan I members.

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

(23) "Regular contributions" means the amounts required to be deducted from the compensation of a member and credited to the member's individual account in the annuity fund. This subsection shall apply only to plan I members.

(24) "Regular interest" means such rate as the director may determine.

(25)(a) "Retirement allowance" for plan I members, means monthly payments based on the sum of annuity and pension, or any optional benefits payable in lieu thereof.

(b) "Retirement allowance" for plan II members, means monthly payments to a retiree or beneficiary as provided in this chapter.

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

(27)(a) "Service" means the time during which a member has been employed by an employer for compensation: PROVIDED, That where a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered.

(b) "Service" for plan II members, means periods of employment by a member for one or more employers for which earnable compensation is earned subject to the following conditions:

(i) A member employed in an eligible position or as a substitute shall receive one service credit month for each month of September through August of the following year if he or she earns earnable compensation for eight hundred ten or more hours during that period and is employed during nine of those months, except that a member may not receive credit for any period prior to the member's employment in an eligible position except as provided in RCW 41.32.812 and 41.50.132;

(ii) If a member is employed either in an eligible position or as a substitute teacher for nine months of the twelve month period between September through August of the following year but earns earnable compensation for less than eight hundred ten hours but for at least six hundred thirty hours, he or she will receive one-half of a service credit month for each month of the twelve month period;

(iii) All other members in an eligible position or as a substitute teacher shall receive service credit as follows:

(A) A service credit month is earned in those calendar months where earnable compensation is earned for ninety or more hours;

(B) A half-service credit month is earned in those calendar months where earnable compensation is earned for at least seventy hours but less than ninety hours; and

(C) A quarter-service credit month is earned in those calendar months where earnable compensation is earned for less than seventy hours.

Any person who is a member of the teachers' retirement system and who is elected or appointed to a state elective position may continue to be a member of the retirement system and continue to receive a service credit month for each of the months in a state elective position by making the required member contributions.

When an individual is employed by two or more employers the individual shall only receive one month's service credit during any calendar month in which multiple service for ninety or more hours is rendered.

The department shall adopt rules implementing this subsection.

(28) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(29) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

(30) "Survivors' benefit fund" means the fund from which survivor benefits are paid to dependents of deceased members. This subsection shall apply only to plan I members.

(31) "Teacher" means any person qualified to teach who is engaged by a public school in an instructional, administrative, or supervisory capacity. The term includes state, educational service district, and school district superintendents and their assistants and all employees certificated by the superintendent of public instruction; and in addition thereto any full time school doctor who is employed by a public school and renders service of an instructional or educational nature.

(32) "Average final compensation" for plan II members, means the member's average earnable compensation of the highest consecutive sixty service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation.

(33) "Retiree" means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

(34) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(35) "Director" means the director of the department.

(36) "State elective position" means any position held by any person elected or appointed to state-wide office or elected or appointed as a member of the legislature.

(37) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(38) "Substitute teacher" means:

(a) A teacher who is hired by an employer to work as a temporary teacher, except for teachers who are annual contract employees of an employer and are guaranteed a minimum number of hours; or

(b) Teachers who either (i) work in ineligible positions for more than one employer or (ii) work in an ineligible position or positions together with an eligible position.

(39)(a) "Eligible position" for plan II members from June 7, 1990, through September 1, 1991, means a position which normally requires two or more uninterrupted months of creditable service during September through August of the following year.

(b) "Eligible position" for plan II on and after September 1, 1991, means a position that, as defined by the employer, normally requires five or more months of at least seventy hours of earnable compensation during September through August of the following year.

(c) For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position.

(d) The elected position of the superintendent of public instruction is an eligible position.

(40) "Plan I" means the teachers' retirement system, plan I providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(41) "Plan II" means the teachers' retirement system, plan II providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

(42) "Education association" means an association organized to carry out collective bargaining activities, the majority of whose members are employees covered by chapter 41.59 RCW or academic employees covered by chapter 28B.52 RCW.

NEW SECTION. Sec. 4. This act shall apply retroactively for periods of leave occurring before the effective date of this act.

Passed the Senate February 18, 1992.

Passed the House March 3, 1992.

Approved by the Governor March 11, 1992.

Filed in Office of Secretary of State March 11, 1992.

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**CHAPTER 4**

[Senate Bill 6457]

**STATE CONVENTION AND TRADE CENTER—APPROPRIATION TO  
PARTIALLY REFUND PARKING GARAGE REVENUE NOTE OBLIGATIONS**

**Effective Date: 3/11/92**

AN ACT Relating to the state convention and trade center; amending RCW 67.40.045; making an appropriation; and declaring an emergency.

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

**Sec. 1.** RCW 67.40.045 and 1991 c 2 s 1 are each amended to read as follows:

(1) The director of financial management, in consultation with the chairpersons of the ways and means committees of the senate and house of representatives, may authorize temporary borrowing from the state treasury for the purpose of covering cash deficiencies in the state convention and trade center account resulting from project completion costs. Subject to the conditions and limitations provided in this section, lines of credit may be authorized at times and in amounts as the director of financial management determines are advisable to meet current and/or anticipated cash deficiencies. Each authorization shall distinctly specify the maximum amount of cash deficiency which may be incurred and the maximum time period during which the cash deficiency may continue. The total amount of borrowing outstanding at any time shall never exceed the lesser of:

(a) \$58,275,000; or

(b) An amount, as determined by the director of financial management from time to time, which is necessary to provide for payment of project completion costs.

(2) Unless the due date under this subsection is extended by statute, all amounts borrowed under the authority of this section shall be repaid to the state treasury by June 30, ((1993)) 1995, together with interest at a rate determined by the state treasurer to be equivalent to the return on investments of the state treasury during the period the amounts are borrowed. Borrowing may be authorized from any excess balances in the state treasury, except the agricultural permanent fund, the Millersylvania park permanent fund, the state university permanent fund, the normal school permanent fund, the permanent common school fund, and the scientific permanent fund.

(3) As used in this section, "project completion" means:

(a) All remaining development, construction, and administrative costs related to completion of the convention center; and

(b) Costs of the McKay building demolition, Eagles building rehabilitation, development of low-income housing, and construction of rentable retail space and an operable parking garage.

(4) It is the intent of the legislature that project completion costs be paid ultimately from the following sources:

(a) \$29,250,000 to be received by the corporation under an agreement and settlement with Industrial Indemnity Co.;

(b) \$1,070,000 to be received by the corporation as a contribution from the city of Seattle;

(c) \$20,000,000 from additional general obligation bonds to be repaid from the special excise tax under RCW 67.40.090;

(d) \$4,765,000 for contingencies and project reserves from additional general obligation bonds to be repaid from the special excise tax under RCW 67.40.090;

(e) \$13,000,000 for conversion of various retail and other space to meeting rooms, from additional general obligation bonds to be repaid from the special excise tax under RCW 67.40.090;

(f) \$13,300,000 for expansion at the 900 level of the facility, from additional general obligation bonds to be repaid from the special excise tax under RCW 67.40.090;

(g) \$10,400,000 for purchase of the land and building known as the McKay Parcel, for development of low-income housing, ~~(and)~~ for development, construction, and administrative costs related to completion of the state convention and trade center, including settlement costs related to construction litigation, and for partially refunding obligations under the parking garage revenue note issued by the corporation to Industrial Indemnity Company in connection with the agreement and settlement identified in (a) of this subsection, from additional general obligation bonds to be repaid from the special excise tax under RCW 67.40.090;

(h) \$300,000 for Eagles building exterior cleanup and repair, from additional general obligation bonds to be repaid from the special excise tax under RCW 67.40.090; and

(i) The proceeds of the sale of any properties owned by the state convention and trade center that are not planned for use for state convention and trade center operations, with the proceeds to be used for development, construction, and administrative costs related to completion of the state convention and trade center, including settlement costs related to construction litigation.

(5) The borrowing authority provided in this section is in addition to the authority to borrow from the general fund to meet the bond retirement and interest requirements set forth in RCW 67.40.060. To the extent the specific conditions and limitations provided in this section conflict with the general conditions and limitations provided for temporary cash deficiencies in RCW

43.88.260 (section 7, chapter 502, Laws of 1987), the specific conditions and limitations in this section shall govern.

NEW SECTION. Sec. 2. The sum of two million three hundred thousand dollars, is appropriated for the biennium ending June 30, 1993, from the state convention and trade center account to the state convention and trade center corporation for partially refunding obligations under a parking garage revenue note issued by the corporation to Industrial Indemnity Company in connection with the agreement and settlement identified in RCW 67.40.045(4)(a).

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate February 17, 1992.

Passed the House March 4, 1992.

Approved by the Governor March 11, 1992.

Filed in Office of Secretary of State March 11, 1992.

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**CHAPTER 5**

[House Bill 2554]

**EROTIC SOUND RECORDINGS**

**Effective Date:** 6/11/92

AN ACT Relating to erotic material and sound recordings; and amending RCW 9.68.050, 9.68.060, 9.68.090, and 9.68.070.

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

**Sec. 1.** RCW 9.68.050 and 1969 ex.s. c 256 s 13 are each amended to read as follows:

For the purposes of RCW 9.68.050 through 9.68.120:

(1) "Minor" means any person under the age of eighteen years;

(2) "Erotic material" means printed material, photographs, pictures, motion pictures, sound recordings, and other material the dominant theme of which taken as a whole appeals to the prurient interest of minors in sex; which is patently offensive because it affronts contemporary community standards relating to the description or representation of sexual matters or sado-masochistic abuse; and is utterly without redeeming social value;

(3) "Person" means any individual, corporation, or other organization;

(4) "Dealers", "distributors", and "exhibitors" mean persons engaged in the distribution, sale, or exhibition of printed material, photographs, pictures, ((or)) motion pictures, or sound recordings.

**Sec. 2.** RCW 9.68.060 and 1969 ex.s. c 256 s 14 are each amended to read as follows:

(1) When it appears that material which may be deemed erotic is being sold, distributed, or exhibited in this state, the prosecuting attorney of the county in which the sale, distribution, or exhibition is taking place may apply to the superior court for a hearing to determine the character of the material with respect to whether it is erotic material.

(2) Notice of the hearing shall immediately be served upon the dealer, distributor, or exhibitor selling or otherwise distributing or exhibiting the alleged erotic material. The superior court shall hold a hearing not later than five days from the service of notice to determine whether the subject matter is erotic material within the meaning of RCW 9.68.050.

(3) If the superior court rules that the subject material is erotic material, then, following such adjudication:

(a) If the subject material is written or printed, or is a sound recording, the court shall issue an order requiring that an "adults only" label be placed on the publication or sound recording, if such publication or sound recording is going to continue to be distributed. Whenever the superior court orders a publication or sound recording to have an "adults only" label placed thereon, such label shall be impressed on the front cover of all copies of such erotic publication or sound recording sold or otherwise distributed in the state of Washington. Such labels shall be in forty-eight point bold face type located in a conspicuous place on the front cover of the publication or sound recording. All dealers and distributors are hereby prohibited from displaying erotic publications or sound recordings in their store windows, on outside newsstands on public thoroughfares, or in any other manner so as to make ~~((them))~~ an erotic publication or the contents of an erotic sound recording readily accessible to minors.

(b) If the subject material is a motion picture, the court shall issue an order requiring that such motion picture shall be labeled "adults only". The exhibitor shall prominently display a sign saying "adults only" at the place of exhibition, and any advertising of said motion picture shall contain a statement that it is for adults only. Such exhibitor shall also display a sign at the place where admission tickets are sold stating that it is unlawful for minors to misrepresent their age.

(c) Failure to comply with a court order issued under the provisions of this section shall subject the dealer, distributor, or exhibitor to contempt proceedings.

(d) Any person who, after the court determines material to be erotic, sells, distributes, or exhibits the erotic material to a minor shall be guilty of violating RCW 9.68.050 through 9.68.120, such violation to carry the following penalties:

(i) For the first offense a misdemeanor and upon conviction shall be fined not more than five hundred dollars, or imprisoned in the county jail not more than six months;

(ii) For the second offense a gross misdemeanor and upon conviction shall be fined not more than one thousand dollars, or imprisoned not more than one year;

(iii) For all subsequent offenses a felony and upon conviction shall be fined not more than five thousand dollars, or imprisoned not less than one year.

**Sec. 3.** RCW 9.68.090 and 1969 ex.s. c 256 s 17 are each amended to read as follows:

No retailer, wholesaler, or exhibitor is to be deprived of service from a wholesaler or wholesaler-distributor of books, magazines, motion pictures, sound recordings, or other materials or subjected to loss of his franchise or right to deal or exhibit as a result of his attempts to comply with this statute. Any publisher, distributor, or other person, or combination of such persons, which withdraws or attempts to withdraw a franchise or other right to sell at retail, wholesale or exhibit materials on account of the retailer's, wholesaler's or exhibitor's attempts to comply with RCW 9.68.050 through 9.68.120 shall incur civil liability to such retailer, wholesaler or exhibitor for threefold the actual damages resulting from such withdrawal or attempted withdrawal.

**Sec. 4.** RCW 9.68.070 and 1969 ex.s. c 256 s 15 are each amended to read as follows:

In any prosecution for violation of RCW 9.68.060, it shall be a defense that:

- (1) If the violation pertains to a motion picture or sound recording, the minor was accompanied by a parent, parent's spouse, or guardian; or
- (2) Such minor exhibited to the defendant a draft card, driver's license, birth certificate, or other official or an apparently official document purporting to establish such minor was over the age of eighteen years; or
- (3) Such minor was accompanied by a person who represented himself to be a parent, or the spouse of a parent, or a guardian of such minor, and the defendant in good faith relied upon such representation.

Passed the House March 7, 1992.  
 Passed the Senate March 3, 1992.  
 Approved by the Governor March 20, 1992.  
 Filed in Office of Secretary of State March 20, 1992.

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**CHAPTER 6**  
 [House Bill 2261]  
**FIREMEN'S PENSION BOARDS—MEMBERSHIP**  
**Effective Date: 6/11/92**

AN ACT Relating to membership of pension boards under chapter 41.18 RCW; and amending RCW 41.18.015.

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

**Sec. 1.** RCW 41.18.015 and 1961 c 255 s 11 are each amended to read as follows:

There is hereby created in each fire protection district which qualifies under this chapter, a firemen's pension board to consist of the following five members, the chairman of the fire commissioners for said district who shall be chairman

of the board, the county auditor, county treasurer, and in addition, two regularly employed ~~((firemen))~~ or retired fire fighters elected by secret ballot of the ~~((firemen))~~ employed and retired fire fighters. Retired members who are subject to the jurisdiction of the pension board have both the right to elect and the right to be elected under this section. The first members to be elected by the ~~((firemen))~~ fire fighters shall be ~~((for a term of one and two years, respectively, and their successors shall be))~~ elected annually for a two-year term. ~~((That))~~ The two ~~((firemen-so))~~ fire fighter elected members shall, in turn, select a third ~~((fireman))~~ eligible member who shall serve in the event of an absence of one of the regularly elected ~~((firemen))~~ members. In case a vacancy occurs in the membership of the ~~((firemen))~~ fire fighter or retired members, the members ~~((of the fire department))~~ shall in the same manner elect a successor to serve ~~((his))~~ the unexpired term. The board may select and appoint a secretary who may, but need not be a member of the board. In case of absence or inability of the chairman to act, the board may select a chairman pro tempore who shall during such absence or inability perform the duties and exercise the powers of the chairman. A majority of the members of said board shall constitute a quorum and have power to transact business.

Passed the House February 11, 1992.

Passed the Senate March 3, 1992.

Approved by the Governor March 20, 1992.

Filed in Office of Secretary of State March 20, 1992.

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## CHAPTER 7

[Substitute House Bill 2263]

### CORRECTIONAL FACILITIES—REVISION OF REFERENCES TO

Effective Date: 6/11/92

AN ACT Relating to references to state correctional facilities; amending RCW 9.05.020, 9.05.030, 9.16.010, 9.16.020, 9.24.020, 9.24.030, 9.24.050, 9.41.180, 9.45.020, 9.45.070, 9.45.124, 9.45.126, 9.47.090, 9.47.120, 9.62.010, 9.82.030, 9.91.090, 9.92.090, 9.94.020, 9.94.030, 9.94.049, 9.94.050, 9.95.031, 9.95.040, 9.95.055, 9.95.080, 9.95.140, 9.95.190, 10.70.140, 26.04.230, 29.01.080, 29.04.120, 36.18.170, 40.16.010, 40.16.020, 40.16.030, 42.20.070, 42.20.090, 43.06.230, 43.08.140, 46.16.230, 66.44.120, 67.24.010, 68.50.140, 68.50.145, 68.50.150, 69.25.150, 69.40.030, 70.74.270, 70.74.280, 72.01.050, 72.01.200, 72.01.370, 72.64.030, 72.64.050, 72.65.010, 72.68.020, 72.68.100, 74.08.331, 81.60.070, 81.60.080, 88.08.020, and 88.08.050; and repealing RCW 9.92.050.

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

**Sec. 1.** RCW 9.05.020 and 1941 c 215 s 2 are each amended to read as follows:

Every person who

(1) By word of mouth, by writing, by radio, or by printing shall advocate, advise or teach the duty, necessity or propriety of overthrowing or overturning organized government by force or violence, or by assassination of the executive head or of any of the executive officials of government, or by any unlawful means; or,

(2) Shall print, publish, edit, issue or knowingly circulate, sell, distribute or publicly display any book, paper, document, or written or printed matter in any form, containing or advocating, advising or teaching the doctrine that organized government should be overthrown by force, violence or any unlawful means; or,

(3) Shall openly, willfully and deliberately justify by word of mouth, by writing, by radio or by printing the assassination or unlawful killing or assaulting of any executive or other officer of the United States or of any state or of any civilized nation having an organized government because of his or her official character, or any other crime, with intent to teach, spread or advocate the propriety of the doctrines of criminal anarchy; or,

(4) Shall organize or help to organize or become a member of or voluntarily assemble with any society, group or assembly of persons formed to teach or advocate such doctrine,

Shall be punished by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than ten years, or by a fine of not more than five thousand dollars, or by both.

No person convicted of violating any of the provisions of RCW 9.05.010 or 9.05.020 shall be an employee of the state, or any department, agency, or subdivision thereof during the five years next following his or her conviction.

Sec. 2. RCW 9.05.030 and 1909 c 249 s 314 are each amended to read as follows:

Whenever two or more persons assemble for the purpose of advocating or teaching the doctrines of criminal anarchy, as defined in RCW 9.05.010, such an assembly is unlawful, and every person voluntarily participating therein by his or her presence, aid or instigation, shall be punished by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than ten years, or by a fine of not more than five thousand dollars, or both.

Sec. 3. RCW 9.16.010 and 1909 c 249 s 342 are each amended to read as follows:

Every person who shall willfully deface, obliterate, remove, or alter any mark or brand placed by or with the authority of the owner thereof on any shingle bolt, log or stick of timber, or on any horse, mare, gelding, mule, cow, steer, bull, sheep, goat or hog, shall be punished by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than five years, or by imprisonment in the county jail for not more than one year, or by a fine of not more than one thousand dollars, or by both fine and imprisonment.

Sec. 4. RCW 9.16.020 and 1909 c 249 s 343 are each amended to read as follows:

Every person who, in any county, ~~((shall))~~ places upon any property, any brand or mark in the likeness or similitude of another brand or mark filed with the county auditor of such county by the owner thereof as a brand or mark for the designation or identification of a like kind of property, ~~((shall—))~~ is:

(1) If done with intent to confuse or commingle such property with, or to appropriate to his or her own use, the property of such other owner, ~~((be))~~ guilty of a felony, and be punished by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than five years, or by imprisonment in the county jail for not more than one year, or by a fine of not more than one thousand dollars, or by both fine and imprisonment; or

(2) If done without such intent, ~~((shall be))~~ guilty of a misdemeanor.

**Sec. 5.** RCW 9.24.020 and 1909 c 249 s 387 are each amended to read as follows:

Every officer, agent or other person in the service of a joint stock company or corporation, domestic or foreign, who, willfully and knowingly with intent to defraud~~((, shall—))~~:

(1) Sells, pledges, or issues, or causes to be sold, pledged, or issued, or signs or executes, or causes to be signed or executed, with intent to sell, pledge, or issue, or cause to be sold, pledged, or issued, any certificate or instrument purporting to be a certificate or evidence of ownership of any share or shares of such company or corporation, or any conveyance or encumbrance of real or personal property, contract, bond, or evidence of debt, or writing purporting to be a conveyance or encumbrance of real or personal property, contract, bond or evidence of debt of such company or corporation, without being first duly authorized by such company or corporation, or contrary to the charter or laws under which such company or corporation exists, or in excess of the power of such company or corporation, or of the limit imposed by law or otherwise upon its power to create or issue stock or evidence of debt; or,

(2) Reissues, sells, pledges, ~~((or))~~ disposes of, or causes to be reissued, sold, pledged, or disposed of, any surrendered or canceled certificate or other evidence of the transfer of ownership of any such share or shares~~((:))~~ shall be punished by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than ten years, or by a fine of not more than five thousand dollars, or by both.

**Sec. 6.** RCW 9.24.030 and 1909 c 249 s 388 are each amended to read as follows:

Every owner, officer, stockholder, agent or employee of any person, firm, corporation or association engaged, wholly or in part, in the business of banking or receiving money or negotiable paper or securities on deposit or in trust, who shall accept or receive, with or without interest, any deposit, or who shall consent thereto or connive thereat, when he or she knows or has good reason to believe that such person, firm, corporation or association is unsafe or insolvent, shall be punished by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than ten years, or by a fine of not more than ten thousand dollars.

**Sec. 7.** RCW 9.24.050 and 1909 c 249 s 390 are each amended to read as follows:

Every director, officer or agent of any corporation or joint stock association, and every person engaged in organizing or promoting any enterprise, who shall knowingly make or publish or concur in making or publishing any written prospectus, report, exhibit or statement of its affairs or pecuniary condition, containing any material statement that is false or exaggerated, shall be punished by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than ten years, or by a fine of not more than five thousand dollars.

**Sec. 8.** RCW 9.41.180 and 1909 c 249 s 266 are each amended to read as follows:

Every person who shall set a so-called trap, spring pistol, rifle, or other deadly weapon, shall be punished as follows:

(1) If no injury result therefrom to any human being, by imprisonment in the county jail for not more than one year or by a fine of not more than one thousand dollars, or by both.

(2) If injuries not fatal result therefrom to any human being, by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than twenty years.

(3) If the death of a human being results therefrom, by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than twenty years.

**Sec. 9.** RCW 9.45.020 and 1909 c 249 s 123 are each amended to read as follows:

Every person to whom a child has been confided for nursing, education or any other purpose, who, with intent to deceive a person, guardian or relative of such child, shall substitute or produce to such parent, guardian or relative, another child or person in the place of the child so confided, shall be punished by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than ten years.

**Sec. 10.** RCW 9.45.070 and 1909 c 249 s 378 are each amended to read as follows:

Every person who shall obtain any money or property from another or shall obtain the signature of another to any writing the false making of which would be forgery, by color or aid of any false or fraudulent sale of property or pretended sale of property by auction, or by any of the practices known as mock auction, shall be punished by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than five years or in the county jail for not more than one year, or by a fine of not more than one thousand dollars, or by both fine and imprisonment.

Every person who shall buy or sell or pretend to buy or sell any goods, wares or merchandise, exposed to sale by auction, if an actual sale, purchase and change of ownership therein does not thereupon take place, shall be guilty of a misdemeanor.

**Sec. 11.** RCW 9.45.124 and 1967 c 200 s 2 are each amended to read as follows:

Every person, corporation, or association whether profit or nonprofit, who shall ask or receive, or conspire to ask or receive, directly or indirectly, any compensation, gratuity, or reward or any promise thereof, on any agreement or understanding that he or she shall (1) intentionally make an inaccurate visual or mechanical measurement or an intentionally inaccurate recording of any visual or mechanical measurement of goods, raw materials, and agricultural products (whether severed or unsevered from the land) which he or she has or will have the duty to measure, or shall (2) intentionally change, alter or affect, for the purpose of making an inaccurate measurement, any equipment or other device which is designed to measure, either qualitatively or quantitatively, such goods, raw materials, and agricultural products, or shall intentionally alter the recordation of such measurements, shall be guilty of a felony, punishable by imprisonment in (~~the state penitentiary~~) a state correctional facility for not more than ten years, or by a fine of not more than five thousand dollars, or both.

**Sec. 12.** RCW 9.45.126 and 1967 c 200 s 3 are each amended to read as follows:

Every person who shall give, offer or promise, or conspire to give, offer or promise, directly or indirectly, any compensation, gratuity or reward to any person, corporation, independent contractor, or agent, employee or servant thereof with intent to violate RCW 9.45.124, shall be guilty of a felony, punishable by imprisonment in (~~the state penitentiary~~) a state correctional facility for not more than ten years, or by a fine of not more than five thousand dollars, or both.

**Sec. 13.** RCW 9.47.090 and 1909 c 249 s 224 are each amended to read as follows:

Every person, whether in his or her own behalf, or as agent, servant or employee of another person, within or outside of this state, who shall open, conduct or carry on any bucket shop, or make or offer to make any contract described in RCW 9.47.080, or with intent to make such a contract, or assist therein, shall receive, exhibit, or display any statement of market prices of any commodities, securities, or property, shall be punished by imprisonment in (~~the state penitentiary~~) a state correctional facility for not more than five years.

**Sec. 14.** RCW 9.47.120 and 1909 c 249 s 227 are each amended to read as follows:

Every person who shall entice, or induce another, upon any pretense, to go to any place where any gambling game, scheme or device, or any trick, sleight of hand performance, fraud or fraudulent scheme, cards, dice or device, is being conducted or operated; or while in such place shall entice or induce another to bet, wager or hazard any money or property, or representative of either, upon any such game, scheme, device, trick, sleight of hand performance, fraud or fraudulent scheme, cards, dice, or device, or to execute any obligation for the payment of money, or delivery of property, or to lose, advance, or loan any

money or property, or representative of either, shall be punished by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than ten years.

**Sec. 15.** RCW 9.62.010 and 1909 c 249 s 117 are each amended to read as follows:

Every person who shall, maliciously and without probable cause therefor, cause or attempt to cause another to be arrested or proceeded against for any crime of which he or she is innocent~~((—))~~:

(1) If such crime be a felony, shall be punished by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than five years; and~~((τ))~~

(2) If such crime be a gross misdemeanor or misdemeanor, shall be guilty of a misdemeanor.

**Sec. 16.** RCW 9.82.030 and 1971 c 81 s 45 are each amended to read as follows:

Every person having knowledge of the commission of treason, who conceals the same, and does not, as soon as may be, disclose such treason to the governor or a justice of the supreme court or a judge of either the court of appeals or the superior court, shall be guilty of misprision of treason and punished by a fine of not more than one thousand dollars, or by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than five years or in a county jail for not more than one year.

**Sec. 17.** RCW 9.91.090 and 1981 c 203 s 4 are each amended to read as follows:

Every person who, with intent to defraud or prejudice the insurer thereof, shall willfully injure or destroy any property ~~((not specified or included hereinbefore in this subdivision, which))~~ that is insured at the time against loss or damage by casualty other than fire, shall be punished by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than ten years, or by a fine of not more than five thousand dollars, or by both.

**Sec. 18.** RCW 9.92.090 and 1909 c 249 s 34 are each amended to read as follows:

Every person convicted in this state of any crime of which fraud or intent to defraud is an element, or of petit larceny, or of any felony, who shall previously have been convicted, whether in this state or elsewhere, of any crime which under the laws of this state would amount to a felony, or who shall previously have been twice convicted, whether in this state or elsewhere, of petit larceny, or of any misdemeanor or gross misdemeanor of which fraud or intent to defraud is an element, shall be adjudged to be an habitual criminal and shall be punished by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not less than ten years.

Every person convicted in this state of any crime of which fraud or intent to defraud is an element, or of petit larceny, or of any felony, who shall previously have been twice convicted, whether in this state or elsewhere, of any crime which under the laws of this state would amount to a felony, or who shall previously have been four times convicted, whether in this state or elsewhere, of petit larceny, or of any misdemeanor or gross misdemeanor of which fraud or intent to defraud is an element, shall be punished by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for life.

**Sec. 19.** RCW 9.94.020 and 1955 c 241 s 2 are each amended to read as follows:

Every inmate of a state ~~((penal institution))~~ correctional facility who is guilty of prison riot or of voluntarily participating therein by being present at, or by instigating, aiding or abetting the same, shall be punished by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not less than one year nor more than ten years, which shall be in addition to the sentence being served.

**Sec. 20.** RCW 9.94.030 and 1957 c 112 s 1 are each amended to read as follows:

Whenever any inmate of a state ~~((penal institution))~~ correctional facility shall hold, or participate in holding, any person as a hostage, by force or violence, or the threat thereof, or shall prevent, or participate in preventing an officer of such institution from carrying out his or her duties, by force or violence, or the threat thereof, he or she shall be guilty of a felony and upon conviction shall be punished by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not less than one year nor more than ten years.

**Sec. 21.** RCW 9.94.049 and 1985 c 350 s 3 are each amended to read as follows:

For the purposes of RCW 9.94.043 and 9.94.045, "state correctional institution" means ~~((the Washington corrections center, Washington state penitentiary, Washington state reformatory, McNeil Island corrections center, Purdy corrections center for women, Larch corrections center, Indian Ridge corrections center, Cedar Creek corrections center, the Olympic corrections center, Firland corrections center, Clearwater corrections center, Pine Lodge corrections center, the Twin Rivers corrections center, the special offender center, the proposed five hundred bed facility at Clallam Bay, and other))~~ all state correctional facilities under the supervision of the secretary of the department of corrections used solely for the purpose of confinement of convicted felons.

**Sec. 22.** RCW 9.94.050 and 1955 c 241 s 5 are each amended to read as follows:

~~((All officers and guards of state penal institutions))~~ Any correctional employee, while acting in the supervision and transportation of prisoners, and in the apprehension of prisoners who have escaped, shall have the powers and duties of a peace officer.

**Sec. 23.** RCW 9.95.031 and 1929 c 158 s 1 are each amended to read as follows:

Whenever any person shall be convicted of a crime and who shall be sentenced to imprisonment or confinement in ~~((the Washington state penitentiary or the Washington state reformatory))~~ a state correctional facility, it shall be the duty of the prosecuting attorney who prosecuted such convicted person to make a statement of the facts respecting the crime for which the prisoner was tried and convicted, and include in such statement all information that ~~((he))~~ the prosecuting attorney can give in regard to the career of the prisoner before the commission of the crime for which ~~((he))~~ the prisoner was convicted and sentenced, stating to the best of ~~((his))~~ the prosecuting attorney's knowledge whether the prisoner was industrious and of good character, and all other facts and circumstances that may tend to throw any light upon the question as to whether such prisoner is capable of again becoming a good citizen.

**Sec. 24.** RCW 9.95.040 and 1986 c 224 s 9 are each amended to read as follows:

The board shall fix the duration of confinement for persons committed by the court before July 1, 1986, for crimes committed before July 1, 1984. Within six months after the admission of the convicted person to ~~((the penitentiary, reformatory, or such other state penal institution as may hereafter be established))~~ a state correctional facility, the board shall fix the duration of ~~((his))~~ confinement. The term of imprisonment so fixed shall not exceed the maximum provided by law for the offense of which ~~((he))~~ the person was convicted or the maximum fixed by the court where the law does not provide for a maximum term.

The following limitations are placed on the board or the court for persons committed to ~~((prison))~~ a state correctional facility on or after July 1, 1986, for crimes committed before July 1, 1984, with regard to fixing the duration of confinement in certain cases, notwithstanding any provisions of law specifying a lesser sentence:

(1) For a person not previously convicted of a felony but armed with a deadly weapon at the time of the commission of ~~((his))~~ the offense, the duration of confinement shall not be fixed at less than five years.

(2) For a person previously convicted of a felony either in this state or elsewhere and who was armed with a deadly weapon at the time of the commission of ~~((his))~~ the offense, the duration of confinement shall not be fixed at less than seven and one-half years.

The words "deadly weapon," as used in this section include, but are not limited to, any instrument known as a blackjack, sling shot, billy, sand club, sandbag, metal knuckles, any dirk, dagger, pistol, revolver, or any other firearm, any knife having a blade longer than three inches, any razor with an unguarded blade, any metal pipe or bar used or intended to be used as a club, any explosive, and any weapon containing poisonous or injurious gas.

(3) For a person convicted of being an habitual criminal within the meaning of the statute which provides for mandatory life imprisonment for such habitual criminals, the duration of confinement shall not be fixed at less than fifteen years. The board shall retain jurisdiction over such convicted person throughout ~~((his))~~ the person's natural life unless the governor by appropriate executive action orders otherwise.

(4) Any person convicted of embezzling funds from any institution of public deposit of which ~~((he))~~ the person was an officer or stockholder, the duration of confinement shall be fixed at not less than five years.

Except when an inmate of ~~((the reformatory, penitentiary, or such other penal institution as may hereafter be established))~~ a state correctional facility has been convicted of murder in the first or second degree, the board may parole an inmate prior to the expiration of a mandatory minimum term, provided such inmate has demonstrated a meritorious effort in rehabilitation and at least two-thirds of the board members concur in such action: PROVIDED, That any inmate who has a mandatory minimum term and is paroled prior to the expiration of such term according to the provisions of this chapter shall not receive a conditional release from supervision while on parole until after the mandatory minimum term has expired.

**Sec. 25.** RCW 9.95.055 and 1951 c 239 s 1 are each amended to read as follows:

The ~~((board of prison terms and paroles))~~ indeterminate sentence review board is hereby granted authority, in the event of a declaration by the governor that a war emergency exists, including a general mobilization, and for the duration thereof only, to reduce downward the minimum term, as set by the board, of any inmate under the jurisdiction of the board confined in ~~((the Washington state penitentiary or reformatory))~~ a state correctional facility, who will be accepted by and inducted into the armed services: PROVIDED, That a reduction downward shall not be made under this section for those inmates who are confined for treason, murder in the first degree or carnal knowledge of a female child under ten years: AND PROVIDED FURTHER, That no such inmate shall be released under this section who is found to be a sexual psychopath under the provisions of and as defined by chapter 71.12 RCW.

**Sec. 26.** RCW 9.95.080 and 1972 ex.s. c 68 s 1 are each amended to read as follows:

In case any convicted person under the jurisdiction of the indeterminate sentence review board undergoing sentence in ~~((the penitentiary, reformatory, or other))~~ a state correctional ((institution,)) facility commits any infractions of the rules and regulations of the institution, the board ~~((of prison terms and paroles))~~ may revoke any order theretofore made determining the length of time such convicted person shall be imprisoned, including the forfeiture of all or a portion of credits earned or to be earned, pursuant to the provisions of RCW 9.95.110, and make a new order determining the length of time ~~((he))~~ the person shall

serve, not exceeding the maximum penalty provided by law for the crime for which ~~((he))~~ the person was convicted, or the maximum fixed by the court. Such revocation and redetermination shall not be had except upon a hearing before the ~~((board of prison terms and paroles))~~ indeterminate sentence review board. At such hearing the convicted person shall be present and entitled to be heard and may present evidence and witnesses in his or her behalf.

**Sec. 27.** RCW 9.95.140 and 1990 c 3 s 126 are each amended to read as follows:

The ~~((board of prison terms and paroles))~~ indeterminate sentence review board shall cause a complete record to be kept of every prisoner under the jurisdiction of the board released on parole. Such records shall be organized in accordance with the most modern methods of filing and indexing so that there will be always immediately available complete information about each such prisoner. The board may make rules as to the privacy of such records and their use by others than the board and its staff. In determining the rules regarding dissemination of information regarding convicted sex offenders under the board's jurisdiction, the board shall consider the provisions of section 116, chapter 3, Laws of 1990 and RCW 4.24.550 and shall be immune from liability for the release of information concerning sex offenders as provided in RCW 4.24.550.

The superintendents of ~~((the penitentiary and the reformatory))~~ state correctional facilities and all officers and employees thereof and all other public officials shall at all times cooperate with the board and furnish to the board, its officers, and employees such information as may be necessary to enable it to perform its functions, and such superintendents and other employees shall at all times give the members of the board, its officers, and employees free access to all prisoners confined in the ~~((penal institutions of the))~~ state correctional facilities.

**Sec. 28.** RCW 9.95.190 and 1983 c 3 s 10 are each amended to read as follows:

The provisions of RCW 9.95.010 through 9.95.170, inclusive, ~~((as enacted by chapter 114, Laws of 1935, insofar as applicable,))~~ shall apply to all convicted persons serving time in ~~((the state penitentiary or reformatory on June 12, 1935))~~ a state correctional facility, to the end that at all times the same provisions relating to sentences, imprisonments, and paroles of prisoners shall apply to all inmates thereof.

~~((Similarly the provisions of said sections, as amended by chapter 92, Laws of 1947, insofar as applicable, shall apply to all convicted persons serving time in the state penitentiary or reformatory on June 11, 1947, to the end that at all times the same provisions relating to sentences, imprisonments, and paroles of prisoners shall apply to all inmates thereof.))~~

**Sec. 29.** RCW 10.70.140 and 1925 ex.s. c 169 s 1 are each amended to read as follows:

Whenever any person shall be committed to (~~the state penitentiary, the state reformatory,~~) a state correctional facility, the county jail, or any other state or county institution which is supported wholly or in part by public funds, it shall be the duty of the warden, superintendent, sheriff or other officer in charge of such state or county institution to at once inquire into the nationality of such person, and if it shall appear that such person is an alien, to immediately notify the United States immigration officer in charge of the district in which such penitentiary, reformatory, jail or other institution is located, of the date of and the reasons for such alien commitment, the length of time for which committed, the country of which (~~he~~) the person is a citizen, and the date on which and the port at which (~~he~~) the person last entered the United States.

**Sec. 30.** RCW 26.04.230 and 1909 ex.s. c 16 s 4 are each amended to read as follows:

Any person knowingly violating any of the provisions of (~~this act~~) RCW 26.04.210 shall, upon conviction thereof, be punished by a fine of not more than one thousand dollars, or by imprisonment in (~~the state penitentiary~~) a state correctional facility for a period of not more than three years, or by both such fine and imprisonment.

**Sec. 31.** RCW 29.01.080 and 1965 c 9 s 29.01.080 are each amended to read as follows:

An "infamous crime" is a crime punishable by death in the state penitentiary or imprisonment in (~~the state penitentiary~~) a state correctional facility.

**Sec. 32.** RCW 29.04.120 and 1974 ex.s. c 127 s 3 are each amended to read as follows:

(1) Any person who uses registered voter data furnished under RCW 29.04.100 or 29.04.110 for the purpose of mailing or delivering any advertisement or offer for any property, establishment, organization, product, or service or for the purpose of mailing or delivering any solicitation for money, services, or anything of value shall be guilty of a felony punishable by imprisonment in (~~the state penitentiary~~) a state correctional facility for a period of not more than five years or a fine of not more than five thousand dollars or both such fine and imprisonment, and shall be liable to each person provided such advertisement or solicitation, without (~~his~~) the person's consent, for the nuisance value of such person having to dispose of it, which value is herein established at five dollars for each item mailed or delivered to (~~his~~) the person's residence: PROVIDED, That any person who mails or delivers any advertisement, offer or solicitation for a political purpose shall not be liable under this section, unless (~~he~~) the person is liable under subsection (2) of this section. For purposes of this subsection, two or more attached papers or sheets or two or more papers which are enclosed in the same envelope or container or are folded together shall be deemed to constitute one item. Merely having a mailbox or other receptacle for mail on or near (~~his~~) the person's residence shall not be any indication that such person consented to receive the advertisement or solicitation. A class action may be

brought to recover damages under this section and the court may award a reasonable attorney's fee to any party recovering damages under this section.

(2) It shall be the responsibility of each person furnished data under RCW 29.04.100 or 29.04.110 to take reasonable precautions designed to assure that the data is not used for the purpose of mailing or delivering any advertisement or offer for any property, establishment, organization, product or service or for the purpose of mailing or delivering any solicitation for money, services, or anything of value: PROVIDED, That such data may be used for any political purpose. Where failure to exercise due care in carrying out this responsibility results in the data being used for such purposes, then such person shall be jointly and severally liable for damages under the provisions of subsection (1) of this section along with any other person liable under subsection (1) of this section for the misuse of such data.

**Sec. 33.** RCW 36.18.170 and 1963 c 4 s 36.18.170 are each amended to read as follows:

Any salaried county or precinct officer, who fails to pay to the county treasury all sums that have come into ~~((his))~~ the officer's hands for fees and charges for the county, or by virtue of ~~((his))~~ the officer's office, whether under the laws of this state or of the United States, shall be guilty of embezzlement, and upon conviction thereof shall be punished by imprisonment in ~~((the penitentiary))~~ a state correctional facility not less than one year nor more than three years: PROVIDED, That upon conviction, his or her office shall be declared to be vacant by the court pronouncing sentence.

**Sec. 34.** RCW 40.16.010 and 1909 c 249 s 95 are each amended to read as follows:

Every person who shall willfully and unlawfully remove, alter, mutilate, destroy, conceal, or obliterate a record, map, book, paper, document, or other thing filed or deposited in a public office, or with any public officer, by authority of law, shall be punished by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than five years, or by a fine of not more than one thousand dollars, or by both.

**Sec. 35.** RCW 40.16.020 and 1909 c 249 s 96 are each amended to read as follows:

Every officer who shall mutilate, destroy, conceal, erase, obliterate, or falsify any record or paper appertaining to ~~((his))~~ the officer's office, or who shall fraudulently appropriate to ~~((his))~~ the officer's own use or to the use of another person, or secrete with intent to appropriate to such use, any money, evidence of debt or other property intrusted to ~~((him))~~ the officer by virtue of ~~((his))~~ the officer's office, shall be punished by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than ten years, or by a fine of not more than five thousand dollars, or by both.

**Sec. 36.** RCW 40.16.030 and 1909 c 249 s 97 are each amended to read as follows:

Every person who shall knowingly procure or offer any false or forged instrument to be filed, registered, or recorded in any public office, which instrument, if genuine, might be filed, registered or recorded in such office under any law of this state or of the United States, shall be punished by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than five years, or by a fine of not more than five thousand dollars, or by both.

**Sec. 37.** RCW 42.20.070 and 1909 c 249 s 317 are each amended to read as follows:

Every public officer, and every other person receiving money on behalf of for or on account of the people of the state or of any department of the state government or of any bureau or fund created by law in which the people are directly or indirectly interested, or for or on account of any county, city, town, or any school, diking, drainage, or irrigation district, who~~((---))~~:

(1) Shall appropriate to his or her own use or the use of any person not entitled thereto, without authority of law, any money so received by him or her as such officer or otherwise; or

(2) Shall knowingly keep any false account, or make any false entry or erasure in any account, of or relating to any money so received by him or her; or

(3) Shall fraudulently alter, falsify, conceal, destroy or obliterate any such account; or

(4) Shall willfully omit or refuse to pay over to the state, its officer or agent authorized by law to receive the same, or to such county, city, town, or such school, diking, drainage, or irrigation district or to the proper officer or authority empowered to demand and receive the same, any money received by him or her as such officer when it is a duty imposed upon him or her by law to pay over and account for the same, shall be punished by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than fifteen years.

**Sec. 38.** RCW 42.20.090 and 1909 c 249 s 319 are each amended to read as follows:

Every state, county, city, or town treasurer who ~~((shall))~~ willfully misappropriates any moneys, funds, or securities received by or deposited with him or her as such treasurer, or who shall be guilty of any other malfeasance or willful neglect of duty in his or her office, shall be punished by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than five years or by a fine of not more than five thousand dollars.

**Sec. 39.** RCW 43.06.230 and 1969 ex.s. c 186 s 4 are each amended to read as follows:

After the proclamation of a state of emergency as provided in RCW 43.06.010, any person who maliciously destroys or damages any real or personal

property or maliciously injures another shall be guilty of a felony and upon conviction thereof shall be imprisoned in ~~((the state penitentiary))~~ a state correctional facility for not less than two years nor more than ten years.

**Sec. 40.** RCW 43.08.140 and 1965 c 8 s 43.08.140 are each amended to read as follows:

If any person holding the office of state treasurer fails to account for and pay over all moneys in his or her hands in accordance with law, or unlawfully converts to his or her own use in any way whatever, or uses by way of investment in any kind of property, or loans without authority of law, any portion of the public money intrusted to him or her for safekeeping, transfer, or disbursement, or unlawfully converts to his or her own use any money that comes into his or her hands by virtue of his or her office, ~~((he))~~ the person shall be guilty of embezzlement, and upon conviction thereof, shall be imprisoned in ~~((the penitentiary))~~ a state correctional facility not exceeding fourteen years, and fined a sum equal to the amount embezzled.

**Sec. 41.** RCW 46.16.230 and 1975 c 25 s 19 are each amended to read as follows:

The director shall furnish to all persons making satisfactory application for vehicle license as provided by law, two identical vehicle license number plates each containing the vehicle license number to be displayed on such vehicle as by law required: PROVIDED, That if the vehicle to be licensed is a trailer, semitrailer or motorcycle only one vehicle license number plate shall be issued for each thereof. The number and plate shall be of such size and color and shall contain such symbols indicative of the registration period for which the same is issued and of the state of Washington, as shall be determined and prescribed by the director. Any vehicle license number plate or plates issued to a dealer shall contain thereon a sufficient and satisfactory indication that such plates have been issued to a dealer in vehicles. All vehicle license number plates may be obtained by the director from the metal working plant of ~~((the))~~ a state ~~((penitentiary at Walla Walla))~~ correctional facility or from any source in accordance with existing state of Washington purchasing procedures.

Notwithstanding the foregoing provisions of this section, the director may, in his discretion and under such rules and regulations as he may prescribe, adopt a type of vehicle license number plates whereby the same shall be used as long as legible on the vehicle for which issued, with provision for tabs or emblems to be attached thereto or elsewhere on the vehicle to signify renewals, in which event the term "vehicle license number plate" as used in any enactment shall be deemed to include in addition to such plate the tab or emblem signifying renewal except when such plate contains the designation of the current year without reference to any tab or emblem. Renewals shall be effected by the issuance and display of such tab or emblem.

**Sec. 42.** RCW 66.44.120 and 1933 ex.s. c 62 s 47 are each amended to read as follows:

No person other than an employee of the board shall keep or have in his or her possession any official seal prescribed under this title, unless the same is attached to a package which has been purchased from a vendor or store employee; nor shall any person keep or have in his or her possession any design in imitation of any official seal prescribed under this title, or calculated to deceive by its resemblance thereto, or any paper upon which any design in imitation thereof, or calculated to deceive as aforesaid, is stamped, engraved, lithographed, printed, or otherwise marked.

Every person who willfully violates any provision of this section shall be guilty of a gross misdemeanor and shall be liable on conviction thereof for a first offense to imprisonment in the county jail for a period of not less than three months nor more than six months, without the option of the payment of a fine; for a second offense, to imprisonment in the county jail for not less than six months nor more than one year, without the option of the payment of a fine; for a third offense or subsequent offenses to imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not less than one year nor more than two years.

**Sec. 43.** RCW 67.24.010 and 1945 c 107 s 1 are each amended to read as follows:

Every person who shall give, offer, receive, or promise, directly or indirectly, any compensation, gratuity, or reward, or make any promise thereof, or who shall fraudulently commit any act by trick, device, or bunco, or any means whatsoever with intent to influence or change the outcome of any sporting contest between ~~((men))~~ people or between animals, shall be guilty of a felony and shall be punished by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not less than five years.

**Sec. 44.** RCW 68.50.140 and 1909 c 249 s 239 are each amended to read as follows:

Every person who shall remove the dead body of a human being, or any part thereof, from a grave, vault, or other place where the same has been buried or deposited awaiting burial or cremation, without authority of law, with intent to sell the same, or for the purpose of securing a reward for its return, or for dissection, or from malice or wantonness, shall be punished by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than five years, or by a fine of not more than one thousand dollars, or by both.

Every person who shall purchase or receive, except for burial or cremation, any such dead body, or any part thereof, knowing that the same has been removed contrary to the foregoing provisions, shall be punished by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than three years, or by a fine of not more than one thousand dollars, or by both.

Every person who shall open a grave or other place of interment, temporary or otherwise, or a building where such dead body is deposited while awaiting burial or cremation, with intent to remove said body or any part thereof, for the

purpose of selling or demanding money for the same, for dissection, from malice or wantonness, or with intent to sell or remove the coffin or of any part thereof, or anything attached thereto, or any vestment, or other article interred, or intended to be interred with the body, shall be punished by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than three years, or by a fine of not more than one thousand dollars, or by both.

**Sec. 45.** RCW 68.50.145 and 1943 c 247 s 25 are each amended to read as follows:

Every person who removes any part of any human remains from any place where it has been interred, or from any place where it is deposited while awaiting interment, with intent to sell it, or to dissect it, without authority of law, or from malice or wantonness, shall be punished by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than five years, or by a fine of not more than one thousand dollars, or by both.

**Sec. 46.** RCW 68.50.150 and 1943 c 247 s 26 are each amended to read as follows:

Every person who mutilates, disinters, or removes from the place of interment any human remains without authority of law, shall be punished by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than three years, or by a fine of not more than one thousand dollars, or by both.

**Sec. 47.** RCW 69.25.150 and 1975 1st ex.s. c 201 s 16 are each amended to read as follows:

(1) Any person who commits any offense prohibited by RCW 69.25.110 shall upon conviction be guilty of a gross misdemeanor. When construing or enforcing the provisions of RCW 69.25.110, the act, omission, or failure of any person acting for or employed by any individual, partnership, corporation, or association within the scope of ~~((his))~~ the person's employment or office shall in every case be deemed the act, omission, or failure of such individual, partnership, corporation, or association, as well as of such person.

(2) No carrier or warehouseman shall be subject to the penalties of this chapter, other than the penalties for violation of RCW 69.25.140, or subsection (3) of this section, by reason of his or her receipt, carriage, holding, or delivery, in the usual course of business, as a carrier or warehouseman of eggs or egg products owned by another person unless the carrier or warehouseman has knowledge, or is in possession of facts which would cause a reasonable person to believe that such eggs or egg products were not eligible for transportation under, or were otherwise in violation of, this chapter, or unless the carrier or warehouseman refuses to furnish on request of a representative of the director the name and address of the person from whom he or she received such eggs or egg products and copies of all documents, if there be any, pertaining to the delivery of the eggs or egg products to, or by, such carrier or warehouseman.

(3) Notwithstanding any other provision of law any person who forcibly assaults, resists, impedes, intimidates, or interferes with any person while

engaged in or on account of the performance of his or her official duties under this chapter shall be punished by a fine of not more than five thousand dollars or imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than three years, or both. Whoever, in the commission of any such act, uses a deadly or dangerous weapon, shall be punished by a fine of not more than ten thousand dollars or by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than ten years, or both.

**Sec. 48.** RCW 69.40.030 and 1973 c 119 s 1 are each amended to read as follows:

Every person who ~~((shall))~~ willfully mingles poison or place any harmful object or substance, including but not limited to pins, tacks, needles, nails, razor blades, wire, or glass in any food, drink, medicine, or other edible substance intended or prepared for the use of a human being or who shall knowingly furnish, with intent to harm another person, any food, drink, medicine, or other edible substance containing such poison or harmful object or substance to another human being, and every person who ~~((shall))~~ willfully poisons any spring, well, or reservoir of water, shall be punished by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not less than five years or by a fine of not less than one thousand dollars: PROVIDED, HOWEVER, That this act shall not apply to the employer or employers of a person who violates the provisions contained herein without such employer's knowledge.

**Sec. 49.** RCW 70.74.270 and 1984 c 55 s 2 are each amended to read as follows:

Every person who maliciously places any explosive substance or material in, upon, under, against, or near any building, car, vessel, railroad track, airplane, public utility transmission system, or structure, in such manner or under such circumstances as to destroy or injure it if exploded, shall be punished as follows:

(1) If the circumstances and surroundings are such that the safety of any person might be endangered by the explosion, by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than twenty years;

(2) In every other case by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than five years.

**Sec. 50.** RCW 70.74.280 and 1971 ex.s. c 302 s 9 are each amended to read as follows:

Every person who shall maliciously, by the explosion of gunpowder or any other explosive substance or material, destroy or damage any building, car, airplane, vessel, common carrier, railroad track, or public utility transmission system or structure, shall be punished as follows:

(1) If thereby the life or safety of a human being is endangered, by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than twenty-five years;

(2) In every other case by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than five years.

**Sec. 51.** RCW 72.01.050 and 1988 c 143 s 1 are each amended to read as follows:

(1) The secretary of social and health services shall have full power to manage and govern the following public institutions: The western state hospital, the eastern state hospital, the northern state hospital, the state training school, the state school for girls, Lakeland Village, the Rainier school, and such other institutions as authorized by law, subject only to the limitations contained in laws relating to the management of such institutions.

(2) The secretary of corrections shall have full power to manage ~~((and)),~~ govern ~~((the following public institutions: The Washington state penitentiary, the Washington state reformatory, the Washington corrections center, the McNeil Island corrections center, the Washington corrections center for women, the Cedar Creek corrections center, the Clearwater corrections center, the Indian Ridge corrections center, the Larch corrections center, the Olympic corrections center, Pine Lodge corrections center, the special offender center, the Twin Rivers corrections center, and the Clallam Bay corrections center)),~~ and name all state correctional facilities, subject only to the limitations contained in laws relating to the management of such institutions.

(3) If any ~~((of the facilities specified in subsection (2) of this section))~~ state correctional facility is fully or partially destroyed by natural causes or otherwise, the secretary of corrections may, with the approval of the governor, provide for the establishment and operation of additional residential correctional facilities to place those inmates displaced by such destruction. However, such additional facilities may not be established if there are existing residential correctional facilities to which all of the displaced inmates can be appropriately placed. The establishment and operation of any additional facility shall be on a temporary basis, and the facility may not be operated beyond July 1 of the year following the year in which it was partially or fully destroyed.

**Sec. 52.** RCW 72.01.200 and 1990 c 33 s 591 are each amended to read as follows:

~~((The several penal and reformatory institutions of the))~~ State correctional facilities may employ certificated teachers to carry on their educational work, except for the educational programs provided pursuant to RCW 28A.190.030 through 28A.190.050 and all such teachers so employed shall be eligible to membership in the state teachers' retirement fund.

**Sec. 53.** RCW 72.01.370 and 1983 c 255 s 3 are each amended to read as follows:

The superintendent((s)) of ~~((the state penitentiary, the state reformatory, the state honor camps and such other penal institutions as may hereafter be established,))~~ any state correctional facility may, subject to the approval of the secretary and under RCW 72.01.375, grant escorted leaves of absence to inmates confined in such institutions to:

(1) Go to the bedside of the inmate's wife, husband, child, mother or father, or other member of the inmate's immediate family who is seriously ill;

(2) Attend the funeral of a member of the inmate's immediate family listed in subsection (1) of this section;

(3) Participate in athletic contests;

(4) Perform work in connection with the industrial, educational, or agricultural programs of the department;

(5) Receive necessary medical or dental care which is not available in the institution; and

(6) Participate as a volunteer in community service work projects which are approved by the superintendent, but only inmates who are nonviolent offenders may participate in these projects. Such community service work projects shall only be instigated at the request of a local community.

**Sec. 54.** RCW 72.64.030 and 1979 c 141 s 267 are each amended to read as follows:

Every prisoner in (~~the Washington state penitentiary or reformatory or other state penal or correctional institution~~) a state correctional facility shall be required to work in such manner as may be prescribed by the secretary, other than for the private financial benefit of any enforcement officer.

**Sec. 55.** RCW 72.64.050 and 1979 c 141 s 268 are each amended to read as follows:

The secretary shall also have the power to establish temporary branch institutions for (~~the state penitentiary, state reformatory and other penal and correctional institutions of the~~) state correctional facilities in the form of (~~honore~~) camps for the employment of prisoners therein in farming, reforestation, wood-cutting, land clearing, processing of foods in state canneries, forest fire fighting, forest fire suppression and prevention, stream clearance, watershed improvement, development of parks and recreational areas, and other work to conserve the natural resources and protect and improve the public domain and construction of water supply facilities to state institutions.

**Sec. 56.** RCW 72.65.010 and 1985 c 350 s 4 are each amended to read as follows:

As used in this chapter, the following terms shall have the following meanings:

(1) "Department" shall mean the department of corrections.

(2) "Secretary" shall mean the secretary of corrections.

(3) "State correctional institutions" shall mean and include (~~the Washington state penitentiary; the Washington corrections center; the Washington state reformatory; the McNeil Island corrections center; the Purdy corrections center for women; the Cedar Creek corrections center; the Clearwater corrections center; the Firland corrections center; the Indian Ridge corrections center; the Larch corrections center; the Olympic corrections center; Pine Lodge corrections center; the special offender center; the Twin Rivers corrections center; the proposed five~~

~~hundred bed facility at Clallam Bay; and such other state correctional institutions, camps or facilities as may hereafter be~~) all state adult correctional facilities established pursuant to law under the jurisdiction of the department for the treatment of convicted felons sentenced to a term of confinement.

(4) "Prisoner" shall mean a person either male or female, convicted of a felony and sentenced by the superior court to a term of confinement and treatment in a state correctional institution under the jurisdiction of the department.

(5) "Superintendent" shall mean the superintendent of a state correctional institution, camp or other facility now or hereafter established under the jurisdiction of the department pursuant to law.

**Sec. 57.** RCW 72.68.020 and 1979 c 141 s 283 are each amended to read as follows:

(1) The secretary shall transport prisoners under ~~((guard))~~ supervision:

(a) To and between ~~((the state penitentiary, the state reformatory and all other institutions))~~ state correctional facilities under ~~((his supervision))~~ the jurisdiction of the secretary;

(b) From a county, city, or municipal jail to an institution mentioned in ~~((subparagraph))~~ (a) of this subsection and to a county, city, or municipal jail from an institution mentioned in ~~((subparagraph))~~ (a) of this subsection.

(2) The secretary may employ necessary persons for such purpose.

**Sec. 58.** RCW 72.68.100 and 1979 c 141 s 289 are each amended to read as follows:

The secretary shall not enter into any contract for the care or commitment of any prisoner of the federal government or any other state unless there is vacant space and unused facilities in ~~((the Washington state penitentiary or reformatory or the Washington correctional institution for women))~~ state correctional facilities.

**Sec. 59.** RCW 74.08.331 and 1979 c 141 s 329 are each amended to read as follows:

Any person who by means of a willfully false statement, or representation, or impersonation, or a willful failure to reveal any material fact, condition or circumstance affecting eligibility of need for assistance, including medical care, surplus commodities and food stamps, as required by law, or a willful failure to promptly notify the county office in writing as required by law or any change in status in respect to resources, or income, or need, or family composition, money contribution and other support, from whatever source derived, or any other change in circumstances affecting ~~((his))~~ the person's eligibility or need for assistance, or other fraudulent device, obtains, or attempts to obtain, or aids or abets any person to obtain any public assistance to which ~~((he))~~ the person is not entitled or greater public assistance than that to which he or she is justly entitled shall be guilty of grand larceny and upon conviction thereof shall be punished

by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than fifteen years.

Any person who by means of a willfully false statement or representation or by impersonation or other fraudulent device aids or abets in buying, selling, or in any other way disposing of the real property of a recipient of public assistance without the consent of the secretary shall be guilty of a gross misdemeanor and upon conviction thereof shall be punished by imprisonment for not more than one year in the county jail or a fine of not to exceed one thousand dollars or by both.

**Sec. 60.** RCW 81.60.070 and 1961 c 14 s 81.60.070 are each amended to read as follows:

Every person who, in such manner as might, if not discovered, endanger the safety of any engine, motor, car or train, or any person thereon, shall in any manner interfere or tamper with or obstruct any switch, frog, rail, roadbed, sleeper, viaduct, bridge, trestle, culvert, embankment, structure, or appliance pertaining to or connected with any railway, or any train, engine, motor, or car on such railway~~((;))~~, and every person who shall discharge any firearm or throw any dangerous missile at any train, engine, motor, or car on any railway, shall be punished by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than twenty-five years.

**Sec. 61.** RCW 81.60.080 and 1961 c 14 s 81.60.080 are each amended to read as follows:

Any person or persons who shall willfully or maliciously, with intent to injure or deprive the owner thereof, take, steal, remove, change, add to, alter, or in any manner interfere with any journal bearing, brass, waste, packing, triple valve, pressure cock, brake, air hose, or any other part of the operating mechanism of any locomotive, engine, tender, coach, car, caboose, or motor car used or capable of being used by any railroad or railway company in this state, shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment in ~~((the penitentiary))~~ a state correctional facility for not more than five years, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment.

**Sec. 62.** RCW 88.08.020 and 1909 c 249 s 402 are each amended to read as follows:

Every person who, in such manner as might, if not discovered, endanger a vessel, railway engine, motor, train, or car, shall show, mask, extinguish, alter, or remove any light or signal, or exhibit any false light or signal, shall be punished by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than ten years.

**Sec. 63.** RCW 88.08.050 and 1909 c 249 s 403 are each amended to read as follows:

Every person who shall willfully break, injure, deface, or destroy any lighthouse station, post, platform, step, lamp, or other structure pertaining to such lighthouse station, or shall extinguish or tamper with any light erected by the United States upon or along the navigable waters of this state to aid in the navigation thereof, in case no punishment is provided therefor by the laws of the United States, shall be punished as follows:

(1) Whenever such act may endanger the safety of any vessel navigating such waters, or jeopardize the safety of any person or property in or upon such vessel, by imprisonment in ~~((the state penitentiary))~~ a state correctional facility for not more than ten years.

(2) In all other cases by imprisonment in the county jail for not more than one year, or by a fine of not more than one thousand dollars, or by both.

NEW SECTION. Sec. 64. RCW 9.92.050 and 1955 c 246 s 1 & 1909 c 249 s 25 are each repealed.

Passed the House February 12, 1992.

Passed the Senate March 5, 1992.

Approved by the Governor March 20, 1992.

Filed in Office of Secretary of State March 20, 1992.

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## CHAPTER 8

[House Bill 2314]

### MEDICAL SERVICES—PURCHASE BY DEPARTMENT OF SOCIAL AND HEALTH SERVICES—REVISED PROVISIONS

Effective Date: 6/1/92

AN ACT Relating to provision of medical services; and amending RCW 74.09.120.

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

Sec. 1. RCW 74.09.120 and 1989 c 372 s 15 are each amended to read as follows:

The department shall purchase necessary physician and dentist services by contract or "fee for service." ~~((The department shall purchase hospital care by contract or by all inclusive day rate, or at a reasonable cost based on a ratio of charges to cost. Any hospital when requested by the department shall supply such information as necessary to justify its rate, charges or costs. All additional services provided by the hospital shall be purchased at rates established by the department after consultation with the hospital.))~~ The department shall purchase nursing home care by contract. The department shall establish regulations for reasonable nursing home accounting and reimbursement systems which shall provide that no payment shall be made to a nursing home which does not permit inspection by the department of social and health services of every part of its premises and an examination of all records, including financial records, methods of administration, general and special dietary programs, the disbursement of

drugs and methods of supply, and any other records the department deems relevant to the establishment of such a system.

~~((All other services and supplies provided under the program shall be secured by contract.))~~

The department may purchase care in institutions for the mentally retarded, also known as intermediate care facilities for the mentally retarded. The department shall establish rules for reasonable accounting and reimbursement systems for such care. Institutions for the mentally retarded include licensed nursing homes, public institutions, licensed boarding homes with fifteen beds or less, and hospital facilities certified as intermediate care facilities for the mentally retarded under the federal medicaid program to provide health, habilitative, or rehabilitative services and twenty-four hour supervision for mentally retarded individuals or persons with related conditions and includes in the program "active treatment" as federally defined.

The department may purchase care in institutions for mental diseases by contract. The department shall establish rules for reasonable accounting and reimbursement systems for such care. Institutions for mental diseases are certified under the federal medicaid program and primarily engaged in providing diagnosis, treatment, or care to persons with mental diseases, including medical attention, nursing care, and related services.

The department may purchase all other services provided under this chapter by contract or at rates established by the department.

Passed the House February 13, 1992.

Passed the Senate March 2, 1992.

Approved by the Governor March 20, 1992.

Filed in Office of Secretary of State March 20, 1992.

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## CHAPTER 9

[House Bill 2294]

### DUNGENESS CRAB FISHERY STUDY

Effective Date: 3/20/92

AN ACT Relating to commercial crab fishing in coastal waters; adding a new section to chapter 75.30 RCW; creating new sections; and declaring an emergency.

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

NEW SECTION. **Sec. 1.** The legislature finds that a significant commercial crab fishery exists in the coastal waters of Washington, Oregon, and California. The legislature finds that the Washington coastal crab fishery represents a separate and distinct fishery from that of the Puget Sound licensing district and that it is limited in quantity. Crab fishing, however, is an attractive alternative to fishers who face increased restrictions on other commercial fisheries of the state and region. The legislature finds that there is potential for an economically distressed and disorderly fishery due to the potential increase

in the number of crab fishers. Based upon these circumstances, the legislature needs additional information to determine whether it should make substantial changes in the future management and licensing of the coastal crab fishery, including but not limited to, future restrictions on the number of fishers in the coastal crab fishery.

**NEW SECTION.** Sec. 2. A new section is added to chapter 75.30 RCW to read as follows:

(1) The department of fisheries, as a member of the Pacific States Marine Fisheries Commission, shall participate, along with the member states of Oregon and California and the coastal crab industry, in a coast-wide study conducted by the Pacific States Marine Fisheries Commission of the Dungeness crab fishery and report upon:

(a) The biological status of the coast-wide crab resource;

(b) The optimum number of fishers, vessels, licenses, and gear in the coastal crab fishery of each state for purposes of wise use of the resource and orderly management of the coast-wide crab fishery;

(c) The number of fishers, vessels, licenses, and the amount of gear currently used in the coast-wide crab fishery;

(d) The feasibility of and need for coordinated and concurrent legislative action by the states of Washington, Oregon, and California to manage the Pacific coastal crab resource;

(e) Any advantages and disadvantages of establishing future limits on the issuance of new Washington coastal commercial crab fishing licenses under RCW 75.28.130(4) or other limits on entry into the coastal crab fishery; and

(f) The potential for increase in the number of or fishing capacity of coastal crab fishers.

The department shall submit the results of the study, recommendations of the department, and comments by the industry and the public to the governor and the legislature no later than June 30, 1993.

(2) This section does not impose a moratorium on issuance of licenses to allow participation in the coastal crab fishery. After considering the results and recommendations of the study referred to in subsection (1) of this section, the legislature may consider limitations on the issuance of licenses to reduce the number of fishers or vessels, the amount of gear in the coastal crab fishery, and vessel fishing capacity.

(3) A fisher or vessel that obtains a license necessary to participate in the coastal crab fishery on and after September 15, 1991, is informed that the fisher or vessel may be precluded, at a future date, from participation in the coastal crab fishery. The legislature will review the study described in this section and determine the appropriate course of action to manage the coastal crab fishery. Future legislative action may include restrictions on the issuance of coastal crab licenses to fishers who were not licensed as of the effective date of this act or restrictions of participation of fishers or vessels that have not demonstrated

substantial participation in the Washington coastal crab fishery before September 15, 1991.

**NEW SECTION. Sec. 3.** Concurrent with the submission of the study referred to in section 2 of this act, the department of fisheries shall provide the legislature with a report indicating the number of new entrants in the Washington coastal crab fishery after September 15, 1991. Additionally, the report shall include the date on which the new entrant obtained a coastal crab license and the number and type of additional Washington commercial fishing licenses held by the new entrant.

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

Passed the House February 12, 1992.

Passed the Senate March 3, 1992.

Approved by the Governor March 20, 1992.

Filed in Office of Secretary of State March 20, 1992.

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## CHAPTER 10

[Engrossed Substitute House Bill 2333]

### WHITE CANE LAW IMPLEMENTATION STUDY

Effective Date: 6/11/92

AN ACT Relating to guide and service dogs; and creating a new section.

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

**NEW SECTION. Sec. 1.** The governor's committee on disability issues and employment, in conjunction with the human rights commission, the department of services for the blind, representatives of organizations that represent the blind, representatives of owners and operators of restaurants, representatives of owners and operators of retail establishments, and representatives of 4-H organizations involved in training and socializing guide or service dogs in training, shall study issues associated with the implementation of chapter 70.84 RCW, the white cane law. The study shall develop recommendations for: (1) Better enforcement of the white cane law; and (2) providing access to public places listed in RCW 70.84.010(3) for organizations, such as 4-H, engaged in the training and socialization of young guide and service dogs in training. The governor's committee on disability issues and employment shall report its findings, conclusions, and recommendations to the senate health and long-term care committee and the house of representatives human services committee by December 15, 1992.

Passed the House February 14, 1992.  
Passed the Senate March 3, 1992.  
Approved by the Governor March 20, 1992.  
Filed in Office of Secretary of State March 20, 1992.

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**CHAPTER 11**

[Engrossed House Bill 2347]

**MUNICIPAL ELECTRIC UTILITY ACCESS  
TO HIGH VOLTAGE LINES**

**Effective Date: 6/1/92**

AN ACT Relating to municipal electric utility access to high voltage transmission facilities; and amending RCW 35.92.052.

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

**Sec. 1.** RCW 35.92.052 and 1989 c 249 s 1 are each amended to read as follows:

(1) Cities of the first class which operate electric generating facilities and distribution systems shall have power and authority to participate and enter into agreements for the use or undivided ownership of high voltage transmission facilities and capacity rights in those facilities and for the undivided ownership of any type of electric generating plants and facilities, including, but not limited to, nuclear and other thermal power generating plants and facilities and transmission facilities including, but not limited to, related transmission facilities, to be called "common facilities"; and for the planning, financing, acquisition, construction, operation, and maintenance with: (a) Each other; (b) electrical companies which are subject to the jurisdiction of the Washington utilities and transportation commission or the regulatory commission of any other state, to be called "regulated utilities"; (c) rural electric cooperatives, including generation and transmission cooperatives in any state; (d) municipal corporations, utility districts, or other political subdivisions in any state; and (e) any agency of the United States authorized to generate or transmit electrical energy. It shall be provided in such agreements that each city shall use or own a percentage of any common facility equal to the percentage of the money furnished or the value of property supplied by it for the acquisition and construction of or additions or improvements to the facility and shall own and control or provide for the use of a like percentage of the electrical transmission or output. A city using or owning common facilities under this section may issue revenue bonds or other obligations to finance the city's share of the use or ownership of the common facilities.

(2) The agreement must provide that each participant shall defray its own interest and other payments required to be made or deposited in connection with any financing undertaken by it to pay its percentage of the money furnished or value of property supplied by it for the planning, acquisition, and construction

of any common facility, or any additions or betterments. The agreement shall provide a uniform method of determining and allocating operation and maintenance expenses of a common facility.

(3) Each city participating in the ownership, use, or operation of a common facility shall pay all taxes chargeable to its share of the common facility and the electric energy generated under any applicable statutes and may make payments during preliminary work and construction for any increased financial burden suffered by any county or other existing taxing district in the county in which the common facility is located, under agreement with such county or taxing district.

(4) In carrying out the powers granted in this section, each such city shall be severally liable only for its own acts and not jointly or severally liable for the acts, omissions, or obligations of others. No money or property supplied by any such city for the planning, financing, acquisition, construction, operation, or maintenance of, or addition or improvement to any common facility shall be credited or otherwise applied to the account of any other participant therein, nor shall the undivided share of any city in any common facility be charged, directly or indirectly, with any debt or obligation of any other participant or be subject to any lien as a result thereof. No action in connection with a common facility shall be binding upon any city unless authorized or approved by resolution or ordinance of its governing body.

(5) Any city acting jointly outside the state of Washington, by mutual agreement with any participant under authority of this section, shall not acquire properties owned or operated by any public utility district, by any regulated utility, or by any public utility owned by a municipality without the consent of the utility owning or operating the property, and shall not participate in any condemnation proceeding to acquire such properties.

Passed the House February 11, 1992.

Passed the Senate February 28, 1992.

Approved by the Governor March 20, 1992.

Filed in Office of Secretary of State March 20, 1992.

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## CHAPTER 12

[House Bill 2358]

### PSYCHOLOGIST DISCIPLINARY COMMITTEE—

REVISED PROVISIONS

Effective Date: 6/11/92

AN ACT Relating to the psychologist disciplinary committee; and amending RCW 18.83.135.

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

**Sec. 1.** RCW 18.83.135 and 1987 c 150 s 53 are each amended to read as follows:

The disciplinary committee shall meet at least once each year or upon the call of the chairperson at such time and place as the chairperson designates. A

quorum for transaction of any business shall consist of ~~((five))~~ three members, ~~((including-at-least))~~ one of whom must be a public member.

The members of the disciplinary committee shall be immune from suit in any action, civil or criminal, based upon its disciplinary proceedings or other official acts performed in good faith as members of the committee.

In addition to the authority prescribed under RCW 18.130.050, the committee shall have the following authority:

(1) To maintain records of all activities, and to publish and distribute to all psychologists at least once each year abstracts of significant activities of the committee; and

(2) To obtain the written consent of the complaining client or patient or their legal representative, or of any person who may be affected by the complaint, in order to obtain information which otherwise might be confidential or privileged.

(3) Whenever the workload of the committee requires, the board may request that the secretary appoint pro tempore members. While serving as members pro tempore persons shall have all the powers, duties, and immunities, and are entitled to the emoluments, including travel expenses, of the committee.

Passed the House February 13, 1992.

Passed the Senate March 3, 1992.

Approved by the Governor March 20, 1992.

Filed in Office of Secretary of State March 20, 1992.

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**CHAPTER 13**

[Engrossed House Bill 2360]

**INFORMATIONAL MATERIALS—SALE BY DEPARTMENT OF FISHERIES**

**Effective Date: 6/11/92**

AN ACT Relating to the sale of informational materials by the department of fisheries; adding a new section to chapter 75.08 RCW; and creating a new section.

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

**NEW SECTION. Sec. 1.** It is the intent of the legislature to promote the distribution of public information concerning the food fish and shellfish resources in this state, and to recover the costs of drafting and publishing of informational materials to the extent reasonably possible through the sale of such materials, except for regulation pamphlets, which should continue to be distributed at no charge.

**NEW SECTION. Sec. 2.** A new section is added to chapter 75.08 RCW to read as follows:

The director may collect moneys to recover the reasonable costs of drafting and publishing informational materials, except regulation pamphlets, relating to food fish and shellfish under the jurisdiction of the department. "Reasonable costs" shall include costs of drafting, printing, distribution, and postage.

Moneys collected by the director under this section shall be deposited in the state general fund.

Passed the House February 13, 1992.

Passed the Senate March 5, 1992.

Approved by the Governor March 20, 1992.

Filed in Office of Secretary of State March 20, 1992.

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## CHAPTER 14

[Substitute House Bill 2391]

### BIOMEDICAL WASTE

**Effective Date:** 6/11/92 - Except Sections 2 & 3 which become effective on 3/20/92; and Section 4 which becomes effective on 10/1/92.

AN ACT Relating to biomedical waste; adding a new chapter to Title 70 RCW; providing an effective date; and declaring an emergency.

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

**NEW SECTION. Sec. 1. LEGISLATIVE FINDINGS.** The legislature finds and declares that:

(1) It is a matter of state-wide concern that biomedical waste be handled in a manner that protects the health, safety, and welfare of the public, the environment, and the workers who handle the waste.

(2) Infectious disease transmission has not been identified from improperly disposed biomedical waste, but the potential for such transmission may be present.

(3) A uniform, state-wide definition of biomedical waste will simplify compliance with local regulations while preserving local control of biomedical waste management.

**NEW SECTION. Sec. 2. DEFINITIONS.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Biomedical waste" means, and is limited to, the following types of waste:

(a) "Animal waste" is waste animal carcasses, body parts, and bedding of animals that are known to be infected with, or that have been inoculated with, human pathogenic microorganisms infectious to humans.

(b) "Biosafety level 4 disease waste" is waste contaminated with blood, excretions, exudates, or secretions from humans or animals who are isolated to protect others from highly communicable infectious diseases that are identified as pathogenic organisms assigned to Biosafety level 4 by the centers for disease control, national institute of health, biosafety in microbiological and biomedical laboratories, current edition.

(c) "Cultures and stocks" are wastes infectious to humans and includes specimen cultures, cultures and stocks of etiologic agents, wastes from production of biologicals and serums, discarded live and attenuated vaccines, and

laboratory waste that has come into contact with cultures and stocks of etiologic agents or blood specimens. Such waste includes but is not limited to culture dishes, blood specimen tubes, and devices used to transfer, inoculate, and mix cultures.

(d) "Human blood and blood products" is discarded waste human blood and blood components, and materials containing free-flowing blood and blood products.

(e) "Pathological waste" is waste human source biopsy materials, tissues, and anatomical parts that emanate from surgery, obstetrical procedures, and autopsy. "Pathological waste" does not include teeth, human corpses, remains, and anatomical parts that are intended for interment or cremation.

(f) "Sharps waste" is all hypodermic needles, syringes with needles attached, IV tubing with needles attached, scalpel blades, and lancets that have been removed from the original sterile package.

(2) "Local government" means city, town, or county.

(3) "Local health department" means the city, county, city-county, or district public health department.

(4) "Person" means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, state government agency, or local government.

(5) "Treatment" means incineration, sterilization, or other method, technique, or process that changes the character or composition of a biomedical waste so as to minimize the risk of transmitting an infectious disease.

NEW SECTION. Sec. 3. STATE-WIDE DEFINITION OF BIOMEDICAL WASTE. The definition of biomedical waste set forth in section 2 of this act shall be the sole state definition for biomedical waste within the state, and shall preempt biomedical waste definitions established by a local health department or local government.

NEW SECTION. Sec. 4. WASTE TREATMENT TECHNOLOGIES.

(1) At the request of an applicant, the department of health, in consultation with the department of ecology and local health departments, may evaluate the environmental and public health impacts of biomedical waste treatment technologies. The department shall make available the results of any evaluation to local health departments.

(2) All direct costs associated with the evaluation shall be paid by the applicant to the department of health or to a state or local entity designated by the department of health.

(3) For the purposes of this section, "applicant" means any person representing a biomedical waste treatment technology that seeks an evaluation under subsection (1) of this section.

(4) The department of health may adopt rules to implement this section.

**NEW SECTION.** Sec. 5. CAPTIONS. Section headings as used in this act do not constitute any part of the law.

**NEW SECTION.** Sec. 6. SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION.** Sec. 7. EFFECTIVE DATE. (1) Sections 2 and 3 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

(2) Section 4 of this act shall take effect October 1, 1992.

**NEW SECTION.** Sec. 8. Sections 1 through 6 of this act shall constitute a new chapter in Title 70 RCW.

Passed the House February 12, 1992.

Passed the Senate March 3, 1992.

Approved by the Governor March 20, 1992.

Filed in Office of Secretary of State March 20, 1992.

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## CHAPTER 15

[House Bill 2543]

### RECREATIONAL BOATING LAWS—RECODIFICATION

Effective Date: 6/11/92

AN ACT Relating to reorganizing recreational boating laws; creating a new section; and recodifying RCW 88.12.070, 88.12.060, 88.02.095, 88.08.070, 88.08.080, 88.02.080, 43.51.402, 43.51.403, 88.20.010, 88.20.020, 88.20.030, 88.20.040, 88.20.050, 88.20.060, 88.20.070, 91.14.005, 91.14.010, 91.14.020, 91.14.030, 91.14.040, 91.14.050, 91.14.060, 91.14.070, 91.14.080, 91.14.090, 91.14.100, 91.14.110, 43.51.404, 88.36.010, 88.36.020, 88.36.030, 88.36.040, 88.36.050, 88.36.060, 88.36.070, 88.36.080, 88.36.090, 88.36.100, 88.36.110, and 88.36.120.

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

**NEW SECTION.** Sec. 1. (1) The code reviser shall correct all statutory references to sections recodified by this section.

(2) The following sections shall be recodified in the following order in chapter 88.12 RCW:

RCW 88.12.070;

RCW 88.12.060;

RCW 88.02.095;

RCW 88.08.070;

RCW 88.08.080;

RCW 88.02.080;

RCW 43.51.402;

RCW 43.51.403;

RCW 88.20.010;

RCW 88.20.020;  
RCW 88.20.030;  
RCW 88.20.040;  
RCW 88.20.050;  
RCW 88.20.060;  
RCW 88.20.070;  
RCW 91.14.005;  
RCW 91.14.010;  
RCW 91.14.020;  
RCW 91.14.030;  
RCW 91.14.040;  
RCW 91.14.050;  
RCW 91.14.060;  
RCW 91.14.070;  
RCW 91.14.080;  
RCW 91.14.090;  
RCW 91.14.100;  
RCW 91.14.110;  
RCW 43.51.404;  
RCW 88.36.010;  
RCW 88.36.020;  
RCW 88.36.030;  
RCW 88.36.040;  
RCW 88.36.050;  
RCW 88.36.060;  
RCW 88.36.070;  
RCW 88.36.080;  
RCW 88.36.090;  
RCW 88.36.100;  
RCW 88.36.110; and  
RCW 88.36.120.

Passed the House February 17, 1992.

Passed the Senate March 3, 1992.

Approved by the Governor March 20, 1992.

Filed in Office of Secretary of State March 20, 1992.

## CHAPTER 16

[Substitute House Bill 2714]

PUBLIC TRANSPORTATION BENEFIT AREAS—INCLUSION  
OF AREA IN EXPANDED CITY BOUNDARIES IN AREA

Effective Date: 3/20/92

AN ACT Relating to addition of territory to public transportation benefit areas; amending RCW 36.57A.040; and declaring an emergency.

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

**Sec. 1.** RCW 36.57A.040 and 1991 c 318 s 15 are each amended to read as follows:

At the time of its formation no public transportation benefit area may include only a part of any city, and every city shall be either wholly included or wholly excluded from the boundaries of such area. Notwithstanding any other provision of law, if subsequent to the formation of a public transportation benefit area additional area became or will become a part of a component city by annexation, merger, or otherwise, the additional area shall be included within the boundaries of the transportation benefit area and be subject to all taxes and other liabilities and obligations of the public transportation benefit area. The component city shall be required to notify the public transportation benefit area at the time the city has added the additional area. Furthermore, notwithstanding any other provisions of law except as specifically provided in this section, if a city that is not a component city of the public transportation benefit area adds area to its boundaries that is within the boundaries of the public transportation benefit area, the area so added shall be deemed to be excluded from the public transportation benefit area: **PROVIDED**, That the public transportation benefit area shall be given notice of the city's intention to add such area. If a city extends its boundaries through annexation across a county boundary line and such extended boundaries include areas within the public transportation benefit area, then the entire area of the city within the county that is within the public transportation benefit area shall be included within the public transportation benefit area boundaries. Such area of the city in the public transportation benefit area shall be considered a component city of the public transportation benefit area corporation.

The boundaries of any public transportation benefit area shall follow school district lines or election precinct lines, as far as practicable. Only such areas shall be included which the conference determines could reasonably benefit from the provision of public transportation services. Except as provided in RCW 36.57A.140(2), only one public transportation benefit area may be created in any county.

**NEW SECTION.** **Sec. 2.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House February 17, 1992.

Passed the Senate March 4, 1992.

Approved by the Governor March 20, 1992.

Filed in Office of Secretary of State March 20, 1992.

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**CHAPTER 17**

[House Bill 2633]

**PRIVATELY OWNED HAZARDOUS AND MODERATE-RISK WASTE  
FACILITIES—ENCOURAGEMENT BY LOCAL GOVERNMENTS OF USE OF**

**Effective Date: 6/11/92**

AN ACT Relating to local hazardous waste plans; and amending RCW 70.105.220.

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

**Sec. 1.** RCW 70.105.220 and 1986 c 210 s 1 are each amended to read as follows:

(1) Each local government, or combination of contiguous local governments, is directed to prepare a local hazardous waste plan which shall be based on state guidelines and include the following elements:

(a) A plan or program to manage moderate-risk wastes that are generated or otherwise present within the jurisdiction. This element shall include an assessment of the quantities, types, generators, and fate of moderate-risk wastes in the jurisdiction. The purpose of this element is to develop a system of managing moderate-risk waste, appropriate to each local area, to ensure protection of the environment and public health;

(b) A plan or program to provide for ongoing public involvement and public education in regard to the management of moderate-risk waste. This element shall provide information regarding:

(i) The potential hazards to human health and the environment resulting from improper use and disposal of the waste; and

(ii) Proper methods of handling, reducing, recycling, and disposing of the waste;

(c) An inventory of all existing generators of hazardous waste and facilities managing hazardous waste within the jurisdiction. This inventory shall be based on data provided by the department;

(d) A description of the public involvement process used in developing the plan;

(e) A description of the eligible zones designated in accordance with RCW 70.105.225. However, the requirement to designate eligible zones shall not be considered part of the local hazardous waste planning requirements; and

(f) Other elements as deemed appropriate by local government.

(2) To the maximum extent practicable, the local hazardous waste plan shall be coordinated with other hazardous materials-related plans and policies in the jurisdiction.

~~(3) ((In recognition of the role of the private sector in providing hazardous and moderate risk waste management facilities and transportation services, and in addition to other public involvement activities that may be required,))~~ Local governments shall coordinate with those persons involved in providing ~~((such))~~ privately owned hazardous and moderate-risk waste facilities and services as follows: If a local government determines that a moderate-risk waste will be or is adequately managed by one or more privately owned facilities or services at a reasonable price, the local government shall take actions to encourage the use of that private facility or service. Actions taken by a local government under this subsection may include, but are not limited to, restricting or prohibiting the land disposal of a moderate-risk waste at any transfer station or land disposal facility within its jurisdiction.

(4)(a) The department shall prepare guidelines for the development of local hazardous waste plans. The guidelines shall be prepared in consultation with local governments and shall be completed by December 31, 1986. The guidelines shall include a list of substances identified as hazardous household substances.

(b) In preparing the guidelines under (a) of this subsection, the department shall review and assess information on pilot projects that have been conducted for moderate-risk waste management. The department shall encourage additional pilot projects as needed to provide information to improve and update the guidelines.

(5) The department shall consult with retailers, trade associations, public interest groups, and appropriate units of local government to encourage the development of voluntary public education programs on the proper handling of hazardous household substances.

(6) Local hazardous waste plans shall be completed and submitted to the department no later than June 30, 1990. Local governments may from time to time amend the local plan.

(7) Each local government, or combination of contiguous local governments, shall submit its local hazardous waste plan or amendments thereto to the department. The department shall approve or disapprove local hazardous waste plans or amendments by December 31, 1990, or within ninety days of submission, whichever is later. The department shall approve a local hazardous waste plan if it determines that the plan is consistent with this chapter and the guidelines under subsection (4) of this section. If approval is denied, the department shall submit its objections to the local government within ninety days of submission. However, for plans submitted between January 1, 1990, and June 30, 1990, the department shall have one hundred eighty days to submit its objections. No local government is eligible for grants under RCW 70.105.235 for implementing a local hazardous waste plan unless the plan for that jurisdiction has been approved by the department.

(8) Each local government, or combination of contiguous local governments, shall implement the local hazardous waste plan for its jurisdiction by December 31, 1991.

(9) The department may waive the specific requirements of this section for any local government if such local government demonstrates to the satisfaction of the department that the objectives of the planning requirements have been met.

Passed the House February 18, 1992.

Passed the Senate March 5, 1992.

Approved by the Governor March 20, 1992.

Filed in Office of Secretary of State March 20, 1992.

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**CHAPTER 18**

[House Bill 2746]

**TOW TRUCK OPERATORS—COMPENSATION FOR PRIVATE IMPOUNDS**

**Effective Date: 6/11/92**

AN ACT Relating to payment of charges for private impounds; amending RCW 46.55.035; and adding a new section to chapter 46.55 RCW.

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

**Sec. 1.** RCW 46.55.035 and 1989 c 111 s 4 are each amended to read as follows:

(1) No registered tow truck operator may:

(a) Except as authorized under section 2 of this act, ask for or receive any compensation, gratuity, reward, or promise thereof from a person having control or possession of private property or from an agent of the person authorized to sign an impound authorization, for or on account of the impounding of a vehicle;

(b) Be beneficially interested in a contract, agreement, or understanding that may be made by or between a person having control or possession of private property and an agent of the person authorized to sign an impound authorization;

(c) Have a financial, equitable, or ownership interest in a firm, partnership, association, or corporation whose functions include acting as an agent or a representative of a property owner for the purpose of signing impound authorizations.

(2) This section does not prohibit the registered tow truck operator from collecting the costs of towing, storage, or other services rendered during the course of towing, removing, impounding, or storing of an impounded vehicle as provided by RCW 46.55.120.

(3) A violation of this section is a gross misdemeanor.

**NEW SECTION.** **Sec. 2.** A new section is added to chapter 46.55 RCW to read as follows:

A registered tow truck operator may receive compensation from a private property owner or agent for a private impound of an unauthorized vehicle that has an approximate fair market value equal only to the approximate value of the

scrap in it. The private property owner or an agent must authorize the impound under RCW 46.55.080. The registered tow truck operator shall process the vehicle in accordance with this chapter and shall deduct any compensation received from the private property owner or agent from the amount of the lien on the vehicle in accordance with this chapter.

Passed the House February 17, 1992.

Passed the Senate March 4, 1992.

Approved by the Governor March 20, 1992.

Filed in Office of Secretary of State March 20, 1992.

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## CHAPTER 19

[Substitute House Bill 2768]

### DEPARTMENT OF ECOLOGY TECHNICAL ASSISTANCE OFFICERS

Effective Date: 6/11/92

AN ACT Relating to department of ecology technical assistance officers; and adding new sections to chapter 43.21A RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 43.21A RCW to read as follows:

The department, to the greatest extent possible, within available resources and without jeopardizing the department's ability to carry out its legal responsibilities, may designate one or more of its employees as a technical assistance officer, and may organize the officers into one or more technical assistance units within the department. The duties of a technical assistance officer are to coordinate voluntary compliance with the regulatory laws administered by the department and to provide technical assistance concerning compliance with the laws.

**NEW SECTION.** Sec. 2. A new section is added to chapter 43.21A RCW to read as follows:

(1) An employee designated by the department as a technical assistance officer or as a member of a technical assistance unit may not, during the period of the designation, have authority to issue orders or assess penalties on behalf of the department. Such an employee who provides on-site consultation at an industrial or commercial facility and who observes violations of the law shall inform the owner or operator of the facility of the violations. On-site consultation visits by such an employee may not be regarded as inspections or investigations and no notices or citations may be issued or civil penalties assessed during such a visit. However, violations of the law must be reported to the appropriate officers within the department. If the owner or operator of the facility does not correct the observed violations within a reasonable time, the department may reinspect the facility and take appropriate enforcement action. If a technical assistance officer or member of a technical assistance unit observes

a violation of the law that places a person in danger of death or substantial bodily harm, or has caused or is likely to cause physical damage to the property of others in an amount exceeding one thousand dollars, the department may initiate enforcement action immediately upon observing the violation.

(2) The state, the department, and officers or employees of the state shall not be liable for damages to a person to the extent that liability is asserted to arise from the performance by technical assistance officers of their duties, or if liability is asserted to arise from the failure of the department to supply technical assistance.

Passed the House February 14, 1992.

Passed the Senate March 3, 1992.

Approved by the Governor March 20, 1992.

Filed in Office of Secretary of State March 20, 1992.

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## CHAPTER 20

[Substitute House Bill 2814]

### STATE STRATEGIC INFORMATION TECHNOLOGY PLAN AND PERFORMANCE REPORT

**Effective Date:** 3/20/92

AN ACT Relating to state information resources; amending RCW 43.105.017, 43.105.032, 43.105.047, 43.105.052, 43.105.057, 43.131.353, and 43.131.354; adding a new section to chapter 43.88 RCW; adding new sections to chapter 43.105 RCW; creating a new section; and declaring an emergency.

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

**NEW SECTION. Sec. 1. STATE STRATEGIC INFORMATION TECHNOLOGY PLAN AND PERFORMANCE REPORT.** (1) The department shall prepare a state strategic information technology plan which shall establish a state-wide mission, goals, and objectives for the use of information technology. The plan shall be developed in accordance with the standards and policies established by the board and shall be submitted to the board for review, modification as necessary, and approval. The department shall seek the advice of the board in the development of this plan.

The plan approved under this section shall be updated as necessary and submitted to the governor and the chairs and ranking minority members of the appropriations committees of the senate and the house of representatives.

(2) The department shall prepare a biennial state performance report on information technology based on agency performance reports required under section 2 of this act and other information deemed appropriate by the department. The report shall include, but not be limited to:

(a) An evaluation of performance relating to information technology;

(b) An assessment of progress made toward implementing the state strategic information technology plan;

(c) An analysis of the success or failure, feasibility, progress, costs, and timeliness of implementation of major information technology projects under section 4 of this act;

(d) Identification of benefits, cost avoidance, and cost savings generated by major information technology projects developed under section 4 of this act; and

(e) An inventory of state information services, equipment, and proprietary software.

Copies of the report shall be distributed biennially to the governor and the chairs and ranking minority members of the appropriations committees of the senate and the house of representatives.

**NEW SECTION. Sec. 2. AGENCY STRATEGIC INFORMATION TECHNOLOGY PLAN AND PERFORMANCE REPORT.**

(1) Each agency shall develop an agency strategic information technology plan which establishes agency goals and objectives regarding the development and use of information technology. Plans shall include, but not be limited to, the following:

(a) A statement of the agency's mission, goals, and objectives for information technology;

(b) An explanation of how the agency's mission, goals, and objectives for information technology support and conform to the state strategic information technology plan developed under section 1 of this act;

(c) Projects and resources required to meet the objectives of the plan; and

(d) Where feasible, estimated schedules and funding required to implement identified projects.

(2) Plans developed under subsection (1) of this section shall be submitted to the department for review and forwarded along with the department's recommendations to the board for review and approval. The board may reject, require modification to, or approve plans as deemed appropriate by the board. Plans submitted under this subsection shall be updated and submitted for review and approval as necessary.

(3) Each agency shall prepare and submit to the department a biennial performance report. The report shall include:

(a) An evaluation of the agency's performance relating to information technology;

(b) An assessment of progress made toward implementing the agency strategic information technology plan; and

(c) An inventory of agency information services, equipment, and proprietary software.

(4) The department, with the approval of the board, shall establish standards, elements, form, and format for plans and reports developed under this section.

(5) The board may exempt any agency from any or all of the requirements of this section.

**NEW SECTION. Sec. 3. REVIEW OF FUNDING REQUESTS FOR INFORMATION TECHNOLOGY.** Upon request of the office of financial

management, the department shall evaluate agency budget requests for major information technology projects identified under section 4 of this act. The department shall submit recommendations for funding all or part of such requests to the office of financial management.

The department, with the advice and approval of the office of financial management, shall establish criteria for the evaluation of agency budget requests under this section. Criteria shall include, but not be limited to: Feasibility of the proposed projects, consistency with state and agency strategic information technology plans, consistency with agency goals and objectives, costs, and benefits.

**NEW SECTION. Sec. 4. PLANNING AND FUNDING OF MAJOR INFORMATION TECHNOLOGY PROJECTS.**

(1) The department, with the approval of the board, shall establish standards and policies governing the planning, implementation, and evaluation of major information technology projects. The standards and policies shall:

(a) Establish criteria to identify projects which are subject to this section. Such criteria shall include, but not be limited to, significant anticipated cost, complexity, or state-wide significance of the project; and

(b) Establish a model process and procedures which agencies shall follow in developing and implementing project plans. Agencies may propose, for approval by the department, a process and procedures unique to the agency. The department may accept or require modification of such agency proposals or the department may reject such agency proposals and require use of the model process and procedures established under this subsection. Any process and procedures developed under this subsection shall require (i) distinct and identifiable phases upon which funding may be based, (ii) user validation of products through system demonstrations and testing of prototypes and deliverables, and (iii) other elements identified by the board.

Project plans and any agreements established under such plans shall be approved and mutually agreed upon by the director, the director of financial management, and the head of the agency proposing the project.

The director may terminate a major project if the director determines that the project is not meeting or is not expected to meet anticipated performance standards.

(2) The office of financial management shall establish policies and standards governing the funding of projects developed under this section. The policies and standards shall provide for:

(a) Funding of a project under terms and conditions mutually agreed to by the director, the director of financial management, and the head of the agency proposing the project. However, the office of financial management may require incremental funding of a project on a phase-by-phase basis whereby funds for a given phase of a project may be released only when the office of financial

management determines, with the advice of the department, that the previous phase is satisfactorily completed;

(b) Acceptance testing of products to assure that products perform satisfactorily before they are accepted and final payment is made; and

(c) Other elements deemed necessary by the office of financial management.

(3) The department shall evaluate projects at three stages of development as follows: (a) Initial needs assessment; (b) feasibility study including definition of scope, development of tasks and timelines, and estimated costs and benefits; and (c) final project implementation plan based upon available funding.

Copies of project evaluations conducted under this subsection shall be submitted to the office of financial management and the chairs, ranking minority members, and staff coordinators of the appropriations committees of the senate and house of representatives.

**NEW SECTION. Sec. 5.** In the case of institutions of higher education, the provisions of this act apply to business and administrative applications but do not apply to academic and research applications.

**Sec. 6.** RCW 43.105.017 and 1990 c 208 s 2 are each amended to read as follows:

It is the intent of the legislature that:

(1) State government use voice, data, and video telecommunications technologies to:

(a) Transmit and increase access to live, interactive classroom instruction and training;

(b) Provide for interactive public affairs presentations, including a public forum for state and local issues;

(c) Facilitate communications and exchange of information among state and local elected officials and the general public;

(d) Enhance state-wide communications within state agencies; and

(e) Through the use of telecommunications, reduce time lost due to travel to in-state meetings;

(2) Information be shared and administered in a coordinated manner, except when prevented by agency responsibilities for security, privacy, or confidentiality;

(3) The primary responsibility for the management and use of information, information systems, telecommunications, equipment, software, and services rests with each agency head;

(4) Resources be used in the most efficient manner and services be shared when cost-effective;

(5) A structure be created to:

(a) Plan and manage telecommunications and computing networks;

(b) Increase agencies' awareness of information sharing opportunities; and

(c) Assist agencies in implementing such possibilities;

(6) An acquisition process for equipment, proprietary software, and related services be established that meets the needs of the users, considers the exchange of information, and promotes fair and open competition;

(7) To the greatest extent possible, major information technology projects be implemented on an incremental basis;

(8) The state maximize opportunities to exchange and share data and information by moving toward implementation of open system architecture based upon interface standards providing for application and data portability and interoperability;

(9) To the greatest extent possible, the state recognize any price performance advantages which may be available in midrange and personal computing architecture;

(10) The state improve recruitment, retention, and training of professional staff;

~~((8))~~ (11) Plans, proposals, and acquisitions for information services be reviewed from a financial and management perspective as part of the budget process; and

~~((9))~~ (12) State government adopt policies and procedures that maximize the use of existing video telecommunications resources, coordinate and develop video telecommunications in a manner that is cost-effective and encourages shared use, and ensure the appropriate use of video telecommunications to fulfill identified needs.

NEW SECTION. Sec. 7. A new section is added to chapter 43.88 RCW to read as follows:

FUNDING MAJOR INFORMATION TECHNOLOGY PROJECTS. The director of financial management shall establish policies and standards governing the funding of major information technology projects as required under section 4(2) of this act.

Sec. 8. RCW 43.105.032 and 1987 c 504 s 4 are each amended to read as follows:

There is hereby created the Washington state information services board. The board shall be composed of nine members. Seven members shall be appointed by the governor, ~~((and serving at the governor's pleasure as follows: Three representatives from cabinet agencies,))~~ one of which shall be a representative ((from)) of higher education, one of which shall be a representative ((from a noncabinet executive)) of an agency under a state-wide elected official other than the governor, and ((two representatives from)) one of which shall be a representative of the private sector. One member shall represent the judicial branch and be appointed by the chief justice of the supreme court. One member shall represent the legislative branch and shall be selected by the president of the senate and the speaker of the house of representatives. These members shall constitute the membership of the board with full voting rights. Members of the board shall serve at the pleasure of the appointing authority.

The director shall be an ex officio, nonvoting member of the board. The board shall select a chairperson from among its members.

Vacancies shall be filled in the same manner that the original appointments were made.

A majority of the members of the board shall constitute a quorum for the transaction of business.

Members of the board shall be compensated for service on the board in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

**Sec. 9.** RCW 43.105.047 and 1987 c 504 s 6 are each amended to read as follows:

There is created the department of information services. The department shall be headed by a director appointed by the governor with the consent of the senate. The director shall serve at the governor's pleasure and shall receive such salary as determined by the governor. The director shall:

(1) Appoint a confidential secretary and such deputy and assistant directors as needed to administer the department. However, the total number of deputy and assistant directors shall not exceed four;

(2) Maintain and fund a planning component separate from the services component of the department;

(3) Appoint, after consulting with the board, the assistant director for the planning component;

(4) Appoint such professional, technical, and clerical assistants and employees as may be necessary to perform the duties imposed by this chapter;

~~((4))~~ (5) Report to the governor and the board any matters relating to abuses and evasions of this chapter; and

~~((5))~~ (6) Recommend statutory changes to the governor and the board.

**Sec. 10.** RCW 43.105.052 and 1990 c 208 s 7 are each amended to read as follows:

The department shall:

(1) Perform all duties and responsibilities the board delegates to the department, including but not limited to:

(a) The review of agency acquisition plans and requests; and

(b) Implementation of state-wide and interagency policies, standards, and guidelines;

(2) Make available information services to state agencies and local governments on a full cost-recovery basis. These services may include, but are not limited to:

(a) Telecommunications services for voice, data, and video;

(b) Mainframe computing services;

(c) Support for departmental and microcomputer evaluation, installation, and use;

(d) Equipment acquisition assistance, including leasing, brokering, and establishing master contracts;

(e) Facilities management services for information technology equipment, equipment repair, and maintenance service;

(f) (~~Negotiate [Negotiation]~~) Negotiation with local cable companies and local governments to provide for connection to local cable services to allow for access to these public and educational channels in the state;

(g) Office automation services;

(h) System development services; and

(i) Training.

These services are for discretionary use by customers and customers may elect other alternatives for service if those alternatives are more cost-effective or provide better service. Agencies may be required to use the backbone network portions of the telecommunications services during an initial start-up period not to exceed three years;

(3) Establish rates and fees for services provided by the department to assure that the services component of the department is self-supporting. A billing rate plan shall be developed for a two-year period to coincide with the budgeting process. The rate plan shall be subject to review at least annually by the customer oversight committees. The rate plan shall show the proposed rates by each cost center and will show the components of the rate structure as mutually determined by the department and the customer oversight committees. The same rate structure will apply to all user agencies of each cost center. The rate plan and any adjustments to rates shall be approved by the office of financial management. The services component shall not subsidize the operations of the planning component;

(4) With the advice of the information services board and agencies, develop (~~and publish state-wide goals and objectives at least biennially~~) a state strategic information technology plan and performance reports as required under section 1 of this act;

(5) Develop plans for the department's achievement of state-wide goals and objectives set forth in the state strategic information technology plan required under section 1 of this act. These plans shall address such services as telecommunications, central and distributed computing, local area networks, office automation, and end user computing. The department shall seek the advice of customer oversight committees and the board in the development of these plans;

(6) Under direction of the information services board and in collaboration with the department of personnel, the higher education personnel board, and other agencies as may be appropriate, develop training plans and coordinate training programs that are responsive to the needs of agencies;

(7) Identify opportunities for the effective use of information services and coordinate appropriate responses to those opportunities;

(8) Assess agencies' projects, acquisitions, plans, or overall information processing performance as requested by the board, agencies, the director of financial management, or the legislature. Agencies may be required to reimburse the department for agency-requested reviews;

(9) Develop planning, budgeting, and expenditure reporting requirements, in conjunction with the office of financial management, for agencies to follow;

(10) Assist the office of financial management with budgetary and policy review of agency plans for information services;

(11) Provide staff support from the planning component to the board for:

(a) Meeting preparation, notices, and minutes;

(b) Promulgation of policies, standards, and guidelines adopted by the board;

(c) Supervision of studies and reports requested by the board;

(d) Conducting reviews and assessments as directed by the board;

(12) Be the lead agency in coordinating video telecommunications services for all state agencies and develop, pursuant to board policies, standards and common specifications for leased and purchased telecommunications equipment. The department shall not evaluate the merits of school curriculum, higher education course offerings, or other education and training programs proposed for transmission and/or reception using video telecommunications resources. Nothing in this section shall abrogate or abridge the legal responsibilities of licensees of telecommunications facilities as licensed by the federal communications commission on March 27, 1990; and

(13) Perform all other matters and things necessary to carry out the purposes and provisions of this chapter.

**Sec. 11.** RCW 43.105.057 and 1990 c 208 s 13 are each amended to read as follows:

The department of information services and the information services board, respectively, shall adopt rules as necessary under chapter 34.05 RCW to implement the provisions of (~~RCW 43.105.005, 43.105.017, 43.105.032, 43.105.041, 43.105.052, and section 5 of this act~~) this chapter.

**Sec. 12.** RCW 43.131.353 and 1987 c 504 s 22 are each amended to read as follows:

The information services board and the department of information services and their powers and duties shall be terminated on June 30, (~~1994~~) 1996, as provided in RCW 43.131.354.

**Sec. 13.** RCW 43.131.354 and 1987 c 504 s 24 are each amended to read as follows:

~~((Chapter 43.105 RCW shall expire June 30, 1995.~~

~~Section 7, chapter 504, Laws of 1987 and RCW 41.06.094, as now or hereafter amended, are each repealed, effective June 30, 1995.))~~

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1997:

(1) RCW 41.06.094 and 1987 c 504 s 7;

- (2) RCW 43.88.— and 1992 c — s 7 (section 7 of this act);  
(3) RCW 43.105.005 and 1990 c 208 s 1 & 1987 c 504 s 1;  
(4) RCW 43.105.017 and 1992 c — s 6, 1990 c 208 s 2, & 1987 c 504 s 2 (section 6 of this act);  
(5) RCW 43.105.020 and 1990 c 208 s 3, 1987 c 504 s 3, 1973 1st ex.s. c 219 s 3, & 1967 ex.s. c 115 s 2;  
(6) RCW 43.105.032 and 1992 c — s 8, 1987 c 504 s 4, 1984 c 287 s 86, 1975-'76 2nd ex.s. c 34 s 128, & 1973 1st ex.s. c 219 s 5 (section 8 of this act);  
(7) RCW 43.105.041 and 1990 c 208 s 6, 1987 c 504 s 5, 1983 c 3 s 115, & 1973 1st ex.s. c 219 s 6;  
(8) RCW 43.105.047 and 1992 c — s 9 & 1987 c 504 s 6 (section 9 of this act);  
(9) RCW 43.105.052 and 1992 c — s 10, 1990 c 208 s 7, & 1987 c 504 s 8 (section 10 of this act);  
(10) RCW 43.105.055 and 1987 c 504 s 9;  
(11) RCW 43.105.057 and 1992 c — s 11 & 1990 c 208 s 13 (section 11 of this act);  
(12) RCW 43.105.060 and 1987 c 504 s 10, 1973 1st ex.s. c 219 s 9, & 1967 ex.s. c 115 s 6;  
(13) RCW 43.105.070 and 1969 ex.s. c 212 s 4;  
(14) RCW 43.105.080 and 1987 c 504 s 11, 1983 c 3 s 116, & 1974 ex.s. c 129 s 1;  
(15) RCW 43.105.900 and 1973 1st ex.s. c 219 s 10;  
(16) RCW 43.105.901 and 1987 c 504 s 25;  
(17) RCW 43.105.902 and 1987 c 504 s 26;  
(18) RCW 43.105.— and 1992 c — s 1 (section 1 of this act);  
(19) RCW 43.105.— and 1992 c — s 2 (section 2 of this act);  
(20) RCW 43.105.— and 1992 c — s 3 (section 3 of this act);  
(21) RCW 43.105.— and 1992 c — s 4 (section 4 of this act); and  
(22) RCW 43.105.— and 1992 c — s 5 (section 5 of this act).

**NEW SECTION. Sec. 14.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 15.** Sections 1 through 5 of this act are each added to chapter 43.105 RCW.

**NEW SECTION. Sec. 16.** Captions used in this act do not constitute any part of the law.

**NEW SECTION. Sec. 17.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 7, 1992.  
Passed the Senate March 5, 1992.  
Approved by the Governor March 20, 1992.  
Filed in Office of Secretary of State March 20, 1992.

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**CHAPTER 21**

[Engrossed House Bill 2821]

**TIMBER IMPACT AREAS--DESIGNATION OF  
ADDITIONAL COMMUNITIES AS**

**Effective Date: 3/20/92**

AN ACT Relating to designating certain communities as additional timber impact areas; amending RCW 50.70.010, 43.31.601, 43.160.020, 43.20A.750, 28B.80.570, and 70.47.115; amending 1991 c 314 s 26 (uncodified); reenacting and amending RCW 28B.50.030; and declaring an emergency.

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

**Sec. 1.** RCW 50.70.010 and 1991 c 315 s 5 are each amended to read as follows:

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

(1) "Department" means the employment security department.

(2) "Dislocated forest products worker" means a forest products worker who: (a)(i) Has been terminated or received notice of termination from employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for his or her skills in that occupation or industry; or (ii) is self-employed and has been displaced from his or her business because of the diminishing demand for the business's services or goods; and (b) at the time of last separation from employment, resided in or was employed in a timber impact area.

(3) "Forest products worker" means a worker in the forest products industries affected by the reduction of forest fiber enhancement, transportation, or production. The workers included within this definition shall be determined by the employment security department, but shall include workers employed in the industries assigned the major group standard industrial classification codes "24" and "26" and the industries involved in the harvesting and management of logs, transportation of logs and wood products, processing of wood products, and the manufacturing and distribution of wood processing and logging equipment. The commissioner may adopt rules further interpreting these definitions. For the purposes of this subsection, "standard industrial classification code" means the code identified in RCW 50.29.025(6)(c).

(4) "Program" means the employment and career orientation program for dislocated forest products workers administered by the employment security department in conjunction with the department of natural resources.

(5) "Enrollee" means any person enrolled in the program.

(6) "Project" means the natural resource worker project.

(7) "Timber impact area" means:

(a) A county having a population of less than five hundred thousand, or a city or town located within a county having a population of less than five hundred thousand, and meeting two of the following three criteria, as determined by the employment security department, for the most recent year such data is available: ~~((a))~~ (i) A lumber and wood products employment location quotient at or above the state average; ~~((b))~~ (ii) projected or actual direct lumber and wood products job losses of one hundred positions or more, except counties having a population greater than two hundred thousand but less than five hundred thousand must have direct lumber and wood products job losses of one thousand positions or more; or ~~((c))~~ (iii) an annual unemployment rate twenty percent or more above the state average; or

(b) Additional communities as the economic recovery coordinating board, established in RCW 43.31.631, designates based on a finding by the board that each designated community is socially and economically integrated with areas that meet the definition of a timber impact area under (a) of this subsection.

**Sec. 2.** RCW 43.31.601 and 1991 c 314 s 2 are each amended to read as follows:

For the purposes of RCW 43.31.601 through 43.31.661:

(1) "Board" means the economic recovery coordination board;

(2) "Timber impact area" means:

(a) A county having a population of less than five hundred thousand, or a city or town located within a county having a population of less than five hundred thousand, and meeting two of the following three criteria, as determined by the employment security department, for the most recent year such data is available: ~~((a))~~ (i) A lumber and wood products employment location quotient at or above the state average; ~~((b))~~ (ii) projected or actual direct lumber and wood products job losses of one hundred positions or more, except counties having a population greater than two hundred thousand but less than five hundred thousand must have direct lumber and wood products job losses of one thousand positions or more; or ~~((c))~~ (iii) an annual unemployment rate twenty percent or more above the state average; or

(b) Additional communities as the economic recovery coordinating board, established in RCW 43.31.631, designates based on a finding by the board that each designated community is socially and economically integrated with areas that meet the definition of a timber impact area under (a) of this subsection.

**Sec. 3.** RCW 43.160.020 and 1991 c 314 s 22 are each amended to read as follows:

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

(1) "Board" means the community economic revitalization board.

(2) "Bond" means any bond, note, debenture, interim certificate, or other evidence of financial indebtedness issued by the board pursuant to this chapter.

(3) "Department" means the department of trade and economic development or its successor with respect to the powers granted by this chapter.

(4) "Financial institution" means any bank, savings and loan association, credit union, development credit corporation, insurance company, investment company, trust company, savings institution, or other financial institution approved by the board and maintaining an office in the state.

(5) "Industrial development facilities" means "industrial development facilities" as defined in RCW 39.84.020.

(6) "Industrial development revenue bonds" means tax-exempt revenue bonds used to fund industrial development facilities.

(7) "Local government" means any port district, county, city, or town.

(8) "Sponsor" means any of the following entities which customarily provide service or otherwise aid in industrial or other financing and are approved as a sponsor by the board: A bank, trust company, savings bank, investment bank, national banking association, savings and loan association, building and loan association, credit union, insurance company, or any other financial institution, governmental agency, or holding company of any entity specified in this subsection.

(9) "Umbrella bonds" means industrial development revenue bonds from which the proceeds are loaned, transferred, or otherwise made available to two or more users under this chapter.

(10) "User" means one or more persons acting as lessee, purchaser, mortgagor, or borrower under a financing document and receiving or applying to receive revenues from bonds issued under this chapter.

(11) "Timber impact area" means:

(a) A county having a population of less than five hundred thousand, or a city or town located within a county having a population of less than five hundred thousand, and meeting two of the following three criteria, as determined by the employment security department, for the most recent year such data is available: ~~((a))~~ (i) A lumber and wood products employment location quotient at or above the state average; ~~((b))~~ (ii) projected or actual direct lumber and wood products job losses of one hundred positions or more, except counties having a population greater than two hundred thousand but less than five hundred thousand must have direct lumber and wood products job losses of one thousand positions or more; or ~~((c))~~ (iii) an annual unemployment rate twenty percent or more above the state average; or

(b) Additional communities as the economic recovery coordinating board, established in RCW 43.31.631, designates based on a finding by the board that each designated community is socially and economically integrated with areas that meet the definition of a timber impact area under (a) of this subsection.

**Sec. 4.** RCW 43.20A.750 and 1991 c 315 s 28 are each amended to read as follows:

(1) The department of social and health services shall help families and workers in timber impact areas make the transition through economic difficulties and shall provide services to assist workers to gain marketable skills. The department, as a member of the agency timber task force and in consultation with the economic recovery coordination board, and, where appropriate, under an interagency agreement with the department of community development, shall provide grants through the office of the secretary for services to the unemployed in timber impact areas, including providing direct or referral services, establishing and operating service delivery programs, and coordinating delivery programs and delivery of services. These grants may be awarded for family support centers, reemployment centers, or other local service agencies.

(2) The services provided through the grants may include, but need not be limited to: Credit counseling; social services including marital counseling; psychotherapy or psychological counseling; mortgage foreclosures and utilities problems counseling; drug and alcohol abuse services; medical services; and residential heating and food acquisition.

(3) Funding for these services shall be coordinated through the economic recovery coordination board which will establish a fund to provide child care assistance, mortgage assistance, and counseling which cannot be met through current programs. No funds shall be used for additional full-time equivalents for administering this section.

(4)(a) Grants for family support centers are intended to provide support to families by responding to needs identified by the families and communities served by the centers. Services provided by family support centers may include parenting education, child development assessments, health and nutrition education, counseling, and information and referral services. Such services may be provided directly by the center or through referral to other agencies participating in the interagency team.

(b) The department shall consult with the council on child abuse or neglect regarding grants for family support centers.

(5) "Timber impact area" means:

(a) A county having a population of less than five hundred thousand, or a city or town located within a county having a population of less than five hundred thousand, and meeting two of the following three criteria, as determined by the employment security department, for the most recent year such data is available: ~~((a))~~ (i) A lumber and wood products employment location quotient at or above the state average; ~~((b))~~ (ii) projected or actual direct lumber and wood products job losses of one hundred positions or more, except counties having a population greater than two hundred thousand but less than five hundred thousand must have direct lumber and wood products job losses of one thousand

positions or more; or ~~((e))~~ (iii) an annual unemployment rate twenty percent or more above the state average; or

(b) Additional communities as the economic recovery coordinating board, established in RCW 43.31.631, designates based on a finding by the board that each designated community is socially and economically integrated with areas that meet the definition of a timber impact area under (a) of this subsection.

**Sec. 5.** RCW 28B.50.030 and 1991 c 315 s 15 and 1991 c 238 s 22 are each reenacted and amended to read as follows:

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

(1) "System" shall mean the state system of community and technical colleges, which shall be a system of higher education.

(2) "Board" shall mean the work force training and education coordinating board.

(3) "College board" shall mean the state board for community and technical colleges created by this chapter.

(4) "Director" shall mean the administrative director for the state system of community and technical colleges.

(5) "District" shall mean any one of the community and technical college districts created by this chapter.

(6) "Board of trustees" shall mean the local community and technical college board of trustees established for each college district within the state.

(7) "Occupational education" shall mean that education or training that will prepare a student for employment that does not require a baccalaureate degree.

(8) "K-12 system" shall mean the public school program including kindergarten through the twelfth grade.

(9) "Common school board" shall mean a public school district board of directors.

(10) "Community college" shall include those higher education institutions that conduct education programs under RCW 28B.50.020.

(11) "Technical college" shall include those higher education institutions with the sole mission of conducting occupational education, basic skills, literacy programs, and offering on short notice, when appropriate, programs that meet specific industry needs. The programs of technical colleges shall include, but not be limited to, continuous enrollment, competency-based instruction, industry-experienced faculty, curriculum integrating vocational and basic skills education, and curriculum approved by representatives of employers and labor. For purposes of this chapter, technical colleges shall include Lake Washington Vocational-Technical Institute, Renton Vocational-Technical Institute, Bates Vocational-Technical Institute, Clover Park Vocational Institute, and Bellingham Vocational-Technical Institute.

(12) "Adult education" shall mean all education or instruction, including academic, vocational education or training, basic skills and literacy training, and "occupational education" provided by public educational institutions, including

common school districts for persons who are eighteen years of age and over or who hold a high school diploma or certificate. However, "adult education" shall not include academic education or instruction for persons under twenty-one years of age who do not hold a high school degree or diploma and who are attending a public high school for the sole purpose of obtaining a high school diploma or certificate, nor shall "adult education" include education or instruction provided by any four year public institution of higher education.

(13) "Dislocated forest product worker" shall mean a forest products worker who: (a)(i) Has been terminated or received notice of termination from employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for his or her skills in that occupation or industry; or (ii) is self-employed and has been displaced from his or her business because of the diminishing demand for the business's services or goods; and (b) at the time of last separation from employment, resided in or was employed in a timber impact area.

(14) "Forest products worker" shall mean a worker in the forest products industries affected by the reduction of forest fiber enhancement, transportation, or production. The workers included within this definition shall be determined by the employment security department, but shall include workers employed in the industries assigned the major group standard industrial classification codes "24" and "26" and the industries involved in the harvesting and management of logs, transportation of logs and wood products, processing of wood products, and the manufacturing and distribution of wood processing and logging equipment. The commissioner may adopt rules further interpreting these definitions. For the purposes of this subsection, "standard industrial classification code" means the code identified in RCW 50.29.025(6)(c).

(15) "Timber impact area" shall mean:

(a) A county having a population of less than five hundred thousand, or a city or town located within a county having a population of less than five hundred thousand, and meeting two of the following three criteria, as determined by the employment security department, for the most recent year such data is available: ~~((a))~~ (i) A lumber and wood products employment location quotient at or above the state average; ~~((b))~~ (ii) projected or actual direct lumber and wood products job losses of one hundred positions or more, except counties having a population greater than two hundred thousand but less than five hundred thousand must have direct lumber and wood products job losses of one thousand positions or more; or ~~((c))~~ (iii) an annual unemployment rate twenty percent or more above the state average; or

(b) Additional communities as the economic recovery coordinating board, established in RCW 43.31.631, designates based on a finding by the board that each designated community is socially and economically integrated with areas that meet the definition of a timber impact area under (a) of this subsection.

**Sec. 6.** RCW 28B.80.570 and 1991 c 315 s 18 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 28B.80.575 through 28B.80.585.

(1) "Board" means the higher education coordinating board.

(2) "Dislocated forest products worker" means a forest products worker who: (a)(i) Has been terminated or received notice of termination from employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for his or her skills in that occupation or industry; or (ii) is self-employed and has been displaced from his or her business because of the diminishing demand for the business's services or goods; and (b) at the time of last separation from employment, resided in or was employed in a timber impact area.

(3) "Forest products worker" means a worker in the forest products industries affected by the reduction of forest fiber enhancement, transportation, or production. The workers included within this definition shall be determined by the employment security department, but shall include workers employed in the industries assigned the major group standard industrial classification codes "24" and "26" and the industries involved in the harvesting and management of logs, transportation of logs and wood products, processing of wood products, and the manufacturing and distribution of wood processing and logging equipment. The commissioner may adopt rules further interpreting these definitions. For the purposes of this subsection, "standard industrial classification code" means the code identified in RCW 50.29.025(6)(c).

(4) "Timber impact area" means:

(a) A county having a population of less than five hundred thousand, or a city or town located within a county having a population of less than five hundred thousand, and meeting two of the following three criteria, as determined by the employment security department, for the most recent year such data is available: ~~((a))~~ (i) A lumber and wood products employment location quotient at or above the state average; ~~((b))~~ (ii) projected or actual direct lumber and wood products job losses of one hundred positions or more, except counties having a population greater than two hundred thousand but less than five hundred thousand must have direct lumber and wood products job losses of one thousand positions or more; or ~~((c))~~ (iii) an annual unemployment rate twenty percent or more above the state average; or

(b) Additional communities as the economic recovery coordinating board, established in RCW 43.31.631, designates based on a finding by the board that each designated community is socially and economically integrated with areas that meet the definition of a timber impact area under (a) of this subsection.

**Sec. 7.** RCW 70.47.115 and 1991 c 315 s 22 are each amended to read as follows:

(1) The administrator, when specific funding is provided and where feasible, shall make the basic health plan available ~~((to dislocated forest products workers and their families))~~ in timber impact areas. The administrator shall prioritize making the plan available under this section to the timber impact areas meeting the following criteria, as determined by the employment security department: (a) A lumber and wood products employment location quotient at or above the state average; (b) a direct lumber and wood products job loss of one hundred positions or more; and (c) an annual unemployment rate twenty percent above the state average.

(2) ~~((Dislocated forest products workers))~~ Persons assisted under this section shall meet the requirements of enrollee as defined in RCW 70.47.020(4).

(3) For purposes of this section, ~~((a) "dislocated forest products worker" means a forest products worker who: (i)(A) Has been terminated or received notice of termination from employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for his or her skills in that occupation or industry; or (B) is self-employed and has been displaced from his or her business because of the diminishing demand for the business's services or goods; and (ii) at the time of last separation from employment, resided in or was employed in a timber impact area; (b) "forest products worker" means a worker in the forest products industries affected by the reduction of forest fiber enhancement, transportation, or production. The workers included within this definition shall be determined by the employment security department, but shall include workers employed in the industries assigned the major group standard industrial classification codes "24" and "26" and the industries involved in the harvesting and management of logs, transportation of logs and wood products, processing of wood products, and the manufacturing and distribution of wood processing and logging equipment.~~

~~The commissioner may adopt rules further interpreting these definitions. For the purposes of this subsection, "standard industrial classification code" means the code identified in RCW 50.29.025(6)(c); and (e)) "timber impact area" means;~~

(a) A county having a population of less than five hundred thousand, or a city or town located within a county having a population of less than five hundred thousand, and meeting two of the following three criteria, as determined by the employment security department, for the most recent year such data is available: (i) A lumber and wood products employment location quotient at or above the state average; (ii) projected or actual direct lumber and wood products job losses of one hundred positions or more, except counties having a population greater than two hundred thousand but less than five hundred thousand must have direct lumber and wood products job losses of one thousand positions or more; or (iii) an annual unemployment rate twenty percent or more above the state average; or

(b) Additional communities as the economic recovery coordinating board, established in RCW 43.31.631, designates based on a finding by the board that each designated community is socially and economically integrated with areas that meet the definition of a timber impact area under (a) of this subsection.

**Sec. 8.** 1991 c 314 s 26 (uncodified) is amended to read as follows:

(1) For the period beginning July 1, 1991, and ending June 30, 1993, in timber impact areas the public works board may award low-interest or interest-free loans to local governments for construction of new public works facilities that stimulate economic growth or diversification.

(2) For the purposes of this section and section 27 ~~((of this act))~~, chapter 314, Laws of 1991:

(a) "Public facilities" means bridge, road and street, domestic water, sanitary sewer, and storm sewer systems.

(b) "Timber impact area" means:

(i) A county having a population of less than five hundred thousand, or a city or town located within a county having a population of less than five hundred thousand, and meeting two of the following three criteria, as determined by the employment security department, for the most recent year such data is available: ~~((#))~~ (A) A lumber and wood products employment location quotient at or above the state average; ~~((#))~~ (B) projected or actual direct lumber and wood products job losses of one hundred positions or more, except counties having a population greater than two hundred thousand but less than five hundred thousand must have direct lumber and wood products job losses of one thousand positions or more; or ~~((#))~~ (C) an annual unemployment rate twenty percent or more above the state average; or

(ii) Additional communities as the economic recovery coordinating board, established in RCW 43.31.631, designates based on a finding by the board that each designated community is socially and economically integrated with areas that meet the definition of a timber impact area under (b)(i) of this subsection.

(3) The loans may have a deferred payment of up to five years but shall be repaid within twenty years. The public works board may require other terms and conditions and may charge such rates of interest on its loans as it deems appropriate to carry out the purposes of this section. Repayments shall be made to the public works assistance account.

(4) The board may make such loans irrespective of the annual loan cycle and reporting required in RCW 43.155.070.

**NEW SECTION. Sec. 9.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House February 17, 1992.

Passed the Senate March 5, 1992.

Approved by the Governor March 20, 1992.

Filed in Office of Secretary of State March 20, 1992.

## CHAPTER 22

[Substitute House Bill 2867]

LAW ENFORCEMENT OFFICERS AND FIRE FIGHTERS—REIMBURSEMENT  
OF DISABLED RETIREES FOR MEDICARE SUPPLEMENTAL INSURANCE PREMIUMS

Effective Date: 6/11/92

AN ACT Relating to reimbursement of insurance premiums for retired law enforcement officers and fire fighters; and amending RCW 41.18.060, 41.20.120, and 41.26.150.

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

**Sec. 1.** RCW 41.18.060 and 1969 ex.s. c 209 s 30 are each amended to read as follows:

Whenever the retirement board, pursuant to examination by the board's physician and such other evidence as it may require, shall find a ~~((fireman))~~ fire fighter has been disabled while in the performance of his or her duties it shall declare ~~((him))~~ the fire fighter inactive. For a period of six months from the time of ~~((such))~~ the disability ~~((he))~~ the fire fighter shall draw from the pension fund a disability allowance equal to his or her basic monthly salary and, in addition, ~~((he))~~ shall be provided with medical, hospital and nursing care as long as the disability exists. The board may, at its discretion, elect to reimburse the disabled fire fighter for premiums the fire fighter has paid for medical insurance that supplements medicare, including premiums the fire fighter has paid for medicare part B coverage. If the board finds at the expiration of six months that the ~~((fireman))~~ fire fighter is unable to return to and perform his or her duties, ~~((then he))~~ the fire fighter shall be retired at a monthly sum equal to fifty percent of the amount of his or her basic salary at any time thereafter attached to the rank which he or she held at the date of ~~((his))~~ retirement: PROVIDED, That where, at the time of retirement hereafter for disability under this section, ~~((such fireman))~~ the fire fighter has served honorably for a period of more than twenty-five years as a member, in any capacity of the regularly constituted fire department of a municipality, ~~((he))~~ the fire fighter shall have his or her pension payable under this section increased by two percent of his or her basic salary per year for each full year of additional service to a maximum of five additional years.

**Sec. 2.** RCW 41.20.120 and 1961 c 191 s 4 are each amended to read as follows:

Whenever any active member of the police department, or any member hereafter retired, on account of service, sickness or disability, not caused or brought on by dissipation or abuse, of which the board shall be judge, is confined in any hospital or in his or her home and, whether or not so confined, requires nursing, care, or attention, the board shall pay for ~~((such))~~ the active member the necessary hospital, care, and nursing expenses of ~~((such))~~ the member out of the fund; and the board may pay for ~~((such))~~ the retired member hospital, care, and nursing expenses as are reasonable, in the board's discretion. The board may, at its discretion, elect, in lieu of paying some or all such expenses for the retired member, to reimburse the retired member for premiums

the member has paid for medical insurance that supplements medicare, including premiums the member has paid for medicare part B coverage. The salary of ((sueh)) the active member shall continue while he or she is necessarily confined to ((sueh)) the hospital or home or elsewhere during the period of recuperation, as determined by the board, for a period not exceeding six months; after which period the other provisions of this chapter shall apply: PROVIDED, That the board in all cases may have the active or retired member suffering from such sickness or disability examined at any time by a licensed physician or physicians, to be appointed by the board, for the purpose of ascertaining the nature and extent of the sickness or disability, the physician or physicians to report to the board the result of the examination within three days thereafter. Any active or retired member who refuses to submit to such examination or examinations shall forfeit all his or her rights to benefits under this section: PROVIDED FURTHER, That the board shall designate the hospital and medical services available to ((sueh)) the sick or disabled policeman.

Sec. 3. RCW 41.26.150 and 1991 c 35 s 22 are each amended to read as follows:

(1) Whenever any active member, or any member hereafter retired, on account of service, sickness, or disability, not caused or brought on by dissipation or abuse, of which the disability board shall be judge, is confined in any hospital or in home, and whether or not so confined, requires medical services, the employer shall pay for ((sueh)) the active or retired member the necessary medical services not payable from some other source as provided for in subsection (2) of this section. In the case of active or retired fire fighters the employer may make the payments provided for in this section from the firemen's pension fund established pursuant to RCW 41.16.050 where ((sueh)) the fund had been established prior to March 1, 1970. If this pension fund is depleted, the employer shall have the obligation to pay all benefits payable under chapters 41.16 and 41.18 RCW.

(a) The disability board in all cases may have the active or retired member suffering from such sickness or disability examined at any time by a licensed physician or physicians, to be appointed by the disability board, for the purpose of ascertaining the nature and extent of the sickness or disability, the physician or physicians to report to the disability board the result of the examination within three days thereafter. Any active or retired member who refuses to submit to such examination or examinations shall forfeit all rights to benefits under this section for the period of ((sueh)) the refusal.

(b) The disability board shall designate the medical services available to any sick or disabled member.

(2) The medical services payable under this section will be reduced by any amount received or eligible to be received by the member under workers' compensation, social security including the changes incorporated under Public Law 89-97 (~~as now or hereafter amended~~), insurance provided by another

employer, other pension plan, or any other similar source. Failure to apply for coverage if otherwise eligible under the provisions of Public Law 89-97 (~~as now or hereafter amended~~) shall not be deemed a refusal of payment of benefits thereby enabling collection of charges under the provisions of this chapter.

(3) Upon making ~~((such))~~ the payments ~~((as are))~~ provided for in subsection (1) of this section, the employer shall be subrogated to all rights of the member against any third party who may be held liable for the member's injuries or for ~~((the))~~ payment of the cost of medical services in connection with a member's sickness or disability to the extent necessary to recover the amount of payments made by the employer.

(4) Any employer under this chapter, either singly, or jointly with any other such employer or employers through an association thereof as provided for in chapter 48.21 RCW, may provide for all or part of one or more plans of group hospitalization and medical aid insurance to cover any of its employees who are members of the Washington law enforcement officers' and fire fighters' retirement system, and/or retired former employees who were, before retirement, members of ~~((said))~~ the retirement system, through contracts with regularly constituted insurance carriers, with health maintenance organizations as defined in chapter 48.46 RCW, or with health care service contractors as defined in chapter 48.44 RCW. Benefits payable under any ~~((such))~~ the plan or plans shall be deemed to be amounts received or eligible to be received by the active or retired member under subsection (2) of this section.

(5) Any employer under this chapter may, at its discretion, elect to reimburse a retired former employee under this chapter for premiums the retired former employee has paid for medical insurance that supplements medicare, including premiums the retired former employee has paid for medicare part B coverage.

Passed the House February 17, 1992.

Passed the Senate March 5, 1992.

Approved by the Governor March 20, 1992.

Filed in Office of Secretary of State March 20, 1992.

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**CHAPTER 23**

[Engrossed Senate Bill 6027]

**NURSERY DEALER LICENSE SURCHARGE**

**Effective Date: 7/1/92**

AN ACT Relating to horticultural nurseries; adding a new section to chapter 15.13 RCW; and providing an effective date.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 15.13 RCW to read as follows:

The director may, with the advice of the advisory committee created under RCW 15.13.335, establish by rule a surcharge to be added to the fee established for a nursery dealer license under RCW 15.13.280. The surcharge applied to each license annually shall not exceed twenty percent times the amount of the license fee without the surcharge. Such a surcharge shall be paid at the same time that the licensing fee is paid. Revenue collected from the surcharge shall be deposited in the agricultural local fund under RCW 43.23.230 and shall be used solely to support research projects which are of general benefit to the horticultural nursery industry and are recommended by the advisory committee created under RCW 15.13.335.

**NEW SECTION. Sec. 2.** This act shall take effect on July 1, 1992.

Passed the Senate February 7, 1992.

Passed the House March 3, 1992.

Approved by the Governor March 20, 1992.

Filed in Office of Secretary of State March 20, 1992.

## CHAPTER 24

[Substitute House Bill 2212]

### HOLOCAUST INSTRUCTION ENCOURAGED IN CURRICULUM

Effective Date: 6/11/92

AN ACT Relating to study of the Holocaust; and adding a new section to chapter 28A.300 RCW.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) Every public high school is encouraged to include in its curriculum instruction on the events of the period in modern world history known as the Holocaust, during which six million Jews and millions of non-Jews were exterminated. The instruction may also include other examples from both ancient and modern history where subcultures or large human populations have been eradicated by the acts of humankind. The studying of this material is a reaffirmation of the commitment of free peoples never again to permit such occurrences.

(2) The superintendent of public instruction may prepare and make available to all school districts instructional materials for use as guidelines for instruction under this section.

Passed the House February 13, 1992.

Passed the Senate March 5, 1992.

Approved by the Governor March 20, 1992.

Filed in Office of Secretary of State March 20, 1992.

## CHAPTER 25

[Engrossed Senate Bill 6028]

## MUNICIPAL WATER CONSERVATION PROGRAMS—FINANCING PROVISIONS

Effective Date: 6/11/92

AN ACT Relating to municipal water conservation programs; amending RCW 35.92.105; and adding new sections to chapter 36.94 RCW.

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

**Sec. 1.** RCW 35.92.105 and 1981 c 273 s 1 are each amended to read as follows:

A city or town engaged in the sale or distribution of water or energy may issue revenue bonds ~~((or)), warrants, or other evidences of indebtedness~~ in the manner provided by this chapter for the purpose of defraying the cost of financing programs for the conservation or more efficient use of energy or water. The bonds ~~((or)), warrants, or other evidences of indebtedness~~ shall be deemed to be for capital purposes within the meaning of the uniform system of accounts for municipal corporations.

**NEW SECTION. Sec. 2.** A new section is added to chapter 36.94 RCW to read as follows:

A county engaged in the sale or distribution of water may issue revenue bonds, or other evidence of indebtedness in the manner provided by this chapter for the purpose of defraying the cost of financing programs for the conservation or more efficient use of water. The bonds or other evidence of indebtedness shall be deemed to be for capital purposes.

**NEW SECTION. Sec. 3.** A new section is added to chapter 36.94 RCW to read as follows:

Any county engaged in the sale or distribution of water is hereby authorized, within limits established by the Constitution of the state of Washington, to assist the owners of structures that are provided water service by the county in financing the acquisition and installation of fixtures, systems, and equipment, for compensation or otherwise, for the conservation or more efficient use of water in the structures under a water conservation plan adopted by the county if the cost per unit of water saved or conserved by the use of the fixtures, systems, and equipment is less than the cost per unit of water supplied by the next least costly new water source available to the county to meet future demand. Except where otherwise authorized, assistance shall be limited to:

(1) Providing an inspection of the structure, either directly or through one or more inspectors under contract, to determine and inform the owner of the estimated cost of purchasing and installing conservation fixtures, systems, and equipment for which financial assistance will be approved and the estimated life cycle savings to the water system and the consumer that are likely to result from the installation of the fixtures, systems, or equipment;

(2) Providing a list of businesses that sell and install the fixtures, systems, and equipment within or in close proximity to the service area of the county,

each of which businesses shall have requested to be included and shall have the ability to provide the products in a workmanlike manner and to utilize the fixtures, systems, and equipment in accordance with the prevailing national standards;

(3) Arranging to have approved conservation fixtures, systems, and equipment installed by a private contractor whose bid is acceptable to the owner of the structure and verifying the installation; and

(4) Arranging or providing financing for the purchase and installation of approved conservation fixtures, systems, and equipment. The fixtures, systems, and equipment shall be purchased or installed by a private business, the owner, or the utility.

Pay back shall be in the form of incremental additions to the utility bill, billed either together with use charge or separately. Loans shall not exceed one hundred twenty months in length.

Passed the Senate February 10, 1992.

Passed the House March 3, 1992.

Approved by the Governor March 20, 1992.

Filed in Office of Secretary of State March 20, 1992.

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## CHAPTER 26

[Senate Bill 6078]

### STATE ROUTE 901—REMOVAL FROM SCENIC AND RECREATIONAL HIGHWAY SYSTEM

Effective Date: 6/11/92

AN ACT Relating to state route 901; amending RCW 47.39.020 and 47.42.140; and repealing RCW 47.17.830.

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

**NEW SECTION. Sec. 1.** RCW 47.17.830 and 1991 c 342 s 48, 1971 ex.s. c 73 s 24, & 1970 ex.s. c 51 s 167 are each repealed.

**Sec. 2.** RCW 47.39.020 and 1991 c 342 s 54 are each amended to read as follows:

The following portions of highways are designated as part of the scenic and recreational highway system:

(1) State route number 2, beginning at the crossing of Woods creek at the east city limits of Monroe, thence in an easterly direction by way of Stevens pass to a junction with state route number 97 in the vicinity of Peshastin;

(2) State route number 3, beginning at a junction with state route number 106 in the vicinity of Belfair, thence in a northeasterly direction to a junction with Arsenal Way south of Bremerton; also

Beginning at a junction of Erlands Point Road north of Bremerton thence northeasterly to a junction with state route number 104 in the vicinity of Port Gamble;

(3) State route number 8, beginning at a junction with state route number 12 in the vicinity of Elma, thence easterly to a junction with state route number 101 near Tumwater;

(4) State route number 10, beginning at Teanaway junction, thence easterly to a junction with state route number 97 west of Ellensburg;

(5) State route number 12, beginning at a junction with a county road approximately 2.8 miles west of the crossing of the Wynooche river which is approximately 1.2 miles west of Montesano, thence in an easterly direction to a junction with state route number 8 in the vicinity of Elma; also

Beginning at the Burlington Northern Railroad bridge approximately 3.4 miles west of Dixie, thence in a northerly and easterly direction by way of Dayton, Dodge, and Pomeroy to a junction with a county road approximately 2.4 miles west of a junction with state route number 129 at Clarkston;

(6) State route number 14, beginning at the crossing of Gibbons creek approximately 0.9 miles east of Washougal, thence in an easterly direction by way of Stevenson to a westerly junction with state route number 97 in the vicinity of Maryhill; also

Beginning at the easterly junction with state route number 97 in the vicinity of Maryhill, thence easterly along the north bank of the Columbia river to a point in the vicinity of Plymouth;

(7) State route number 17, beginning at a junction with state route number 395 in the vicinity of Eltopia, thence in a northwesterly direction to the south end of the overcrossing of state route number 90, in the vicinity of Moses Lake; also

Beginning at a junction with Grape Drive in the vicinity of Moses Lake, thence northwesterly and northerly by way of Soap Lake to a junction with state route number 2 west of Coulee City;

(8) State route number 20, beginning at the Keystone ferry slip on Whidbey Island, thence easterly and northerly to a junction with Rhododendron road in the vicinity east of Coupeville; also

Beginning at a junction with Sherman road in the vicinity west of Coupeville, generally northerly to a junction with Miller road in the vicinity southwest of Oak Harbor; also

Beginning at a junction with Torpedo road in the vicinity northeast of Oak Harbor, thence northerly by way of Deception Pass to a junction with state route number 20 north in the vicinity southeast of Anacortes; also

Beginning at the crossing of Hanson creek approximately 6.0 miles west of Lyman, thence easterly by way of Concrete, Marblemount, Diablo Dam, and Twisp to a junction with state route number 153 southeast of Twisp; also

Beginning at a junction with state route number 21 approximately three miles east of Republic, thence in an easterly direction to a junction with state route number 395 at the west end of the crossing over the Columbia river at Kettle Falls; also

Beginning at a junction with a county road 2.76 miles east of the junction with state route number 395 in Colville, thence in a northeasterly direction to a junction with state route number 31 at Tiger; thence in a southerly direction to a junction with state route number 2 at Newport;

(9) State route number 21, beginning at the Keller ferry slip on the north side of Roosevelt lake, thence in a northerly direction to the crossing of Granite creek approximately fifty-four miles north of the Keller ferry;

(10) State route number 90, beginning at the CMSTPP railroad overcrossing approximately 2.3 miles southeast of North Bend, thence in an easterly direction by way of Snoqualmie pass to the crossing of the Cle Elum river approximately 2.6 miles west of Cle Elum;

(11) State route number 97, beginning at the crossing of the Columbia river at Biggs Rapids, thence in a northerly direction to the westerly junction with state route number 14 in the vicinity of Maryhill;

(12) State route number 101, beginning at a junction with state route number 109 in the vicinity of Queets, thence in a northerly, northeasterly, and easterly direction by way of Forks to the west boundary of the Olympic national park in the vicinity of Lake Crescent; also

Beginning at Sequim Bay state park, thence in a southeasterly and southerly direction to a junction with the Airport road north of Shelton; also

Beginning at a junction with state route number 3 south of Shelton, thence in a southerly and southeasterly direction to the west end of the Black Lake road overcrossing in the vicinity northeast of Tumwater;

(13) State route number 104, beginning at a junction with state route number 101 in the vicinity south of Discovery bay, thence in a southeasterly direction to the vicinity of Shine on Hood Canal; also

Beginning at a junction with state route number 3 east of the Hood Canal crossing, thence northeasterly to Port Gamble;

(14) State route number 105, beginning at a junction with state route number 101 at Raymond, thence westerly and northerly by way of Tokeland and North Cove to the shore of Grays Harbor north of Westport; also

Beginning at a junction with state route number 105 in the vicinity south of Westport, thence northeasterly to a junction with state route number 101 at Aberdeen;

(15) State route number 106, beginning at a junction with state route number 101 in the vicinity of Union, thence northeasterly to a junction with state route number 3 in the vicinity of Belfair;

(16) State route number 109, beginning at a junction with a county road approximately 3.0 miles northwest of the junction with state route number 101 in Hoquiam, thence in a northwesterly direction by way of Ocean City, Copalis, Pacific Beach, and Moclips to a junction with state route number 101 in the vicinity of Queets;

(17) State route number 112, beginning at the easterly boundary of the Makah Indian reservation, thence in an easterly direction to the vicinity of Laird's corner on state route number 101;

(18) State route number 153, beginning at a junction with state route number 97 in the vicinity of Pateros, thence in a northerly direction to a junction with state route number 20 in the vicinity south of Twisp;

(19) State route number 155, beginning at a junction with state route number 2 in the vicinity north of Coulee City, thence in a northeasterly direction to the boundary of the federal reservation at the Grand Coulee dam; also

Beginning at a junction with a county road 2.07 miles north of the junction with 12th street in Elmer City, thence in a northwesterly direction to the west end of the crossing of Omak creek east of Omak;

(20) State route number 206, Mt. Spokane Park Drive, beginning at a junction with state route number 2 near the north line of section 3, township 26 N, range 43 E, thence northeasterly to a point in section 28, township 28 N, range 45 E at the entrance to Mt. Spokane state park;

(21) State route number 395, beginning at a point approximately 2.6 miles north of Pasco thence in a northerly direction to a junction with state route number 17 in the vicinity of Eltopia; also

Beginning at the north end of the crossing of Mill creek in the vicinity of Colville, thence in a northwesterly direction to a junction with state route number 20 at the west end of the crossing over the Columbia river at Kettle Falls;

(22) State route number 401, beginning at a junction with state route number 101 at Point Ellice, thence easterly and northerly to a junction with state route number 4 in the vicinity north of Naselle;

(23) State route number 504, beginning at a junction with state route number 5 in the vicinity north of Castle Rock, thence in an easterly direction by way of St. Helens and Spirit lake to Mt. St. Helens;

(24) State route number 525, beginning at a junction with Maxwellton road in the southern portion of Whidbey Island, thence northwesterly to a junction with state route number 20 east of the Keystone ferry slip;

(25) State route number 542, beginning at the Nugent crossing over the Nooksack river approximately 7.7 miles northeast of Bellingham, thence easterly to the vicinity of Austin pass in Whatcom county;

(26) State route number 821, beginning at a junction with state route number 82 at the Yakima firing center interchange, thence in a northerly direction to a junction with state route number 82 at the Thrall road interchange(;

~~(27) State route number 901, beginning at a junction with state route number 90 in the vicinity west of Issaquah, thence northerly to the east of Lake Sammamish to a junction with state route number 202 in the vicinity of Redmond).~~

Sec. 3. RCW 47.42.140 and 1975 c 63 s 9 are each amended to read as follows:

The following portions of state highways are designated as a part of the scenic system:

(1) State route number 2 beginning at the crossing of Woods creek at the east city limits of Monroe, thence in an easterly direction by way of Stevens pass to a junction with state route number 97 in the vicinity of Peshastin.

(2) State route number 7 beginning at a junction with state route number 706 at Elbe, thence in a northerly direction to a junction with state route number 507 south of Spanaway.

(3) State route number 11 beginning at the Blanchard overcrossing, thence in a northerly direction to the limits of Larabee state park (north line of section 36, township 37 north, range 2 east).

(4) State route number 12 beginning at Kosmos southeast of Morton, thence in an easterly direction across White pass to the Oak Flat junction with state route number 410 northwest of Yakima.

(5) State route number 90 beginning at the westerly junction with ~~((state route number 901))~~ West Lake Sammamish parkway in the vicinity of Issaquah, thence in an easterly direction by way of North Bend and Snoqualmie pass to a junction with state route number 970 at Cle Elum.

(6) State route number 97 beginning at a junction with state route number 970 at Virden, thence via Blewett pass to a junction with state route number 2 in the vicinity of Peshastin.

(7) State route number 123 beginning at a junction with state route number 12 at Ohanapecosh junction in the vicinity west of White pass, thence in a northerly direction to a junction with state route number 410 at Cayuse junction in the vicinity west of Chinook pass.

(8) State route number 165 beginning at the northwest entrance to Mount Rainier national park, thence in a northerly direction to a junction with state route number 162 east of the town of South Prairie.

(9) State route number 305, beginning at the ferry slip at Winslow on Bainbridge Island, thence northwesterly by way of Agate Pass bridge to a junction with state route number 3 approximately four miles northwest of Poulsbo.

(10) State route number 410 beginning at the crossing of Scatter creek approximately six miles east of Enumclaw, thence in an easterly direction by way of Chinook pass to a junction of state route number 12 and state route number 410.

(11) State route number 706 beginning at a junction with state route number 7 at Elbe thence in an easterly direction to the southwest entrance to Mount Rainier national park.

(12) State route number 970 beginning at a junction with state route number 90 in the vicinity of Cle Elum thence via Teanaway to a junction with state route number 97 in the vicinity of Virden.

Passed the Senate February 18, 1992.

Passed the House March 3, 1992.

Approved by the Governor March 20, 1992.

Filed in Office of Secretary of State March 20, 1992.

**CHAPTER 27**

[Substitute Senate Bill 6076]

**RURAL HEALTH FACILITIES—REVISED CERTIFICATE OF NEED REQUIREMENTS**

**Effective Date: 6/11/92**

AN ACT Relating to rural health care facilities; amending RCW 70.38.105, 70.38.111, 70.41.090, and 70.175.130; and adding a new section to chapter 70.175 RCW.

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

**Sec. 1.** RCW 70.38.105 and 1991 sp.s. c 8 s 4 are each amended to read as follows:

(1) The department is authorized and directed to implement the certificate of need program in this state pursuant to the provisions of this chapter.

(2) There shall be a state certificate of need program which is administered consistent with the requirements of federal law as necessary to the receipt of federal funds by the state.

(3) No person shall engage in any undertaking which is subject to certificate of need review under subsection (4) of this section without first having received from the department either a certificate of need or an exception granted in accordance with this chapter.

(4) The following shall be subject to certificate of need review under this chapter:

(a) The construction, development, or other establishment of a new health care facility;

(b) The sale, purchase, or lease of part or all of any existing hospital as defined in RCW 70.38.025;

(c) Any capital expenditure for the construction, renovation, or alteration of a nursing home which substantially changes the services of the facility after January 1, 1981, provided that the substantial changes in services are specified by the department in rule;

(d) Any capital expenditure for the construction, renovation, or alteration of a nursing home which exceeds the expenditure minimum as defined by RCW 70.38.025. However, a capital expenditure which is not subject to certificate of need review under (a), (b), (c), or (e) of this subsection and which is solely for any one or more of the following is not subject to certificate of need review except to the extent required by the federal government as a condition to receipt of federal assistance and does not substantially affect patient charges:

(i) Communications and parking facilities;

(ii) Mechanical, electrical, ventilation, heating, and air conditioning systems;

(iii) Energy conservation systems;

(iv) Repairs to, or the correction of, deficiencies in existing physical plant facilities which are necessary to maintain state licensure;

(v) Acquisition of equipment, including data processing equipment, which is not or will not be used in the direct provision of health services;

(vi) Construction which involves physical plant facilities, including administrative and support facilities, which are not or will not be used for the provision of health services;

(vii) Acquisition of land; and

(viii) Refinancing of existing debt;

(e) A change in bed capacity of a health care facility which increases the total number of licensed beds or redistributes beds among acute care, nursing home care, and boarding home care if the bed redistribution is to be effective for a period in excess of six months, or a change in bed capacity of a rural health care facility licensed under RCW 70.175.100 that increases the total number of nursing home beds or redistributes beds from acute care or boarding home care to nursing home care if the bed redistribution is to be effective for a period in excess of six months;

(f) Any new tertiary health services which are offered in or through a health care facility or rural health care facility licensed under RCW 70.175.100, and which were not offered on a regular basis by, in, or through such health care facility or rural health care facility within the twelve-month period prior to the time such services would be offered;

(g) Any expenditure for the construction, renovation, or alteration of a nursing home or change in nursing home services in excess of the expenditure minimum made in preparation for any undertaking under subsection (4) of this section and any arrangement or commitment made for financing such undertaking. Expenditures of preparation shall include expenditures for architectural designs, plans, working drawings, and specifications. The department may issue certificates of need permitting predevelopment expenditures, only, without authorizing any subsequent undertaking with respect to which such predevelopment expenditures are made; and

(h) Any increase in the number of dialysis stations in a kidney disease center.

(5) The department is authorized to charge fees for the review of certificate of need applications and requests for exemptions from certificate of need review. The fees shall be sufficient to cover the full cost of review and exemption, which may include the development of standards, criteria, and policies.

(6) No person may divide a project in order to avoid review requirements under any of the thresholds specified in this section.

**Sec. 2.** RCW 70.38.111 and 1991 c 158 s 2 are each amended to read as follows:

(1) The department shall not require a certificate of need for the offering of an inpatient tertiary health service by:

(a) A health maintenance organization or a combination of health maintenance organizations if (i) the organization or combination of organizations has, in the service area of the organization or the service areas of the organizations in the combination, an enrollment of at least fifty thousand individuals, (ii) the facility in which the service will be provided is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iii) at least seventy-five percent of the patients who can reasonably be expected to receive the tertiary health service will be individuals enrolled with such organization or organizations in the combination;

(b) A health care facility if (i) the facility primarily provides or will provide inpatient health services, (ii) the facility is or will be controlled, directly or indirectly, by a health maintenance organization or a combination of health maintenance organizations which has, in the service area of the organization or service areas of the organizations in the combination, an enrollment of at least fifty thousand individuals, (iii) the facility is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iv) at least seventy-five percent of the patients who can reasonably be expected to receive the tertiary health service will be individuals enrolled with such organization or organizations in the combination; or

(c) A health care facility (or portion thereof) if (i) the facility is or will be leased by a health maintenance organization or combination of health maintenance organizations which has, in the service area of the organization or the service areas of the organizations in the combination, an enrollment of at least fifty thousand individuals and, on the date the application is submitted under subsection (2) of this section, at least fifteen years remain in the term of the lease, (ii) the facility is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iii) at least seventy-five percent of the patients who can reasonably be expected to receive the tertiary health service will be individuals enrolled with such organization; if, with respect to such offering or obligation by a nursing home, the department has, upon application under subsection (2) of this section, granted an exemption from such requirement to the organization, combination of organizations, or facility.

(2) A health maintenance organization, combination of health maintenance organizations, or health care facility shall not be exempt under subsection (1) of this section from obtaining a certificate of need before offering a tertiary health service unless:

(a) It has submitted at least thirty days prior to the offering of services reviewable under RCW 70.38.105(4)(d) an application for such exemption; and

(b) The application contains such information respecting the organization, combination, or facility and the proposed offering or obligation by a nursing home as the department may require to determine if the organization or

combination meets the requirements of subsection (1) of this section or the facility meets or will meet such requirements; and

(c) The department approves such application. The department shall approve or disapprove an application for exemption within thirty days of receipt of a completed application. In the case of a proposed health care facility (or portion thereof) which has not begun to provide tertiary health services on the date an application is submitted under this subsection with respect to such facility (or portion), the facility (or portion) shall meet the applicable requirements of subsection (1) of this section when the facility first provides such services. The department shall approve an application submitted under this subsection if it determines that the applicable requirements of subsection (1) of this section are met.

(3) A health care facility (or any part thereof) with respect to which an exemption was granted under subsection (1) of this section may not be sold or leased and a controlling interest in such facility or in a lease of such facility may not be acquired and a health care facility described in (1)(c) which was granted an exemption under subsection (1) of this section may not be used by any person other than the lessee described in (1)(c) unless:

(a) The department issues a certificate of need approving the sale, lease, acquisition, or use; or

(b) The department determines, upon application, that (i) the entity to which the facility is proposed to be sold or leased, which intends to acquire the controlling interest, or which intends to use the facility is a health maintenance organization or a combination of health maintenance organizations which meets the requirements of (1)(a)(i), and (ii) with respect to such facility, meets the requirements of (1)(a)(ii) or (iii) or the requirements of (1)(b)(i) and (ii).

(4) In the case of a health maintenance organization, an ambulatory care facility, or a health care facility, which ambulatory or health care facility is controlled, directly or indirectly, by a health maintenance organization or a combination of health maintenance organizations, the department may under the program apply its certificate of need requirements only to the offering of inpatient tertiary health services and then only to the extent that such offering is not exempt under the provisions of this section.

(5)(a) The department shall not require a certificate of need for the construction, development, or other establishment of a nursing home, or the addition of beds to an existing nursing home, that is owned and operated by a continuing care retirement community that:

(i) Offers services only to contractual members;

(ii) Provides its members a contractually guaranteed range of services from independent living through skilled nursing, including some assistance with daily living activities;

(iii) Contractually assumes responsibility for the cost of services exceeding the member's financial responsibility under the contract, so that no third party,

with the exception of insurance purchased by the retirement community or its members, but including the medicaid program, is liable for costs of care even if the member depletes his or her personal resources;

(iv) Has offered continuing care contracts and operated a nursing home continuously since January 1, 1988, or has obtained a certificate of need to establish a nursing home;

(v) Maintains a binding agreement with the state assuring that financial liability for services to members, including nursing home services, will not fall upon the state;

(vi) Does not operate, and has not undertaken a project that would result in a number of nursing home beds in excess of one for every four living units operated by the continuing care retirement community, exclusive of nursing home beds; and

(vii) Has obtained a professional review of pricing and long-term solvency within the prior five years which was fully disclosed to members.

(b) A continuing care retirement community shall not be exempt under this subsection from obtaining a certificate of need unless:

(i) It has submitted an application for exemption at least thirty days prior to commencing construction of, is submitting an application for the licensure of, or is commencing operation of a nursing home, whichever comes first; and

(ii) The application documents to the department that the continuing care retirement community qualifies for exemption.

(c) The sale, lease, acquisition, or use of part or all of a continuing care retirement community nursing home that qualifies for exemption under this subsection shall require prior certificate of need approval to qualify for licensure as a nursing home unless the department determines such sale, lease, acquisition, or use is by a continuing care retirement community that meets the conditions of (a) of this subsection.

(6) A rural hospital, as defined by the department, reducing the number of licensed beds to become a rural primary care hospital under the provisions of Part A Title XVIII of the Social Security Act Section 1820, 42 U.S.C., 1395c et seq. may, within three years of the reduction of beds licensed under chapter 70.41 RCW, increase the number of licensed beds to no more than the previously licensed number without being subject to the provisions of this chapter.

(7) A rural health care facility licensed under RCW 70.175.100 formerly licensed as a hospital under chapter 70.41 RCW may, within three years of the effective date of the rural health care facility license, apply to the department for a hospital license and not be subject to the requirements of RCW 70.38.105(4)(a) as the construction, development, or other establishment of a new hospital, provided there is no increase in the number of beds previously licensed under chapter 70.41 RCW and there is no redistribution in the number of beds used for acute care or long-term care, the rural health care facility has been in continuous operation, and the rural health care facility has not been purchased or leased.

**Sec. 3.** RCW 70.41.090 and 1989 1st ex.s. c 9 s 611 are each amended to read as follows:

(1) No person or governmental unit of the state of Washington, acting separately or jointly with any other person or governmental unit, shall establish, maintain, or conduct a hospital in this state, or use the word "hospital" to describe or identify an institution, without a license under this chapter: PROVIDED, That the provisions of this section shall not apply to state mental institutions and psychiatric hospitals which come within the scope of chapter 71.12 RCW.

(2) After June 30, 1989, no hospital shall initiate a tertiary health service as defined in RCW 70.38.025(14) unless it has received a certificate of need as provided in RCW 70.38.105 and 70.38.115.

(3) A rural health care facility licensed under RCW 70.175.100 formerly licensed as a hospital under this chapter may, within three years of the effective date of the rural health care facility license, apply to the department for a hospital license and not be required to meet certificate of need requirements under chapter 70.38 RCW as a new health care facility and not be required to meet new construction requirements as a new hospital under this chapter. These exceptions are subject to the following: The facility at the time of initial conversion was considered by the department to be in compliance with the hospital licensing rules and the condition of the physical plant and equipment is equal to or exceeds the level of compliance that existed at the time of conversion to a rural health care facility. The department shall inspect and determine compliance with the hospital rules prior to reissuing a hospital license.

A rural hospital, as defined by the department, reducing the number of licensed beds to become a rural primary care hospital under the provisions of Part A Title XVIII of the Social Security Act Section 1820, 42 U.S.C., 1395c et seq. may, within three years of the reduction of licensed beds, increase the number of beds licensed under this chapter to no more than the previously licensed number of beds without being subject to the provisions of chapter 70.38 RCW and without being required to meet new construction requirements under this chapter. These exceptions are subject to the following: The facility at the time of the reduction in licensed beds was considered by the department to be in compliance with the hospital licensing rules and the condition of the physical plant and equipment is equal to or exceeds the level of compliance that existed at the time of the reduction in licensed beds. The department may inspect and determine compliance with the hospital rules prior to increasing the hospital license.

**Sec. 4.** RCW 70.175.130 and 1990 c 271 s 18 are each amended to read as follows:

The department may develop and implement a rural health care plan and may approve hospital and rural health care facility requests to be designated as essential access community hospitals or rural primary care hospitals so that such

facilities may form rural health networks to preserve health care services in rural areas and thereby be eligible for federal program funding and enhanced medicare reimbursement. The department may monitor any rural health care plan and designated facilities to assure continued compliance with the rural health care plan.

**NEW SECTION. Sec. 5.** A new section is added to chapter 70.175 RCW to read as follows:

Any licensee or applicant desiring to make alterations or additions to its facilities or to construct new facilities may contact the department for consultative advice before commencing such alteration, addition, or new construction.

Passed the Senate February 12, 1992.

Passed the House March 3, 1992.

Approved by the Governor March 20, 1992.

Filed in Office of Secretary of State March 20, 1992.

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## CHAPTER 28

[Senate Bill 6070]

### PHYSICIAN ASSISTANTS—USE OF ALTERNATE SUPERVISORS

Effective Date: 6/11/92

AN ACT Relating to physician's assistants; and amending RCW 18.57A.020 and 18.71A.020.

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

**Sec. 1.** RCW 18.57A.020 and 1971 ex.s. c 30 s 8 are each amended to read as follows:

The board shall adopt rules and regulations fixing the qualifications and the educational and training requirements for persons who may be employed as osteopathic physician's assistants or who may be enrolled in any physician's training program.

The board shall, in addition adopt rules and regulations governing the extent to which physician's assistants may practice medicine during training and after successful completion of a training course. Such regulations shall provide:

(1) That the practice of an osteopathic physician's assistant shall be limited to the performance of those services for which he is trained; and

(2) That each osteopathic physician's assistant shall practice medicine only under the supervision and control of an osteopathic physician licensed in this state, but such supervision and control shall not be construed to necessarily require the personal presence of the supervising physician at the place where services are rendered. The board may authorize the use of alternative supervisors who are licensed either under chapter 18.57 or 18.71 RCW.

**Sec. 2.** RCW 18.71A.020 and 1990 c 196 s 2 are each amended to read as follows:

(1) The board shall adopt rules fixing the qualifications and the educational and training requirements for persons who may be employed as physician assistants or who may be enrolled in any physician assistant training program. The requirements shall include completion of an accredited physician assistant training program approved by the board and eligibility to take an examination approved by the board, provided such examination tests subjects substantially equivalent to the curriculum of an accredited physician assistant training program. Physician assistants licensed by the board on June 7, 1990, shall continue to be licensed.

(2)(a) The board shall adopt rules governing the extent to which:

(i) Physician assistant students may practice medicine during training; and  
 (ii) Physician assistants may practice after successful completion of a physician assistant training course.

(b) Such rules shall provide:

(i) That the practice of a physician assistant shall be limited to the performance of those services for which he or she is trained; and

(ii) That each physician assistant shall practice medicine only under the supervision and control of a physician licensed in this state, but such supervision and control shall not be construed to necessarily require the personal presence of the supervising physician at the place where services are rendered. The board may authorize the use of alternative supervisors who are licensed either under chapter 18.57 or 18.71 RCW.

Passed the Senate February 11, 1992.

Passed the House March 5, 1992.

Approved by the Governor March 20, 1992.

Filed in Office of Secretary of State March 20, 1992.

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## CHAPTER 29

[Senate Bill 6134]

### DISTRICT COURT SEALS

Effective Date: 6/1/92

AN ACT Relating to seals for district courts; and adding a new section to chapter 3.54 RCW. Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 3.54 RCW to read as follows:

The district court shall have a seal that shall be the vignette of George Washington, with the words "Seal of the ..... District Court of ..... County, State of Washington," surrounding the vignette. All process from the court must be issued under its seal and runs throughout the state.

Passed the Senate February 11, 1992.  
Passed the House March 3, 1992.  
Approved by the Governor March 20, 1992.  
Filed in Office of Secretary of State March 20, 1992.

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**CHAPTER 30**

[Substitute Senate Bill 6135]

**NAME CHANGE ORDERS—REVISED FILING PROCEDURES**

**Effective Date: 6/11/92**

AN ACT Relating to filing of name change orders in district court; amending RCW 4.24.130; and adding a new section to chapter 36.22 RCW.

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

**Sec. 1.** RCW 4.24.130 and 1991 c 33 s 5 are each amended to read as follows:

Any person desiring a change of his or her name or that of his or her child or ward, may apply therefor to the district court of the judicial district in which he or she resides, by petition setting forth the reasons for such change; thereupon such court in its discretion may order a change of the name and thenceforth the new name shall be in place of the former.

The district court shall collect the fees authorized by RCW 36.18.010 for filing and recording a name change order, and transmit the fee and the order to the county auditor. The court may collect a reasonable fee to cover the cost of transmitting the order to the county auditor.

**NEW SECTION.** **Sec. 2.** A new section is added to chapter 36.22 RCW to read as follows:

Upon receipt of the fee and the name change order from the district court as provided in RCW 4.24.130, the county auditor shall file and record the name change order.

Passed the Senate February 11, 1992.  
Passed the House March 3, 1992.  
Approved by the Governor March 20, 1992.  
Filed in Office of Secretary of State March 20, 1992.

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## CHAPTER 31

[Substitute Senate Bill 6138]

## DISTRICT COURTS—REPEAL OF OBSOLETE PROVISIONS

Effective Date: 3/20/92

AN ACT Relating to deleting obsolete references regarding district courts; repealing RCW 10.13.010, 10.13.020, 10.13.030, 10.13.040, 10.13.050, 10.13.060, 10.13.070, 10.13.075, 10.13.080, 10.13.090, 10.13.100, 10.13.110, 10.13.120, 10.13.130, 10.13.140, 10.13.150, and 3.34.030; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. The following acts or parts of acts are each repealed:

- (1) RCW 10.13.010 and 1987 c 202 s 157, Code 1881 s 1903, 1873 p 390 s 201, & 1854 p 104 s 11;
- (2) RCW 10.13.020 and Code 1881 s 1904, 1873 p 390 s 202, & 1854 p 104 s 12;
- (3) RCW 10.13.030 and Code 1881 s 1906, 1873 p 390 s 204, & 1854 p 104 s 13;
- (4) RCW 10.13.040 and 1891 c 11 s 8, Code 1881 s 1905, & 1873 p 390 s 203;
- (5) RCW 10.13.050 and Code 1881 s 1909, 1873 p 391 s 207, & 1854 p 104 s 16;
- (6) RCW 10.13.060 and Code 1881 s 1907, 1873 p 391 s 205, & 1854 p 104 s 14;
- (7) RCW 10.13.070 and Code 1881 s 1908, 1873 p 391 s 206, & 1854 p 104 s 15;
- (8) RCW 10.13.075 and 1987 c 202 s 158, Code 1881 s 1915, 1873 p 392 s 213, & 1854 p 105 s 22;
- (9) RCW 10.13.080 and 1891 c 11 s 9, Code 1881 s 1916, 1873 p 392 s 214, & 1854 p 105 s 23;
- (10) RCW 10.13.090 and Code 1881 s 1918, 1873 p 393 s 216, & 1854 p 106 s 25;
- (11) RCW 10.13.100 and 1987 c 202 s 159, Code 1881 s 1919, 1873 p 393 s 217, & 1854 p 106 s 26;
- (12) RCW 10.13.110 and 1987 c 202 s 160, Code 1881 s 1910, 1873 p 391 s 208, & 1854 p 105 s 17;
- (13) RCW 10.13.120 and 1987 c 202 s 161 & 1891 c 29 s 9;
- (14) RCW 10.13.130 and 1987 c 202 s 162, Code 1881 s 1913, & 1854 p 105 s 20;
- (15) RCW 10.13.140 and 1891 c 29 s 10, Code 1881 s 1914, & 1854 p 105 s 21;
- (16) RCW 10.13.150 and 1891 c 11 s 10, Code 1881 s 1917, 1873 p 392 s 215, & 1854 p 105 s 24; and
- (17) RCW 3.34.030 and 1987 c 202 s 113, 1984 c 258 s 9, 1969 ex.s. c 66 s 2, & 1961 c 299 s 12.

NEW SECTION. **Sec. 2.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate February 12, 1992.

Passed the House March 3, 1992.

Approved by the Governor March 20, 1992.

Filed in Office of Secretary of State March 20, 1992.

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**CHAPTER 32**

[Senate Bill 6140]

**FAILURE TO COMPLY, GROSS MISDEMEANOR FOR TRAFFIC VIOLATOR WITH REPEAT FAILURES TO APPEAR**

**Effective Date:** 6/11/92

AN ACT Relating to nonappearance by a traffic violator after a written promise to appear; amending RCW 46.64.020, 46.52.120, 46.63.020, and 46.90.700; adding a new section to chapter 46.64 RCW; and prescribing penalties.

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

**Sec. 1.** RCW 46.64.020 and 1990 c 250 s 61 are each amended to read as follows:

(1) The legislature finds that:

(a) Traffic laws are necessary for the safe and expeditious flow of motor vehicle traffic.

(b) For traffic laws to be effective, they must be judiciously and fairly enforced. This enforcement includes the issuance of notices of infraction and citations and the assessment of fines and penalties.

(c) The adjudication of notices of infraction through a written and signed promise to respond, and of citations through a written and signed promise to appear, as provided in this title is an integral and important part of the traffic law system.

(d) Approximately twenty percent of all people issued notices of infraction and citations violate their written and signed promise to respond or appear and obtain notices of failure to respond or appear on their driving records. Through their actions, these people are destroying the effectiveness of the traffic law system and undermining the department of licensing regulatory control of drivers' licenses.

(e) Notices of failure to respond or appear accumulated on a person's driving record shall be considered if they were issued after July 25, 1987.

(2) Any person violating his or her written and signed promise to appear in court or his or her written and signed promise to respond to a notice of traffic infraction, as provided in this title, is guilty of a misdemeanor regardless of the disposition of the charge upon which he or she was originally arrested or the disposition of the notice of infraction: PROVIDED, That a written promise to

appear in court or a written promise to respond to a notice of traffic infraction may be complied with by an appearance by counsel: PROVIDED FURTHER, That a person charged under RCW 46.20.021 with driving with an expired driver's license may respond by mailing to the court within fifteen days of the violation, a copy of the person's currently valid driver's license. Any person who has been issued a notice of infraction pursuant to RCW 46.63.030(3) and who fails to respond as provided in this title is guilty of a misdemeanor regardless of the disposition of the notice of infraction.

~~((3) Any person who drives a motor vehicle within the state and has accumulated two or more notices of failure to appear or respond on his or her driving record maintained by the department of licensing in any five-year period as a result of noncompliance with the traffic laws in any jurisdiction or court within Washington, or in any jurisdiction or court within other states which are signatories with Washington in a nonresident violator compact or reciprocal agreement under chapter 46.23 RCW, shall be guilty of failure to comply, a gross misdemeanor. A person is not subject to this subsection for failure to pay a fine for any pedestrian, bicycling, or parking offense.~~

~~Probable cause for arrest under this subsection is established by the officer obtaining, orally or in writing, information from the department of licensing that two or more notices of failure to appear or respond are on the person's driving record. For purposes of this chapter, failure to satisfy any penalties imposed under this title is considered equivalent to failure to appear or respond.~~

~~Venue for prosecution shall be in the court with jurisdiction in the area of apprehension.))~~

**NEW SECTION. Sec. 2.** A new section is added to chapter 46.64 RCW to read as follows:

(1) A person who drives a motor vehicle within the state and has accumulated two or more notices of failure to appear or respond on his or her driving record maintained by the department of licensing in a five-year period as a result of noncompliance with the traffic laws in a jurisdiction or court within Washington, or in a jurisdiction or court within other states that are signatories with Washington in a nonresident violator compact or reciprocal agreement under chapter 46.23 RCW, is guilty of failure to comply, a gross misdemeanor. A person is not subject to this section for failure to pay a penalty for a pedestrian, bicycling, or parking offense.

(2) Probable cause for arrest under this section is established by the officer obtaining, orally or in writing, information from the department of licensing that two or more notices of failure to appear or respond are on the person's driving record. For purposes of this chapter, failure to satisfy a penalty imposed under this title is considered equivalent to failure to appear or respond.

(3) Venue for prosecution is in the court with jurisdiction in the area of apprehension.

**Sec. 3.** RCW 46.52.120 and 1989 c 178 s 23 are each amended to read as follows:

(1) The director shall keep a case record on every motor vehicle driver licensed under the laws of this state, together with information on each driver, showing all the convictions and findings of traffic infractions certified by the courts, together with an index cross-reference record of each accident reported relating to such individual with a brief statement of the cause of the accident. The chief of the Washington state patrol shall furnish the index cross-reference record to the director, with reference to each driver involved in the reported accidents.

(2) The records shall be for the confidential use of the director, the chief of the Washington state patrol, the director of the Washington traffic safety commission, and for such police officers or other cognizant public officials as may be designated by law. Such case records shall not be offered as evidence in any court except in case appeal is taken from the order of the director, suspending, revoking, canceling, or refusing a vehicle driver's license or to provide proof of a person's failure((s)) to appear under RCW 46.64.020 or failure to comply under section 2 of this act.

(3) The director shall tabulate and analyze vehicle driver's case records and suspend, revoke, cancel, or refuse a vehicle driver's license to a person when it is deemed from facts contained in the case record of such person that it is for the best interest of public safety that such person be denied the privilege of operating a motor vehicle. Whenever the director orders the vehicle driver's license of any such person suspended, revoked, or canceled, or refuses the issuance of a vehicle driver's license, such suspension, revocation, cancellation, or refusal is final and effective unless appeal from the decision of the director is taken as provided by law.

**Sec. 4.** RCW 46.63.020 and 1991 c 339 s 27 are each amended to read as follows:

Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

(1) RCW 46.09.120(2) relating to the operation of a nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance;

(2) RCW 46.09.130 relating to operation of nonhighway vehicles;

(3) RCW 46.10.090(2) relating to the operation of a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs or in a manner endangering the person of another;

(4) RCW 46.10.130 relating to the operation of snowmobiles;

- (5) Chapter 46.12 RCW relating to certificates of ownership and registration;
- (6) RCW 46.16.010 relating to initial registration of motor vehicles;
- (7) RCW 46.16.011 relating to permitting unauthorized persons to drive;
- (8) RCW 46.16.160 relating to vehicle trip permits;
- (9) RCW 46.16.381 (6) or (8) relating to unauthorized use or acquisition of a special placard or license plate for disabled persons' parking;
- (10) RCW 46.20.021 relating to driving without a valid driver's license;
- (11) RCW 46.20.336 relating to the unlawful possession and use of a driver's license;
- (12) RCW 46.20.342 relating to driving with a suspended or revoked license or status;
- (13) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license;
- (14) RCW 46.20.420 relating to the operation of a motor vehicle with a suspended or revoked license;
- (15) RCW 46.20.750 relating to assisting another person to start a vehicle equipped with an ignition interlock device;
- (16) RCW 46.25.170 relating to commercial driver's licenses;
- (17) Chapter 46.29 RCW relating to financial responsibility;
- (18) RCW 46.30.040 relating to providing false evidence of financial responsibility;
- (19) RCW 46.37.435 relating to wrongful installation of sunscreening material;
- (20) RCW 46.44.180 relating to operation of mobile home pilot vehicles;
- (21) RCW 46.48.175 relating to the transportation of dangerous articles;
- (22) RCW 46.52.010 relating to duty on striking an unattended car or other property;
- (23) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;
- (24) RCW 46.52.090 relating to reports by repairmen, storagemen, and appraisers;
- (25) RCW 46.52.100 relating to driving under the influence of liquor or drugs;
- (26) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company, an employer, and an alcohol/drug assessment or treatment agency;
- (27) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;
- (28) RCW 46.55.035 relating to prohibited practices by tow truck operators;
- (29) RCW 46.61.015 relating to obedience to police officers, flagmen, or fire fighters;
- (30) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;

(31) RCW 46.61.022 relating to failure to stop and give identification to an officer;

(32) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;

(33) RCW 46.61.500 relating to reckless driving;

(34) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;

(35) RCW 46.61.520 relating to vehicular homicide by motor vehicle;

(36) RCW 46.61.522 relating to vehicular assault;

(37) RCW 46.61.525 relating to negligent driving;

(38) RCW 46.61.530 relating to racing of vehicles on highways;

(39) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;

(40) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;

(41) RCW 46.64.020 relating to nonappearance after a written promise;

(42) Section 2 of this act relating to failure to comply;

(43) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;

~~((43))~~ (44) Chapter 46.65 RCW relating to habitual traffic offenders;

~~((44))~~ (45) Chapter 46.70 RCW relating to unfair motor vehicle business practices, except where that chapter provides for the assessment of monetary penalties of a civil nature;

~~((45))~~ (46) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;

~~((46))~~ (47) Chapter 46.80 RCW relating to motor vehicle wreckers;

~~((47))~~ (48) Chapter 46.82 RCW relating to driver's training schools;

~~((48))~~ (49) RCW 46.87.260 relating to alteration or forgery of a cab card, letter of authority, or other temporary authority issued under chapter 46.87 RCW;

~~((49))~~ (50) RCW 46.87.290 relating to operation of an unregistered or unlicensed vehicle under chapter 46.87 RCW.

Sec. 5. RCW 46.90.700 and 1988 c 24 s 4 are each amended to read as follows:

The following sections of the Revised Code of Washington as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.64.010, 46.64.015, 46.64.020, section 2 of this act, 46.64.025, 46.64.030, 46.64.035, and 46.64.048.

Passed the Senate February 12, 1992.

Passed the House March 3, 1992.

Approved by the Governor March 20, 1992.

Filed in Office of Secretary of State March 20, 1992.

**CHAPTER 33**

[Senate Bill 6199]

**BOATING OFFENSE COMPACT**

Effective Date: 6/11/92

AN ACT Relating to the boating offense compact; and adding a new chapter to Title 88 RCW. Be it enacted by the Legislature of the State of Washington:

**NEW SECTION.** Sec. 1. The Boating Offense Compact is enacted into law and entered into on behalf of this state with all other states legally joining therein in a form substantially as follows:

**ARTICLE I**

**Findings and Declaration of Policy**

(1) The party states find that:

(a) The safety of their waters is materially affected by the degree of compliance with state laws and local ordinances relating to the operation of boats;

(b) Violation of such a law or ordinance is evidence that the violator engages in conduct which is likely to endanger the safety of persons and property;

(2) It is the policy of each of the party states to promote compliance with the laws, ordinances, and administrative rules and regulations relating to the operation of boats by their operators in each of the jurisdictions where such operators operate boats.

**ARTICLE II**

**Definition**

As used in this compact, "state" means a state that has entered into this compact.

**ARTICLE III**

**Concurrent Jurisdiction**

(1) If conduct is prohibited by two adjoining party states, courts and law enforcement officers in either state who have jurisdiction over boating offenses committed where waters form a common interstate boundary have concurrent jurisdiction to arrest, prosecute, and try offenders for the prohibited conduct committed anywhere on the boundary water between the two states.

(2) This compact does not authorize:

(a) Prosecution of any person for conduct that is unlawful in the state where it was committed, but lawful in the other party state;

(b) A prohibited conduct by the party state.

**ARTICLE IV**

**Entry Into Force and Withdrawal**

(1) This compact shall enter into force and become effective as to any state when it has enacted the same into law.

(2) Any party state may withdraw from this compact by enacting a statute repealing the same.

ARTICLE V

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

NEW SECTION. Sec. 2. Section 1 of this act shall constitute a new chapter in Title 88 RCW.

Passed the Senate February 17, 1992.

Passed the House March 4, 1992.

Approved by the Governor March 20, 1992.

Filed in Office of Secretary of State March 20, 1992.

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CHAPTER 34

[Substitute House Bill 2747]

BOTTLED WATER

Effective Date: 6/11/92

AN ACT Relating to bottled water; amending RCW 69.04.008 and 69.07.010; reenacting and amending RCW 43.20.050; adding new sections to chapter 69.07 RCW; and adding a new section to chapter 70.119A RCW.

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

NEW SECTION. Sec. 1. As used in sections 6 and 7 of this act:

(1) "Artesian water" means bottled water from a well tapping a confined aquifer in which the water level stands above the water table. "Artesian water" shall meet the requirements of "natural water."

(2) "Bottled water" means water that is placed in a sealed container or package and is offered for sale for human consumption or other consumer uses.

(3) "Carbonated water" or "sparkling water" means bottled water containing carbon dioxide.

(4) "Department" means the department of agriculture.

(5) "Distilled water" means bottled water that has been produced by a process of distillation and meets the definition of purified water in the most recent edition of the United States Pharmacopeia.

(6) "Drinking water" means bottled water obtained from an approved source that has at minimum undergone treatment consisting of filtration, activated carbon or particulate, and ozonation or an equivalent disinfection process, or that meets the requirements of the federal safe drinking water act of 1974 as amended and complies with all department of health rules regarding drinking water.

(7) "Mineral water" means bottled water that contains not less than five hundred parts per million total dissolved solids. "Natural mineral water" shall meet the requirements of "natural water."

(8) "Natural water" means bottled spring, mineral, artesian, or well water that is derived from an underground formation and may be derived from a public water system as defined in RCW 70.119A.020 only if that supply has a single source such as an actual spring, artesian well, or pumped well, and has not undergone any treatment that changes its original chemical makeup except ozonation or an equivalent disinfection process.

(9) "Plant operator" means a person who owns or operates a bottled water plant.

(10) "Purified water" means bottled water produced by distillation, deionization, reverse osmosis, or other suitable process and that meets the definition of purified water in the most recent edition of the United States Pharmacopeia. Water that meets this definition and is vaporized, then condensed, may be labeled "distilled water."

(11) "Spring water" means water derived from an underground formation from which water flows naturally to the surface of the earth. "Spring water" shall meet the requirements of "natural water."

(12) "Water dealer" means a person who imports bottled water or causes bulk water to be transported for bottling for human consumption or other consumer uses.

(13) "Well water" means water from a hole bored, drilled, or otherwise constructed in the ground that taps the water of an aquifer. "Well water" shall meet the requirements of "natural water."

**Sec. 2.** RCW 69.04.008 and 1945 c 257 s 9 are each amended to read as follows:

The term "food" means (1) articles used for food or drink for ~~((man))~~ people or other animals, (2) bottled water, (3) chewing gum, and ~~((3))~~ (4) articles used for components of any such article.

**Sec. 3.** RCW 69.07.010 and 1991 c 137 s 2 are each amended to read as follows:

For the purposes of this chapter:

(1) "Department" means the department of agriculture of the state of Washington;

(2) "Director" means the director of the department;

(3) "Food" means any substance used for food or drink by any person, including ice, bottled water, and any ingredient used for components of any such substance regardless of the quantity of such component;

(4) "Sale" means selling, offering for sale, holding for sale, preparing for sale, trading, bartering, offering a gift as an inducement for sale of, and advertising for sale in any media;

(5) "Food processing" means the handling or processing of any food in any manner in preparation for sale for human consumption: PROVIDED, That it shall not include fresh fruit or vegetables merely washed or trimmed while being prepared or packaged for sale in their natural state;

(6) "Food processing plant" includes but is not limited to any premises, plant, establishment, building, room, area, facilities and the appurtenances thereto, in whole or in part, where food is prepared, handled or processed in any manner for distribution or sale for resale by retail outlets, restaurants, and any such other facility selling or distributing to the ultimate consumer: PROVIDED, That, as set forth herein, establishments processing foods in any manner for resale shall be considered a food processing plant as to such processing;

(7) "Food service establishment" shall mean any fixed or mobile restaurant, coffee shop, cafeteria, short order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge, night club, roadside stand, industrial-feeding establishment, retail grocery, retail food market, retail meat market, retail bakery, private, public, or nonprofit organization routinely serving food, catering kitchen, commissary or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

For the purpose of this chapter any custom cannery or processing plant where raw food products, food, or food products are processed for the owner thereof, or the food processing facilities are made available to the owners or persons in control of raw food products or food or food products for processing in any manner, shall be considered to be food processing plants;

(8) "Person" means an individual, partnership, corporation, or association.

**Sec. 4.** RCW 43.20.050 and 1989 1st ex.s. c 9 s 210 and 1989 c 207 s 1 are each reenacted and amended to read as follows:

(1) The state board of health shall provide a forum for the development of health policy in Washington state. It is authorized to recommend to the secretary means for obtaining appropriate citizen and professional involvement in all health policy formulation and other matters related to the powers and duties of the department. It is further empowered to hold hearings and explore ways to improve the health status of the citizenry.

(a) At least every five years, the state board shall convene regional forums to gather citizen input on health issues.

(b) Every two years, in coordination with the development of the state biennial budget, the state board shall prepare the state health report that outlines the health priorities of the ensuing biennium. The report shall:

- (i) Consider the citizen input gathered at the health forums;
- (ii) Be developed with the assistance of local health departments;
- (iii) Be based on the best available information collected and reviewed according to RCW 43.70.050 and recommendations from the council;
- (iv) Be developed with the input of state health care agencies. At least the following directors of state agencies shall provide timely recommendations to the state board on suggested health priorities for the ensuing biennium: The secretary of social and health services, the health care authority administrator, the insurance commissioner, the administrator of the basic health plan, the superintendent of public instruction, the director of labor and industries, the director of ecology, and the director of agriculture;
- (v) Be used by state health care agency administrators in preparing proposed agency budgets and executive request legislation;
- (vi) Be submitted by the state board to the governor by June 1 of each even-numbered year for adoption by the governor. The governor, no later than September 1 of that year, shall approve, modify, or disapprove the state health report.

(c) In fulfilling its responsibilities under this subsection, the state board shall create ad hoc committees or other such committees of limited duration as necessary. Membership should include legislators, providers, consumers, bioethicists, medical economics experts, legal experts, purchasers, and insurers, as necessary.

(2) In order to protect public health, the state board of health shall:

(a) Adopt rules (~~and regulations~~) necessary to assure safe and reliable public drinking water and to protect the public health. Such rules (~~and regulations~~) shall establish requirements regarding:

- (i) The design and construction of public water system facilities, including proper sizing of pipes and storage for the number and type of customers;
- (ii) Drinking water quality standards, monitoring requirements, and laboratory certification requirements;
- (iii) Public water system management and reporting requirements;
- (iv) Public water system planning and emergency response requirements;
- (v) Public water system operation and maintenance requirements; (~~and~~)
- (vi) Water quality, reliability, and management of existing but inadequate public water systems; and
- (vii) Quality standards for the source or supply, or both source and supply, of water for bottled water plants.

(b) Adopt rules (~~and regulations~~) and standards for prevention, control, and abatement of health hazards and nuisances related to the disposal of wastes, solid and liquid, including but not limited to sewage, garbage, refuse, and other

environmental contaminants; adopt standards and procedures governing the design, construction, and operation of sewage, garbage, refuse and other solid waste collection, treatment, and disposal facilities;

(c) Adopt rules (~~and regulations~~) controlling public health related to environmental conditions including but not limited to heating, lighting, ventilation, sanitary facilities, cleanliness and space in all types of public facilities including but not limited to food service establishments, schools, institutions, recreational facilities and transient accommodations and in places of work;

(d) Adopt rules (~~and regulations~~) for the imposition and use of isolation and quarantine;

(e) Adopt rules (~~and regulations~~) for the prevention and control of infectious and noninfectious diseases, including food and vector borne illness, and rules (~~and regulations~~) governing the receipt and conveyance of remains of deceased persons, and such other sanitary matters as admit of and may best be controlled by universal rule; and

(f) Adopt rules for accessing existing data bases for the purposes of performing health related research.

(3) The state board may delegate any of its rule-adopting authority to the secretary and rescind such delegated authority.

(4) All local boards of health, health authorities and officials, officers of state institutions, police officers, sheriffs, constables, and all other officers and employees of the state, or any county, city, or township thereof, shall enforce all rules (~~and regulations~~) adopted by the state board of health. In the event of failure or refusal on the part of any member of such boards or any other official or person mentioned in this section to so act, he shall be subject to a fine of not less than fifty dollars, upon first conviction, and not less than one hundred dollars upon second conviction.

(5) The state board may advise the secretary on health policy issues pertaining to the department of health and the state.

NEW SECTION. Sec. 5. A new section is added to chapter 70.119A RCW to read as follows:

In such cases where a bottled water plant operator or water dealer knows or has reason to believe that a contaminant is present in the source water because of spill, release of a hazardous substance, or otherwise, and the contaminant's presence would create a potential health hazard to consumers, the plant operator or water dealer must report such an occurrence to the state's department of health.

NEW SECTION. Sec. 6. All bottled water must conform to applicable federal and state labeling laws and be labeled in compliance with the following standards:

(1) Mineral water may be labeled "mineral water." Bottled water to which minerals are added shall be labeled so as to disclose that minerals are added, and may not be labeled "natural mineral water."

(2) Spring water may be labeled "spring water" or "natural spring water."

(3) Water containing carbon dioxide that emerges from the source and is bottled directly with its entrapped gas or from which the gas is mechanically separated and later reintroduced at a level not higher than naturally occurring in the water may bear on its label the words "naturally carbonated" or "naturally sparkling."

(4) Bottled water that contains carbon dioxide other than that naturally occurring in the source of the product shall be labeled with the words "carbonated," "carbonation added," or "sparkling" if the carbonation is obtained from a natural or manufactured source.

(5) Well water may be labeled "well water" or "natural well water."

(6) Artesian water may be labeled "artesian water" or "natural artesian water."

(7) Purified water may be labeled "purified water" and the method of preparation shall be stated on the label, except that purified water produced by distillation may be labeled as "distilled water."

(8) Drinking water may be labeled "drinking water."

(9) The use of the word "spring," or any derivative of "spring" other than in a trademark, trade name, or company name, to describe water that is not spring water is prohibited.

(10) A product meeting more than one of the definitions in section 1 of this act may be identified by any of the applicable product types defined in section 1 of this act, except where otherwise specifically prohibited.

(11) Supplemental printed information and graphics may appear on the label but shall not imply properties of the product or preparation methods that are not factual.

**NEW SECTION. Sec. 7.** Bottled soft drinks, soda, or seltzer products commonly recognized as soft drinks and identified on the product identity panel with a common or usual name other than one of those specified in section 1 of this act are exempt from the requirements of section 6 of this act. Water that is not in compliance with the requirements of section 6 of this act may not be identified, labeled, or advertised as "artesian water," "bottled water," "distilled water," "natural water," "purified water," "spring water," or "well water."

**NEW SECTION. Sec. 8.** Sections 1, 6, and 7 of this act are each added to chapter 69.07 RCW.

**NEW SECTION. Sec. 9.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House March 7, 1992.  
 Passed the Senate March 4, 1992.  
 Approved by the Governor March 26, 1992.  
 Filed in Office of Secretary of State March 26, 1992.

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## CHAPTER 35

[Substitute Senate Bill 6086]

### VETERANS AFFAIRS ADVISORY COMMITTEE—MEMBERSHIP

Effective Date: 6/11/92

AN ACT Relating to the advisory committee of the department of veterans affairs; and amending RCW 43.60A.080.

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

Sec. 1. RCW 43.60A.080 and 1987 c 59 s 1 are each amended to read as follows:

(1) There is hereby created a ((state)) veterans affairs advisory committee which shall serve in an advisory capacity to the governor and the director of the department of veterans affairs. The committee shall be composed of ((fifteen)) seventeen members to be appointed by the governor, and shall consist of ((two veterans at large, one of whom shall be a Vietnam era veteran; one representative of the Washington soldiers' home and colony at Orting; one representative of the Washington veterans' home at Retsil; and one representative of each of the following congressionally chartered veterans organizations: American Legion, Veterans of Foreign Wars, American Veterans of World War II, Korea and Vietnam, Disabled American Veterans, Military Order of the Purple Heart, Marine Corps League, Paralyzed Veterans of America, Incorporated, American Ex prisoners of War, Veterans of World War I, Gold Star Mothers, and the Vietnam Veterans of America, Incorporated. The eleven members representing each of the foregoing organizations shall each be chosen from three names submitted to the governor by each of the named organizations. The first members of the committee shall hold office as follows: Three members to serve two years; three members to serve three years; and three members to serve four years. The first members appointed to represent the soldiers' home and colony at Orting and the veterans' home at Retsil shall hold office for four years. Upon expiration of said original terms, subsequent appointments shall be for four years except in the case of a vacancy, in which event appointment shall be only for the remainder of the unexpired term for which the vacancy occurs. No member shall serve more than two consecutive terms.

((2)) the following:

(a) One representative of the Washington soldiers' home and colony at Orting and one representative of the Washington veterans' home at Retsil. Each home's residents council may nominate up to three individuals whose names are

to be forwarded by the director to the governor. In making the appointments, the governor shall consider these recommendations or request additional nominations.

(b) One representative each from the three congressionally chartered veterans organizations with the largest number of active members in the state of Washington as determined by the director. The organizations' state commanders may each submit a list of three names to be forwarded to the governor by the director. In making the appointments, the governor shall consider these recommendations or request additional nominations.

(c) Ten members shall be chosen to represent those congressionally chartered veterans organizations having at least one active chapter within the state of Washington. Up to three nominations may be forwarded from each organization to the governor by the director. In making the appointments, the governor shall consider these recommendations or request additional nominations.

(d) Two members shall be veterans at large. Any individual or organization may nominate a veteran for an at-large position. Organizational affiliation shall not be a prerequisite for nomination or appointment. All nominations for the at-large positions shall be forwarded by the director to the governor.

(e) No organization shall have more than one official representative on the committee at any one time.

(f) In making appointments to the committee, care shall be taken to ensure that members represent the geographical portions of the state and minority viewpoints, and that the issues and views of concern to women veterans are represented.

(2) All members shall have terms of four years. In the case of a vacancy, appointment shall be only for the remainder of the unexpired term for which the vacancy occurs. No member may serve more than two consecutive terms, with vacancy appointments to an unexpired term not considered as a term. Members appointed before the effective date of this act shall continue to serve until the expiration of their current terms; and then, subject to the conditions contained in this section, are eligible for reappointment.

(3) The committee shall adopt an order of business for conducting its meetings.

(4) The ~~((state advisory))~~ committee shall have the following powers and duties:

(a) To serve in an advisory capacity to the governor and the director on ~~((all))~~ matters pertaining to the department of veterans affairs;

(b) To acquaint themselves fully with the operations of the department and recommend such changes to the governor and the director as they deem advisable.

~~((3))~~ (5) Members of the ~~((state advisory))~~ committee shall receive no compensation for the performance of their duties but shall receive a per diem allowance and mileage expense according to the provisions of chapter 43.03 RCW.

Passed the Senate March 7, 1992.  
Passed the House March 3, 1992.  
Approved by the Governor March 26, 1992.  
Filed in Office of Secretary of State March 26, 1992.

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**CHAPTER 36**

[Senate Bill 5105]

**SUPERIOR COURT EMPLOYEES—COLLECTIVE BARGAINING**

**Effective Date: 6/11/92**

AN ACT Relating to collective bargaining for superior court employees; and amending RCW 41.56.020 and 41.56.030.

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

**Sec. 1.** RCW 41.56.020 and 1989 c 275 s 1 are each amended to read as follows:

This chapter shall apply to any county or municipal corporation, or any political subdivision of the state of Washington, including district courts and superior courts, except as otherwise provided by RCW 54.04.170, 54.04.180, and chapters 41.59, 47.64, and 53.18 RCW. The Washington state patrol shall be considered a public employer of state patrol officers appointed under RCW 43.43.020.

**Sec. 2.** RCW 41.56.030 and 1989 c 275 s 2 are each amended to read as follows:

As used in this chapter:

(1) "Public employer" means any officer, board, commission, council, or other person or body acting on behalf of any public body governed by this chapter as designated by RCW 41.56.020, or any subdivision of such public body. For the purposes of this section, the public employer of district court or superior court employees for wage-related matters is the respective county legislative authority, or person or body acting on behalf of the legislative authority, and the public employer for nonwage-related matters is the judge or judge's designee of the respective district court or superior court.

(2) "Public employee" means any employee of a public employer except any person (a) elected by popular vote, or (b) appointed to office pursuant to statute, ordinance or resolution for a specified term of office by the executive head or body of the public employer, or (c) whose duties as deputy, administrative assistant or secretary necessarily imply a confidential relationship to the executive head or body of the applicable bargaining unit, or any person elected by popular vote or appointed to office pursuant to statute, ordinance or resolution for a specified term of office by the executive head or body of the public employer, or (d) who is a personal assistant to a district court judge, superior court judge, or court commissioner. For the purpose of (d) of this subsection,

no more than one assistant for each judge or commissioner may be excluded from a bargaining unit.

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

(4) "Collective bargaining" means the performance of the mutual obligations of the public employer and the exclusive bargaining representative to meet at reasonable times, to confer and negotiate in good faith, and to execute a written agreement with respect to grievance procedures and collective negotiations on personnel matters, including wages, hours and working conditions, which may be peculiar to an appropriate bargaining unit of such public employer, except that by such obligation neither party shall be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this chapter. In the case of the Washington state patrol, "collective bargaining" shall not include wages and wage-related matters.

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

(6) "Executive director" means the executive director of the commission.

(7) "Uniformed personnel" means (a) law enforcement officers as defined in RCW 41.26.030 as now or hereafter amended, of cities with a population of fifteen thousand or more or law enforcement officers employed by the governing body of any county of the second class or larger, or (b) fire fighters as that term is defined in RCW 41.26.030, as now or hereafter amended.

Passed the Senate January 31, 1992.

Passed the House March 3, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

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## CHAPTER 37

[Engrossed Senate Bill 6213]

SPECIAL ELECTION DATE DURING MONTH IN WHICH

PRESIDENTIAL PREFERENCE PRIMARY HELD

Effective Date: 3/26/92

AN ACT Relating to special elections; amending RCW 29.13.010 and 29.13.020; and declaring an emergency.

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

Sec. 1. RCW 29.13.010 and 1989 c 4 s 9 are each amended to read as follows:

(1) All state, county, city, town, and district general elections for the election of federal, state, legislative, judicial, county, city, town, district, and precinct officers, and for the submission to the voters of the state, county, city, town, or district of any measure for their adoption and approval or rejection, shall be held on the first Tuesday after the first Monday of November, in the year in which

they may be called. A state-wide general election shall be held on the first Tuesday after the first Monday of November of each year: PROVIDED, That the state-wide general election held in odd-numbered years shall be limited to ~~(((1)))~~ (a) city, town, and district general elections as provided for in RCW 29.13.020 ~~((as now or hereafter amended))~~, or as otherwise provided by law; ~~(((2)))~~ (b) the election of federal officers for the remainder of any unexpired terms in the membership of either branch of the congress of the United States; ~~(((3)))~~ (c) the election of state and county officers for the remainder of any unexpired terms of offices created by or whose duties are described in Article II, section 15, Article III, sections 16, 17, 19, 20, 21, 22, and 23, and Article IV, sections 3 and 5 of the state Constitution and RCW 2.06.080; ~~(((4)))~~ (d) the election of county officers in any county governed by a charter containing provisions calling for general county elections at this time; and ~~(((5)))~~ (e) the approval or rejection of state measures, including proposed constitutional amendments, matters pertaining to any proposed constitutional convention, initiative measures and referendum measures proposed by the electorate, referendum bills, and any other matter provided by the legislature for submission to the electorate~~((: PROVIDED FURTHER, That this section shall not be construed as fixing the time for holding primary elections, or elections for the recall of any elective public officer: PROVIDED HOWEVER, That the))~~.

(2) A county legislative authority may, if ((they)) it deems an emergency to exist, call a special county election by presenting a resolution to the county auditor at least forty-five days prior to the proposed election date. Except as provided in subsection (4) of this section, a special election called by the county legislative authority shall be held on one of the following dates as decided by such governing body:

- (a) The first Tuesday after the first Monday in February;
- (b) The second Tuesday in March;
- (c) The first Tuesday after the first Monday in April;
- (d) The ~~((fourth))~~ third Tuesday in May;
- (e) The day of the primary as specified by RCW 29.13.070; or
- (f) The first Tuesday after the first Monday in November.

(3) In addition to the dates set forth in subsection (2)(a) through (f) ((above)) of this section, a special election to validate an excess levy or bond issue may be called at any time to meet the needs resulting from failure of a county to pass a special levy for the first time or from fire, flood, earthquake, or other act of God. Such county special election shall be noticed and conducted in the manner provided by law.

(4) In a presidential election year, if a presidential preference primary is conducted in February, March, April, or May under chapter 29.19 RCW, the date on which a special election may be called by the county legislative authority under subsection (2) of this section during the month of that primary is the date of the presidential primary.

(5) This section shall supersede the provisions of any and all other statutes, whether general or special in nature, having different dates for such city, town, and district elections, the purpose of this section being to establish mandatory dates for holding elections except for those elections held pursuant to a home-rule charter adopted under Article XI, section 4 of the state Constitution. This section shall not be construed as fixing the time for holding primary elections, or elections for the recall of any elective public officer.

**Sec. 2.** RCW 29.13.020 and 1990 c 33 s 562 are each amended to read as follows:

(1) All city, town, and district general elections shall be held throughout the state of Washington on the first Tuesday following the first Monday in November in the odd-numbered years.

This section shall not apply to:

- (a) Elections for the recall of any elective public officer;
- (b) Public utility districts or district elections at which the ownership of property within those districts is a prerequisite to voting, all of which elections shall be held at the times prescribed in the laws specifically applicable thereto;
- (c) Consolidation proposals as provided for in RCW 28A.315.280 and nonhigh capital fund aid proposals as provided for in chapter 28A.540 RCW.

(2) The county auditor, as ex officio supervisor of elections, upon request in the form of a resolution of the governing body of a city, town, or district, presented to ~~((him))~~ the auditor at least forty-five days prior to the proposed election date, may, if ~~((he))~~ the county auditor deems an emergency to exist, call a special election in such city, town, or district, and for the purpose of such special election he or she may combine, unite, or divide precincts. Except as provided in subsection (3) of this section, such a special election (~~((called by such governing body))~~) shall be held on one of the following dates as decided by the governing body:

- (a) The first Tuesday after the first Monday in February;
- (b) The second Tuesday in March;
- (c) The first Tuesday after the first Monday in April;
- (d) The ~~((fourth))~~ third Tuesday in May;
- (e) The day of the primary election as specified by RCW 29.13.070; or
- (f) The first Tuesday after the first Monday in November.

(3) In a presidential election year, if a presidential preference primary is conducted in February, March, April, or May under chapter 29.19 RCW, the date on which a special election may be called under subsection (2) of this section during the month of that primary is the date of the presidential primary.

(4) In addition to subsection (2)(a) through (f) (~~((above))~~) of this section, a special election to validate an excess levy or bond issue may be called at any time to meet the needs resulting from failure of a school or junior taxing district to pass a special levy or bond issue for the first time or from fire, flood, earthquake, or other act of God, except that no special election may be held

between the first day for candidates to file for public office and the last day to certify the returns of the general election other than as provided in subsection (2) (e) and (f) of this ((subsection)) section. Such special election shall be conducted and notice thereof given in the manner provided by law.

(5) This section shall supersede the provisions of any and all other statutes, whether general or special in nature, having different dates for such city, town, and district elections, the purpose of this section being to establish mandatory dates for holding elections.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate February 12, 1992.

Passed the House March 4, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

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## CHAPTER 38

[Engrossed Substitute Senate Bill 5986]

### LANDLORD AND TENANT—HAZARDOUS OR THREATENING BEHAVIOR

**Effective Date:** 6/1/92

AN ACT Relating to tenant duties under the landlord-tenant act; amending RCW 59.18.130, 59.18.180, and 59.18.075; adding new sections to chapter 59.18 RCW; adding a new section to chapter 63.29 RCW; adding a new section to chapter 7.48 RCW; prescribing penalties; and providing an effective date.

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

NEW SECTION. Sec. 1. A new section is added to chapter 59.18 RCW to read as follows:

The legislature recognizes that tenants have a number of duties under the residential landlord tenant act. These duties include the duty to pay rent and give sufficient notice before terminating the tenancy, the duty to pay drayage and storage costs under certain circumstances, and the duty to not create a nuisance or common waste. The legislature finds that tenants are sometimes threatened by other tenants with firearms or other deadly weapons. Some landlords refuse to evict those tenants who threaten the well-being of other tenants even after an arrest has been made for the threatening behavior. The legislature also finds that some tenants who hold protective orders are still subjected to threats and acts of domestic violence. These tenants with protective orders must sometimes move quickly so that the person being restrained does not know where they reside. Tenants who move out of dwelling units because they fear for their safety often forfeit their damage deposit and last month's rent because they did not provide the requisite notice to terminate the tenancy. Some tenants remain in unsafe situations because they cannot afford to lose the money held as a deposit by the

landlord. There is no current mechanism that authorizes the suspension of the tenant's duty to give the requisite notice before terminating a tenancy if they are endangered by others. There also is no current mechanism that imposes a duty on the tenant to pay drayage and storage costs when the landlord stores his or her property after an eviction. It is the intent of the legislature to provide a mechanism for tenants who are threatened to terminate their tenancies without suffering undue economic loss, to provide additional mechanisms to allow landlords to evict tenants who endanger others, and to establish a mechanism for tenants to pay drayage and storage costs under certain circumstances when the landlord stores the tenant's property after an eviction.

**Sec. 2.** RCW 59.18.130 and 1991 c 154 s 3 are each amended to read as follows:

Each tenant shall pay the rental amount at such times and in such amounts as provided for in the rental agreement or as otherwise provided by law and comply with all obligations imposed upon tenants by applicable provisions of all municipal, county, and state codes, statutes, ordinances, and regulations, and in addition shall:

(1) Keep that part of the premises which he or she occupies and uses as clean and sanitary as the conditions of the premises permit;

(2) Properly dispose from his or her dwelling unit all rubbish, garbage, and other organic or flammable waste, in a clean and sanitary manner at reasonable and regular intervals, and assume all costs of extermination and fumigation for infestation caused by the tenant;

(3) Properly use and operate all electrical, gas, heating, plumbing and other fixtures and appliances supplied by the landlord;

(4) Not intentionally or negligently destroy, deface, damage, impair, or remove any part of the structure or dwelling, with the appurtenances thereto, including the facilities, equipment, furniture, furnishings, and appliances, or permit any member of his or her family, invitee, licensee, or any person acting under his or her control to do so. Violations may be prosecuted under chapter 9A.48 RCW if the destruction is intentional and malicious;

(5) Not permit a nuisance or common waste;

(6) Not engage in drug-related activity at the rental premises, or allow a subtenant, sublessee, resident, or anyone else to engage in drug-related activity at the rental premises with the knowledge or consent of the tenant. "Drug-related activity" means that activity which constitutes a violation of chapter 69.41, 69.50, or 69.52 RCW;

(7) Maintain the smoke detection device in accordance with the manufacturer's recommendations, including the replacement of batteries where required for the proper operation of the smoke detection device, as required in RCW 48.48.140(3); (~~and~~)

(8) Not engage in any activity at the rental premises that is:

(a) Imminently hazardous to the physical safety of other persons on the premises; and

(b)(i) Entails physical assaults upon another person which result in an arrest;  
or

(ii) Entails the unlawful use of a firearm or other deadly weapon as defined in RCW 9A.04.110 which results in an arrest, including threatening another tenant or the landlord with a firearm or other deadly weapon under section 5 of this act. Nothing in this subsection (8) shall authorize the termination of tenancy and eviction of the victim of a physical assault or the victim of the use or threatened use of a firearm or other deadly weapon; and

(9) Upon termination and vacation, restore the premises to their initial condition except for reasonable wear and tear or conditions caused by failure of the landlord to comply with his or her obligations under this chapter: PROVIDED, That the tenant shall not be charged for normal cleaning if he or she has paid a nonrefundable cleaning fee.

**Sec. 3.** RCW 59.18.180 and 1988 c 150 s 7 are each amended to read as follows:

If the tenant fails to comply with any portion of RCW 59.18.130 or 59.18.140, and such noncompliance can substantially affect the health and safety of the tenant or other tenants, or substantially increase the hazards of fire or accident that can be remedied by repair, replacement of a damaged item, or cleaning, the tenant shall comply within thirty days after written notice by the landlord specifying the noncompliance, or, in the case of emergency as promptly as conditions require. If the tenant fails to remedy the noncompliance within that period the landlord may enter the dwelling unit and cause the work to be done and submit an itemized bill of the actual and reasonable cost of repair, to be payable on the next date when periodic rent is due, or on terms mutually agreed to by the landlord and tenant, or immediately if the rental agreement has terminated. Any substantial noncompliance by the tenant of RCW 59.18.130 or 59.18.140 shall constitute a ground for commencing an action in unlawful detainer in accordance with the provisions of chapter 59.12 RCW, and a landlord may commence such action at any time after written notice pursuant to such chapter. The tenant shall have a defense to an unlawful detainer action filed solely on this ground if it is determined at the hearing authorized under the provisions of chapter 59.12 RCW that the tenant is in substantial compliance with the provisions of this section, or if the tenant remedies the noncomplying condition within the thirty day period provided for above or any shorter period determined at the hearing to have been required because of an emergency: PROVIDED, That if the defective condition is remedied after the commencement of an unlawful detainer action, the tenant may be liable to the landlord for statutory costs and reasonable attorney's fees.

If drug-related activity is alleged to be a basis for termination of tenancy under RCW 59.18.130(6), 59.12.030(5), or 59.20.140(5), the compliance

provisions of this section do not apply and the landlord may proceed directly to an unlawful detainer action.

If activity on the premises that creates an imminent hazard to the physical safety of other persons on the premises as defined in RCW 59.18.130(8) is alleged to be the basis for termination of the tenancy, and the tenant is arrested as a result of this activity, then the compliance provisions of this section do not apply and the landlord may proceed directly to an unlawful detainer action against the tenant who was arrested for this activity.

A landlord may not be held liable in any cause of action for bringing an unlawful detainer action against a tenant for drug-related activity or for creating an imminent hazard to the physical safety of others under this section, if the unlawful detainer action was brought in good faith. Nothing in this section shall affect a landlord's liability under RCW 59.18.380 to pay all damages sustained by the tenant should the writ of restitution be wrongfully sued out.

Sec. 4. RCW 59.18.075 and 1988 c 150 s 11 are each amended to read as follows:

(1) Any law enforcement agency which seizes a legend drug pursuant to a violation of chapter 69.41 RCW, a controlled substance pursuant to a violation of chapter 69.50 RCW, or an imitation controlled substance pursuant to a violation of chapter 69.52 RCW, shall make a reasonable attempt to discover the identity of the landlord and shall notify the landlord in writing, at the last address listed in the property tax records and at any other address known to the law enforcement agency, of the seizure and the location of the seizure of the illegal drugs or substances.

(2) Any law enforcement agency which arrests a tenant for threatening another tenant with a firearm or other deadly weapon, or for some other unlawful use of a firearm or other deadly weapon on the rental premises, or for physically assaulting another person on the rental premises, shall make a reasonable attempt to discover the identity of the landlord and notify the landlord about the arrest in writing, at the last address listed in the property tax records and at any other address known to the law enforcement agency.

NEW SECTION. Sec. 5. A new section is added to chapter 59.18 RCW to read as follows:

If a tenant notifies the landlord that he or she, or another tenant who shares that particular dwelling unit has been threatened by another tenant, and:

(1) The threat was made with a firearm or other deadly weapon as defined in RCW 9A.04.110; and

(2) The tenant who made the threat is arrested as a result of the threatening behavior; and

(3) The landlord fails to file an unlawful detainer action against the tenant who threatened another tenant within seven calendar days after receiving notice of the arrest from a law enforcement agency;

then the tenant who was threatened may terminate the rental agreement and quit the premises upon written notice to the landlord without further obligation under the rental agreement.

A tenant who terminates a rental agreement under this section is discharged from payment of rent for any period following the quitting date, and is entitled to a pro rata refund of any prepaid rent, and shall receive a full and specific statement of the basis for retaining any of the deposit together with any refund due in accordance with RCW 59.18.280.

Nothing in this section shall be construed to require a landlord to terminate a rental agreement or file an unlawful detainer action.

**NEW SECTION.** Sec. 6. A new section is added to chapter 59.18 RCW to read as follows:

If a tenant is threatened by the landlord with a firearm or other deadly weapon as defined in RCW 9A.04.110, and the threat leads to an arrest of the landlord, then the tenant may terminate the rental agreement and quit the premises without further obligation under the rental agreement. The tenant is discharged from payment of rent for any period following the quitting date, and is entitled to a pro rata refund of any prepaid rent, and shall receive a full and specific statement of the basis for retaining any of the deposit together with any refund due in accordance with RCW 59.18.280.

**NEW SECTION.** Sec. 7. A new section is added to chapter 59.18 RCW to read as follows:

If a tenant notifies the landlord in writing that:

- (1) He or she has a valid order for protection under chapter 26.50 RCW; and
- (2) The person to be restrained has violated the order since the tenant occupied the dwelling unit; and
- (3) The tenant has notified the sheriff of the county or the peace officers of the municipality in which the tenant resides of the violation; and
- (4) A copy of the order for protection is available for the landlord;

then the tenant may terminate the rental agreement and quit the premises without further obligation under the rental agreement. A tenant who terminates a rental agreement under this section is discharged from the payment of rent for any period following the quitting date, and is entitled to a pro rata refund of any prepaid rent, and shall receive a full and specific statement of the basis for retaining any of the deposit together with any refund due in accordance with RCW 59.18.280.

**NEW SECTION.** Sec. 8. A new section is added to chapter 59.18 RCW to read as follows:

(1) A landlord may, upon the execution of a writ of restitution by the sheriff, enter and take possession of any property of the tenant found on the premises and store the property in any reasonably secure place. If, however, the tenant or the tenant's representative objects to the storage of the property, the property shall be deposited upon the nearest public property and may not be

moved and stored by the landlord. If the tenant is not present at the time the writ of restitution is executed, it shall be presumed that the tenant does not object to the storage of the property as provided in this section. RCW 59.18.310 shall apply to the moving and storage of a tenant's property when the premises are abandoned by the tenant.

(2) Property moved and stored under this section shall be returned to the tenant after the tenant has paid the actual or reasonable drayage and storage costs, whichever is less, or until it is sold or disposed of by the landlord in accordance with subsection (3) of this section.

(3) Prior to the sale or disposal of property stored pursuant to this section with a cumulative value of over fifty dollars, the landlord shall notify the tenant of the pending sale or disposal. After forty-five days from the date the notice of the sale or disposal is mailed or personally delivered to the tenant, the landlord may sell or dispose of the property, including personal papers, family pictures, and keepsakes.

If the property that is being stored has a cumulative value of fifty dollars or less, then the landlord may sell or dispose of the property in the manner provided in this section, except for personal papers, family pictures, and keepsakes. Prior to the sale or disposal of property stored pursuant to this section with a cumulative value of fifty dollars or less, the landlord shall notify the tenant of the pending sale or disposal. The notice shall either be mailed or personally delivered to the tenant. After seven days from the date the notice is mailed or delivered to the tenant, the landlord may sell or dispose of the property.

The landlord may apply any income derived from the sale of the tenant's property against moneys due the landlord for drayage and storage of the property. The amount of sale proceeds that the landlord may apply towards such costs may not exceed the actual or reasonable costs for drayage and storage of the property, whichever is less. Any excess income derived from the sale of such property shall be held by the landlord for the benefit of the tenant for a period of one year from the date of the sale. If no claim is made or action commenced by the tenant for the recovery of the excess income prior to the expiration of that period of time, then the balance shall be treated as abandoned property and deposited by the landlord with the department of revenue pursuant to chapter 63.29 RCW.

(4) Nothing in this section shall be construed as creating a right of distress for rent.

(5) When serving a tenant with a writ of restitution pursuant to RCW 59.12.100 and 59.18.410, the sheriff shall provide written notice to the tenant that: (a) Upon execution of the writ, the landlord may store the tenant's property; (b) if the property is stored, it may not be returned to the tenant unless the tenant pays the actual or reasonable costs of drayage and storage, whichever is less; (c) if the tenant objects to storage of the property, it will not be stored but will be placed on the nearest public property; and (d) if the tenant is not

present at the time of the execution of the writ, it shall be presumed the tenant does not object to storage of the property.

**NEW SECTION.** Sec. 9. A new section is added to chapter 63.29 RCW to read as follows:

Intangible property held by a landlord as a result of a sheriff's sale pursuant to section 8 of this act that remains unclaimed for a period of one year from the date of the sale is presumed abandoned.

**NEW SECTION.** Sec. 10. A new section is added to chapter 7.48 RCW to read as follows:

The unlawful use of a firearm or other deadly weapon by a person in, or adjacent to his or her dwelling, that imminently threatens the physical safety of other people in the adjacent area, so as to essentially interfere with the comfortable enjoyment of their residences, is a nuisance and may be abated, and the person who unlawfully used the firearm or deadly weapon is subject to the punishment provided in this chapter. This section does not apply unless the person who unlawfully used the firearm or other deadly weapon is arrested for this activity.

**NEW SECTION.** Sec. 11. This act shall take effect June 1, 1992.

Passed the Senate March 7, 1992.

Passed the House March 3, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

## CHAPTER 39

[Substitute Senate Bill 5116]

### SCHOOL BUSES—REPORTING VIOLATORS OF SCHOOL BUS STOP LAWS

Effective Date: 6/11/92

AN ACT Relating to transportation safety; adding new sections to chapter 46.61 RCW; adding a new section to chapter 46.37 RCW; and creating new sections.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 46.61 RCW to read as follows:

If a law enforcement officer investigating a violation of RCW 46.61.370 has reasonable cause to believe that a violation has occurred, the officer may request the owner of the motor vehicle to supply information identifying the driver of the vehicle at the time the violation occurred. When requested, the owner of the motor vehicle shall identify the driver to the best of the owner's ability. The owner of the vehicle is not required to supply identification information to the law enforcement officer if the owner believes the information is self-incriminating.

**NEW SECTION.** **Sec. 2.** A new section is added to chapter 46.61 RCW to read as follows:

(1) The driver of a school bus who observes a violation of RCW 46.61.370 may prepare a written report on a form provided by the state patrol or another law enforcement agency indicating that a violation has occurred. The driver of the school bus or a school official may deliver the report to a law enforcement officer of the state, county, or municipality in which the violation occurred but not more than seventy-two hours after the violation occurred. The driver shall include in the report the time and location at which the violation occurred, the vehicle license plate number, and a description of the vehicle involved in the violation.

(2) The law enforcement officer shall initiate an investigation of the reported violation within ten working days after receiving the report described in subsection (1) of this section by contacting the owner of the motor vehicle involved in the reported violation and requesting the owner to supply information identifying the driver. Failure to investigate within the ten working day period does not prohibit further investigation or prosecution. If, after an investigation, the law enforcement officer is able to identify the driver and has reasonable cause to believe a violation of RCW 46.61.370 has occurred, the law enforcement officer shall prepare a notice of traffic infraction and have it served upon the driver of the vehicle.

**NEW SECTION.** **Sec. 3.** The superintendent of public instruction, in cooperation with a least one school district, shall conduct a pilot program to test the feasibility of using video cameras to identify motorists and vehicles that illegally pass school buses when the bus is loading and unloading students. The superintendent shall report his or her findings to the legislature by December 30, 1992.

**\*NEW SECTION.** **Sec. 4.** A new section is added to chapter 46.37 RCW to read as follows:

*(1) A school bus may be equipped with a single hazard strobe lamp. The lamp must meet the standards and specifications established by the chief of the Washington state patrol and must be mounted on the center line of the roof in the rear one-half of the bus, but no closer than six feet from the rear of the bus measured from a vertical plane tangent to the rearmost point of the bus body.*

*(2) A hazard strobe lamp may be used when the bus is occupied with school children or when one or more of the following conditions exist:*

*(a) The bus is in motion in inclement, sight-obscuring conditions, including but not limited to, rain, fog, snow, and smoke;*

*(b) There is a need to improve the visibility of the bus when stopping on, standing on, or starting onto a highway; or*

*(c) There is limited visibility caused by geographic hazards, including but not limited to, winding roadways, hills, trees, and buildings.*

\*Sec. 4 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 5. If specific funding for the purposes of section 3 of this act, referencing this act by bill number, is not provided by June 30, 1992, in the omnibus appropriations act, section 3 of this act shall be null and void.

Passed the Senate March 7, 1992.

Passed the House March 5, 1992.

Approved by the Governor March 26, 1992, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State March 26, 1992.

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

"I am returning herewith, without my approval as to section 4, Substitute Senate Bill No. 5116 entitled:

"AN ACT Relating to transportation safety."

Substitute Senate Bill No. 5116 is the product of work by the task force on school bus safety. It includes several excellent provisions to assist law enforcement personnel in enforcing school bus stop laws and enhancing school bus safety. I applaud and fully support these provisions.

However, section 4 would change current Washington State Patrol rules to allow school buses to utilize their hazard strobe lamps regardless of whether it is warranted by hazardous conditions. Studies indicate that overuse of hazard warning lights ultimately diminishes their effectiveness. For this reason, I have vetoed section 4 of Substitute Senate Bill No. 5116.

With the exception of section 4, Substitute Senate Bill No. 5116 is approved."

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## CHAPTER 40

[Substitute Senate Bill 5465]

### PHARMACY ASSISTANT TO SUPERVISOR RATIO—REVISIONS

Effective Date: 6/11/92

AN ACT Relating to the required pharmacy assistant ratio; and amending RCW 18.64A.040.

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

**Sec. 1.** RCW 18.64A.040 and 1977 ex.s. c 101 s 4 are each amended to read as follows:

(1) A pharmacy assistant shall practice pharmacy in this state only after authorization by the board and only to the extent permitted by the board in accordance with this chapter.

(2) A pharmacist shall be assisted by a pharmacy assistant in the practice of pharmacy in this state only after authorization by the board and only to the extent permitted by the board in accordance with this chapter: PROVIDED, That no pharmacist may supervise more than one person performing level A pharmacy assistant duties and functions: PROVIDED FURTHER, That in pharmacies

operating in connection with facilities licensed pursuant to chapter((s)) 70.41 ((or)), 71.12, 71A.20, or 74.42 RCW, whether or not situated within the said facility which shall be physically separated from any area of a pharmacy where dispensing of prescriptions to the general public occurs, the ratio of pharmacists to persons performing level A pharmacy assistant duties and functions shall be as follows: in the preparation of medicine or other materials used by patients within the facility, one pharmacist supervising no more than three persons performing level A pharmacy assistant duties and functions; in the preparation of medicine or other materials dispensed to persons not patients within the facility, one pharmacist supervising not more than one person performing level A pharmacy assistant duties and functions.

Passed the Senate January 27, 1992.

Passed the House March 3, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

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## CHAPTER 41

[Senate Bill 6221]

### WESTERN WASHINGTON PHEASANT PERMITS

Effective Date: 1/1/93

AN ACT Relating to western Washington pheasant hunting; amending RCW 77.32.350; prescribing penalties; and providing an effective date.

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

**Sec. 1.** RCW 77.32.350 and 1991 sp.s. c 7 s 9 are each amended to read as follows:

In addition to a basic hunting license, a supplemental license, permit, or stamp is required to hunt for quail, partridge, pheasant, or migratory waterfowl, to hunt with a raptor, or to hunt wild animals with a dog.

(1) A hound permit is required to hunt wild animals, except rabbits and hares, with a dog. The fee for this permit is twelve dollars.

(2) An eastern Washington upland game bird permit is required to hunt for quail, partridge, and pheasant in eastern Washington. The fee for this permit is ten dollars.

(3) A western Washington upland game bird permit is required to hunt for quail, partridge, and pheasant in western Washington. The fee for this permit is thirty-five dollars. Western Washington upland game bird permits must contain numbered spaces for recording the location and date of harvest of each western Washington pheasant. It is unlawful to harvest a western Washington pheasant without immediately recording this information on the permit.

(4) Effective January 1, ~~((1992))~~ 1993, the permit shall be available as a season option, ~~((an early season option, a late season option,))~~ a juvenile full season option, or a two-day option. The fee for this permit is:

- (a) For the full season option, thirty-five dollars;
- (b) ~~((For the early season option, twenty-five dollars;~~
- (c) ~~For the late season option, twenty-five dollars;~~
- (d)) For the juvenile full season or the two-day option, twenty dollars.

For the purposes of this subsection a juvenile is defined as a person under fifteen years of age upon the opening date of the western Washington pheasant season.

~~((4))~~ (5) Western Washington upland game permits are valid for the following number of pheasants and harvesting pheasants in excess of these numbers requires another permit:

- (a) A full season permit is valid for no more than ten pheasants;
- (b) A juvenile full season permit is valid for no more than six pheasants;
- (c) A two-day permit is valid for no more than four pheasants.

(6) A falconry license is required to possess or hunt with a raptor, including seasons established exclusively for hunting in that manner. The fee for this license is thirty-six dollars.

~~((5))~~ (7) A migratory waterfowl stamp affixed to a basic hunting license is required for all persons sixteen years of age or older to hunt migratory waterfowl. The fee for the stamp is six dollars.

~~((6))~~ (8) The migratory waterfowl stamp shall be validated by the signature of the licensee written across the face of the stamp.

~~((7))~~ (9) The migratory waterfowl stamps required by this section expire on March 31st following the date of issuance.

NEW SECTION. Sec. 2. This act shall take effect January 1, 1993. The director of wildlife may take steps necessary to ensure that this act is implemented on its effective date.

Passed the Senate March 7, 1992.

Passed the House March 4, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

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## CHAPTER 42

[Senate Bill 6339]

### CLASS F WINE RETAILER'S LICENSE

Effective Date: 6/11/92

AN ACT Relating to class F wine retailer's licenses; and amending RCW 66.24.370.

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

**Sec. 1.** RCW 66.24.370 and 1987 c 386 s 4 are each amended to read as follows:

(1) There shall be a wine retailer's license to be designated as class F license to sell, subject to subsection (2) of this section, table and fortified wine

in bottles and original packages, not to be consumed on the premises where sold, at any store other than the state liquor stores: PROVIDED, Such licensee shall pay to the state liquor stores for wines purchased from such stores the current retail price; fee seventy-five dollars per annum: PROVIDED, FURTHER, That a holder of a class A or class B license shall be entitled to the privileges permitted in this section by paying an annual fee of twenty-five dollars for each store.

(2) ~~((In counties with a population over three hundred thousand,))~~ The board shall issue a restricted class F license, authorizing the licensee to sell only table wine, if the board finds upon issuance or renewal of the license that the sale of fortified wine would be against the public interest. In determining the public interest, the board shall consider at least the following factors:

(a) The likelihood that the applicant will sell fortified wine to persons who are intoxicated;

(b) Law enforcement problems in the vicinity of the applicant's establishment that may arise from persons purchasing fortified wine at the establishment; and

(c) Whether the sale of fortified wine would be detrimental to or inconsistent with a government-operated or funded alcohol treatment or detoxification program in the area.

If the board receives no evidence or objection that the sale of fortified wine would be against the public interest, it shall issue or renew the license without restriction, as applicable. The burden of establishing that the sale of fortified wine by the licensee would be against the public interest is on those persons objecting.

(3) Licensees under this section whose business is primarily the sale of wine at retail may provide, free or for a charge, single-serving samples of two ounces or less to customers for the purpose of sales promotion.

Passed the Senate February 17, 1992.

Passed the House March 5, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

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## CHAPTER 43

[Engrossed Senate Bill 6427]

## UNSOLICITED GOODS OR SERVICES

Effective Date: 6/11/92

AN ACT Relating to unauthorized mailings; amending RCW 19.56.020; and adding a new section to chapter 19.56 RCW.

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

**Sec. 1.** RCW 19.56.020 and 1967 c 57 s 1 are each amended to read as follows:

~~((Unless otherwise agreed, where))~~ If unsolicited goods or services are ~~((mailed))~~ provided to a person, ((he)) the person has a right to accept ~~((delivery of such))~~ the goods or services as a gift only, and is not bound to return ~~((such))~~ the goods ~~((to the sender))~~ or services. Goods or services are not considered to have been solicited unless the recipient specifically requested, in an affirmative manner, the receipt of the goods or services according to the terms under which they are being offered. Goods or services are not considered to have been requested if a person fails to respond to an invitation to purchase the goods or services and the goods or services are provided notwithstanding. If ~~((such))~~ the unsolicited goods or services are either addressed to or intended for the recipient, ((he)) the recipient may use them or dispose of them in any manner without any obligation to the ~~((sender))~~ provider, and in any action for goods or services sold and delivered, or in any action for the return of the goods, it ~~((shall be))~~ is a complete defense that the goods or services were ~~((mailed))~~ provided voluntarily and that the defendant did not ~~((actually))~~ affirmatively order or request ~~((such))~~ the goods or services, either orally or in writing.

**NEW SECTION. Sec. 2.** A new section is added to chapter 19.56 RCW to read as follows:

Violation of RCW 19.56.020 is a matter affecting the public interest for the purpose of applying chapter 19.86 RCW. Failure to comply with this chapter is not reasonable in relation to the development and preservation of business. A violation of RCW 19.56.020 constitutes an unfair or deceptive act or practice in trade or commerce for the purposes of applying chapter 19.86 RCW.

Passed the Senate February 12, 1992.

Passed the House March 5, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

## CHAPTER 44

[Substitute Senate Bill 6321]

## LOCAL GOVERNMENT WHISTLEBLOWER PROTECTION

**Effective Date:** 6/11/92 - Except Sections 1 through 10 which become effective on 1/1/93; and Section 11 becomes effective on 7/1/92.

AN ACT Relating to local government whistleblowers; amending RCW 34.05.010; adding new sections to chapter 34.12 RCW; adding a new section to chapter 43.09 RCW; adding a new chapter to Title 42 RCW; prescribing penalties; and providing effective dates.

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

**NEW SECTION. Sec. 1.** It is the policy of the legislature that local government employees should be encouraged to disclose, to the extent not expressly prohibited by law, improper governmental actions of local government officials and employees. The purpose of this chapter is to protect local government employees who make good-faith reports to appropriate governmental bodies and to provide remedies for such individuals who are subjected to retaliation for having made such reports.

**NEW SECTION. Sec. 2.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1)(a) "Improper governmental action" means any action by a local government officer or employee:

(i) That is undertaken in the performance of the officer's or employee's official duties, whether or not the action is within the scope of the employee's employment; and

(ii) That is in violation of any federal, state, or local law or rule, is an abuse of authority, is of substantial and specific danger to the public health or safety, or is a gross waste of public funds.

(b) "Improper governmental action" does not include personnel actions including but not limited to employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, reemployments, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of the local government collective bargaining and civil service laws, alleged labor agreement violations, reprimands, or any action that may be taken under chapter 41.08, 41.12, 41.14, 41.56, 41.59, or 53.18 RCW or RCW 54.04.170 and 54.04.180.

(2) "Local government" means any governmental entity other than the state, federal agencies, or an operating system established under chapter 43.52 RCW. It includes, but is not limited to cities, counties, school districts, and special purpose districts.

(3) "Retaliatory action" means any adverse change in a local government employee's employment status, or the terms and conditions of employment including denial of adequate staff to perform duties, frequent staff changes, frequent and undesirable office changes, refusal to assign meaningful work, unwarranted and unsubstantiated letters of reprimand or unsatisfactory

performance evaluations, demotion, transfer, reassignment, reduction in pay, denial of promotion, suspension, dismissal, or any other disciplinary action.

(4) "Emergency" means a circumstance that if not immediately changed may cause damage to persons or property.

**NEW SECTION.** Sec. 3. (1) Every local government employee has the right to report to the appropriate person or persons information concerning an alleged improper governmental action.

(2) The governing body or chief administrative officer of each local government shall adopt a policy on the appropriate procedures to follow for reporting such information and shall provide information to their employees on the policy. Local governments are encouraged to consult with their employees on the policy.

(3) The policy shall describe the appropriate person or persons within the local government to whom to report information and a list of appropriate person or persons outside the local government to whom to report. The list shall include the county prosecuting attorney.

(4) Each local government shall permanently post a summary of the procedures for reporting information on an alleged improper governmental action and the procedures for protection against retaliatory actions described in section 4 of this act in a place where all employees will have reasonable access to it. A copy of the summary shall be made available to any employee upon request.

(5) A local government may require as part of its policy that, except in the case of an emergency, before an employee provides information of an improper governmental action to a person or an entity who is not a public official or a person listed pursuant to subsection (3) of this section, the employee shall submit a written report to the local government. Where a local government has adopted such a policy under this section, an employee who fails to make a good faith attempt to follow the policy shall not receive the protections of this chapter. The identity of a reporting employee shall be kept confidential to the extent possible under law, unless the employee authorizes the disclosure of his or her identity in writing.

**NEW SECTION.** Sec. 4. (1) It is unlawful for any local government official or employee to take retaliatory action against a local government employee because the employee provided information in good faith in accordance with the provisions of this chapter that an improper governmental action occurred.

(2) In order to seek relief under this chapter, a local government employee shall provide a written notice of the charge of retaliatory action to the governing body of the local government that:

- (a) Specifies the alleged retaliatory action; and
- (b) Specifies the relief requested.

(3) The charge shall be delivered to the local government no later than thirty days after the occurrence of the alleged retaliatory action. The local government

has thirty days to respond to the charge of retaliatory action and request for relief.

(4) Upon receipt of either the response of the local government or after the last day upon which the local government could respond, the local government employee may request a hearing to establish that a retaliatory action occurred and to obtain appropriate relief as defined in this section. The request for a hearing shall be delivered to the local government within fifteen days of delivery of the response from the local government, or within fifteen days of the last day on which the local government could respond.

(5) Within five working days of receipt of the request for hearing, the local government shall apply to the state office of administrative hearings for an adjudicative proceeding before an administrative law judge. Except as otherwise provided in this section, the proceedings shall comply with RCW 34.05.410 through 34.05.598.

(6) The employee, as the initiating party, must prove his or her claim by a preponderance of the evidence. The administrative law judge shall issue a final decision consisting of findings of fact, conclusions of law, and judgment no later than forty-five days after the date the request for hearing was delivered to the local government. The administrative law judge may grant specific extensions of time beyond this period of time for rendering a decision at the request of either party upon a showing of good cause, or upon his or her own motion.

(7) Relief that may be granted by the administrative law judge consists of reinstatement, with or without back pay, and such injunctive relief as may be found to be necessary in order to return the employee to the position he or she held before the retaliatory action and to prevent any recurrence of retaliatory action. The administrative law judge may award costs and reasonable attorneys' fees to the prevailing party.

(8) If a determination is made that retaliatory action has been taken against the employee, the administrative law judge may, in addition to any other remedy, impose a civil penalty personally upon the retaliator of up to three thousand dollars payable by each person found to have retaliated against the employee and recommend to the local government that any person found to have retaliated against the employee be suspended with or without pay or dismissed. All penalties recovered shall be paid to the local government administrative hearings account created in section 7 of this act.

(9) The final decision of the administrative law judge is subject to judicial review under the arbitrary and capricious standard. Relief ordered by the administrative law judge may be enforced by petition to superior court.

**NEW SECTION.** Sec. 5. This chapter shall not be construed to permit disclosures that would diminish the rights of any person to the continued protection of confidentiality of communications where statute or common law provides such protection.

**NEW SECTION. Sec. 6.** Any local government that has adopted or adopts a program for reporting alleged improper governmental actions and adjudicating retaliation resulting from such reporting shall be exempt from this chapter if the program meets the intent of this chapter.

**NEW SECTION. Sec. 7.** The local government administrative hearings account is created in the custody of the state treasurer. All receipts from penalties in section 4 of this act and the surcharges under section 11 of this act shall be deposited into the account. Expenditures from the account may be used only for administrative hearings under this chapter. Only the chief administrative law judge or his or her designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

**NEW SECTION. Sec. 8.** A new section is added to chapter 34.12 RCW to read as follows:

When requested by a local government, the chief administrative law judge shall assign an administrative law judge to conduct proceedings under chapter 42.— RCW (sections 1 through 7 of this act).

**NEW SECTION. Sec. 9.** A new section is added to chapter 34.12 RCW to read as follows:

Costs for the services of the office of administrative hearings for the initial twenty-four hours of services on a hearing under chapter 42.— RCW (sections 1 through 7 of this act) shall be billed to the local government administrative hearings account. Costs for services beyond the initial twenty-four hours of services shall be allocated to the parties by the administrative law judge, the proportion to be borne by each party at the discretion of the administrative law judge. The charges for these costs shall be billed to the affected local government that shall recover payment from any other party specified by the administrative law judge.

**Sec. 10.** RCW 34.05.010 and 1989 c 175 s 1 are each amended to read as follows:

The definitions set forth in this section shall apply throughout this chapter, unless the context clearly requires otherwise.

(1) "Adjudicative proceeding" means a proceeding before an agency in which an opportunity for hearing before that agency is required by statute or constitutional right before or after the entry of an order by the agency. Adjudicative proceedings also include all cases of licensing and rate making in which an application for a license or rate change is denied except as limited by RCW 66.08.150, or a license is revoked, suspended, or modified, or in which the granting of an application is contested by a person having standing to contest under the law.

(2) "Agency" means any state board, commission, department, institution of higher education, or officer, authorized by law to make rules or to conduct

adjudicative proceedings, except those in the legislative or judicial branches, the governor, or the attorney general except to the extent otherwise required by law and any local governmental entity that may request the appointment of an administrative law judge under chapter 42.-- RCW (sections 1 through 7 of this act).

(3) "Agency action" means licensing, the implementation or enforcement of a statute, the adoption or application of an agency rule or order, the imposition of sanctions, or the granting or withholding of benefits.

Agency action does not include an agency decision regarding (a) contracting or procurement of goods, services, public works, and the purchase, lease, or acquisition by any other means, including eminent domain, of real estate, as well as all activities necessarily related to those functions, or (b) determinations as to the sufficiency of a showing of interest filed in support of a representation petition, or mediation or conciliation of labor disputes or arbitration of labor disputes under a collective bargaining law or similar statute, or (c) any sale, lease, contract, or other proprietary decision in the management of public lands or real property interests, or (d) the granting of a license, franchise, or permission for the use of trademarks, symbols, and similar property owned or controlled by the agency.

(4) "Agency head" means the individual or body of individuals in whom the ultimate legal authority of the agency is vested by any provision of law. If the agency head is a body of individuals, a majority of those individuals constitutes the agency head.

(5) "Entry" of an order means the signing of the order by all persons who are to sign the order, as an official act indicating that the order is to be effective.

(6) "Filing" of a document that is required to be filed with an agency means delivery of the document to a place designated by the agency by rule for receipt of official documents, or in the absence of such designation, at the office of the agency head.

(7) "Institutions of higher education" are the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, the various community colleges, and the governing boards of each of the above, and the various colleges, divisions, departments, or offices authorized by the governing board of the institution involved to act for the institution, all of which are sometimes referred to in this chapter as "institutions."

(8) "Interpretive statement" means a written expression of the opinion of an agency, entitled an interpretive statement by the agency head or its designee, as to the meaning of a statute or other provision of law, of a court decision, or of an agency order.

(9)(a) "License" means a franchise, permit, certification, approval, registration, charter, or similar form of authorization required by law, but does not include (i) a license required solely for revenue purposes, or (ii) a certifica-

tion of an exclusive bargaining representative, or similar status, under a collective bargaining law or similar statute, or (iii) a license, franchise, or permission for use of trademarks, symbols, and similar property owned or controlled by the agency.

(b) "Licensing" includes the agency process respecting the issuance, denial, revocation, suspension, or modification of a license.

(10) (a) "Order," without further qualification, means a written statement of particular applicability that finally determines the legal rights, duties, privileges, immunities, or other legal interests of a specific person or persons.

(b) "Order of adoption" means the official written statement by which an agency adopts, amends, or repeals a rule.

(11) "Party to agency proceedings," or "party" in a context so indicating, means:

(a) A person to whom the agency action is specifically directed; or

(b) A person named as a party to the agency proceeding or allowed to intervene or participate as a party in the agency proceeding.

(12) "Party to judicial review or civil enforcement proceedings," or "party" in a context so indicating, means:

(a) A person who files a petition for a judicial review or civil enforcement proceeding; or

(b) A person named as a party in a judicial review or civil enforcement proceeding, or allowed to participate as a party in a judicial review or civil enforcement proceeding.

(13) "Person" means any individual, partnership, corporation, association, governmental subdivision or unit thereof, or public or private organization or entity of any character, and includes another agency.

(14) "Policy statement" means a written description of the current approach of an agency, entitled a policy statement by the agency head or its designee, to implementation of a statute or other provision of law, of a court decision, or of an agency order, including where appropriate the agency's current practice, procedure, or method of action based upon that approach.

(15) "Rule" means any agency order, directive, or regulation of general applicability (a) the violation of which subjects a person to a penalty or administrative sanction; (b) which establishes, alters, or revokes any procedure, practice, or requirement relating to agency hearings; (c) which establishes, alters, or revokes any qualification or requirement relating to the enjoyment of benefits or privileges conferred by law; (d) which establishes, alters, or revokes any qualifications or standards for the issuance, suspension, or revocation of licenses to pursue any commercial activity, trade, or profession; or (e) which establishes, alters, or revokes any mandatory standards for any product or material which must be met before distribution or sale. The term includes the amendment or repeal of a prior rule, but does not include (i) statements concerning only the internal management of an agency and not affecting private rights or procedures

available to the public, (ii) declaratory rulings issued pursuant to RCW ((34.05.230)) 34.05.240, (iii) traffic restrictions for motor vehicles, bicyclists, and pedestrians established by the secretary of transportation or his designee where notice of such restrictions is given by official traffic control devices, or (iv) rules of institutions of higher education involving standards of admission, academic advancement, academic credit, graduation and the granting of degrees, employment relationships, or fiscal processes.

(16) "Rules review committee" or "committee" means the joint administrative rules review committee created pursuant to RCW 34.05.610 for the purpose of selectively reviewing existing and proposed rules of state agencies.

(17) "Rule making" means the process for formulation and adoption of a rule.

(18) "Service," except as otherwise provided in this chapter, means posting in the United States mail, properly addressed, postage prepaid, or personal service. Service by mail is complete upon deposit in the United States mail. Agencies may, by rule, authorize service by electronic telefacsimile transmission, where copies are mailed simultaneously, or by commercial parcel delivery company.

**NEW SECTION.** Sec. 11. A new section is added to chapter 43.09 RCW to read as follows:

(1) From July 1, 1992, to June 30, 1995, the state auditor shall charge an entity subject to an audit an additional ten cents per hour billed under RCW 43.09.270 and 43.09.280, to be deposited in the local government administrative hearing account.

(2) After June 30, 1995, the state auditor shall base the amount to be collected and deposited into the local government administrative hearing account on the funds remaining in the account on June 30, 1995, and the anticipated caseload for the future.

(3) The state auditor may exempt a local government that complies with section 6 of this act from a charge added under subsection (1) or (2) of this section.

**NEW SECTION.** Sec. 12. Sections 1 through 7 of this act shall constitute a new chapter in Title 42 RCW.

**NEW SECTION.** Sec. 13. Sections 1 through 10 of this act shall take effect January 1, 1993. Section 11 of this act shall take effect July 1, 1992.

**NEW SECTION.** Sec. 14. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate March 8, 1992.

Passed the House March 4, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

## CHAPTER 45

[Engrossed Substitute House Bill 2262]

## SEX OFFENDERS—COMMUNITY PROTECTION ACT AMENDMENTS

Effective Date: 3/26/92

AN ACT Relating to refinements of the community protection act of 1990; amending RCW 9.94A.151, 9.94A.155, 71.09.030, 13.40.160, and 71.09.090; reenacting and amending RCW 9.94A.120; adding a new section to chapter 71.09 RCW; creating a new section; and declaring an emergency.

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

**Sec. 1.** RCW 9.94A.151 and 1990 c 3 s 122 are each amended to read as follows:

(1)(a) When it appears that a person who has been convicted of a sexually violent offense may meet the criteria of a sexually violent predator as defined in RCW 71.09.020(1), the agency with jurisdiction over the person shall refer the person in writing to the prosecuting attorney of the county where that person was convicted, three months ((before)) prior to the anticipated release from total confinement ((of a person convicted of a sex offense as defined in RCW 9.94A.030 that was committed between June 30, 1984, and July 1, 1988, the department shall notify in writing the prosecuting attorney of the county where the person was convicted. The department)).

(b) The agency shall inform the prosecutor of the following:

~~((4))~~ (i) The person's name, identifying factors, anticipated future residence, and offense history; and

(ii) Documentation of institutional adjustment and any treatment received.

~~(2) ((A brief narrative describing the person's conduct during confinement and any treatment received; and~~

~~(3) Whether the department recommends that a civil commitment petition be filed under RCW 71.09.030.))~~ This section applies to acts committed before, on, or after the effective date of this act.

(3) The ((department)) agency with jurisdiction, its employees, and officials shall be immune from liability for any good-faith conduct under this section.

(4) As used in this section, "agency with jurisdiction" means that agency with the authority to direct the release of a person serving a sentence or term of confinement and includes the department of corrections, the indeterminate sentence review board, and the department of social and health services.

**Sec. 2.** RCW 9.94A.155 and 1990 c 3 s 121 are each amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**NEW SECTION. Sec. 3.** A new section is added to chapter 71.09 RCW to read as follows:

(1)(a) When it appears that a person may meet the criteria of a sexually violent predator as defined in RCW 71.09.020(1), the agency with jurisdiction shall refer the person in writing to the prosecuting attorney of the county where that person was charged, three months prior to:

(i) The anticipated release from total confinement of a person who has been convicted of a sexually violent offense;

(ii) The anticipated release from total confinement of a person found to have committed a sexually violent offense as a juvenile;

(iii) Release of a person who has been charged with a sexually violent offense and who has been determined to be incompetent to stand trial pursuant to RCW 10.77.090(3); or

(iv) Release of a person who has been found not guilty by reason of insanity of a sexually violent offense pursuant to RCW 10.77.020(3).

(b) The agency shall inform the prosecutor of the following:

(i) The person's name, identifying factors, anticipated future residence, and offense history; and

(ii) Documentation of institutional adjustment and any treatment received.

(2) This section applies to acts committed before, on, or after the effective date of this act.

(3) The agency, its employees, and officials shall be immune from liability for any good-faith conduct under this section.

(4) As used in this section, "agency with jurisdiction" means that agency with the authority to direct the release of a person serving a sentence or term of confinement and includes the department of corrections, the indeterminate sentence review board, and the department of social and health services.

**Sec. 4.** RCW 71.09.030 and 1990 1st ex.s. c 12 s 3 are each amended to read as follows:

When it appears that: (1) The ~~((sentence))~~ term of total confinement of a person who has been convicted of a sexually violent offense is about to expire, or has expired on, before, or after July 1, 1990; (2) the term of total confinement of a person found to have committed a sexually violent offense as a juvenile is about to expire, or has expired on, before, or after July 1, 1990; (3) a person who has been charged with a sexually violent offense and who has been determined to be incompetent to stand trial is about to be released, or has been released on, before, or after July 1, 1990, pursuant to RCW 10.77.090(3); or (4) a person who has been found not guilty by reason of insanity of a sexually violent offense is about to be released, or has been released on, before, or after July 1, 1990, pursuant to RCW 10.77.020(3); and it appears that the person may

be a sexually violent predator, the prosecuting attorney of the county where the person was convicted or charged or the attorney general if requested by the prosecuting attorney may file a petition alleging that the person is a "sexually violent predator" and stating sufficient facts to support such allegation.

**Sec. 5.** RCW 9.94A.120 and 1991 c 221 s 2, 1991 c 181 s 3, and 1991 c 104 s 3 are each reenacted and amended to read as follows:

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

(1) Except as authorized in subsections (2), (5), and (7) of this section, the court shall impose a sentence within the sentence range for the offense.

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

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

(4) An offender convicted of the crime of murder in the first degree shall be sentenced to a term of total confinement not less than twenty years. An offender convicted of the crime of assault in the first degree where the offender used force or means likely to result in death or intended to kill the victim shall be sentenced to a term of total confinement not less than five years. An offender convicted of the crime of rape in the first degree shall be sentenced to a term of total confinement not less than five years, and shall not be eligible for furlough, work release or other authorized leave of absence from the correctional facility during such minimum five-year term except for the purpose of commitment to an inpatient treatment facility. The foregoing minimum terms of total confinement are mandatory and shall not be varied or modified as provided in subsection (2) of this section.

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

- (a) Devote time to a specific employment or occupation;
- (b) Undergo available outpatient treatment for up to two years, or inpatient treatment not to exceed the standard range of confinement for that offense;
- (c) Pursue a prescribed, secular course of study or vocational training;
- (d) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;

(e) Report as directed to the court and a community corrections officer; or  
(f) Pay all court-ordered legal financial obligations as provided in RCW 9.94A.030 and/or perform community service work.

(6) If a sentence range has not been established for the defendant's crime, the court shall impose a determinate sentence which may include not more than one year of confinement, community service work, a term of community supervision not to exceed one year, and/or other legal financial obligations. The court may impose a sentence which provides more than one year of confinement if the court finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.

(7)(a)(i) When an offender is convicted of a sex offense other than a violation of RCW 9A.44.050 or a sex offense that is also a serious violent offense and has no prior convictions for a sex offense or any other felony sex offenses in this or any other state, the sentencing court, on its own motion or the motion of the state or the defendant, may order an examination to determine whether the defendant is amenable to treatment.

The report of the examination shall include at a minimum the following: The defendant's version of the facts and the official version of the facts, the defendant's offense history, an assessment of problems in addition to alleged deviant behaviors, the offender's social and employment situation, and other evaluation measures used. The report shall set forth the sources of the evaluator's information.

The examiner shall assess and report regarding the defendant's amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

- (A) Frequency and type of contact between offender and therapist;
- (B) Specific issues to be addressed in the treatment and description of planned treatment modalities;
- (C) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others;
- (D) Anticipated length of treatment; and
- (E) Recommended crime-related prohibitions.

The court on its own motion may order, or on a motion by the state shall order, a second examination regarding the offender's amenability to treatment. The evaluator shall be selected by the party making the motion. The defendant shall pay the cost of any second examination ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost.

(ii) After receipt of the reports, the court shall consider whether the offender and the community will benefit from use of this special sexual offender sentencing alternative and consider the victim's opinion whether the offender should receive a treatment disposition under this subsection. If the court determines that this special sex offender sentencing alternative is appropriate, the court shall then impose a sentence within the sentence range. If this sentence is

less than eight years of confinement, the court may suspend the execution of the sentence and impose the following conditions of suspension:

(A) The court shall place the defendant on community supervision for the length of the suspended sentence or three years, whichever is greater; and

(B) The court shall order treatment for any period up to three years in duration. The court in its discretion shall order outpatient sex offender treatment or inpatient sex offender treatment, if available. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment. The offender shall not change sex offender treatment providers or treatment conditions without first notifying the prosecutor, the community corrections officer, and the court, and shall not change providers without court approval after a hearing if the prosecutor or community corrections officer object to the change. In addition, as conditions of the suspended sentence, the court may impose other sentence conditions including up to six months of confinement, not to exceed the sentence range of confinement for that offense, crime-related prohibitions, and requirements that the offender perform any one or more of the following:

(I) Devote time to a specific employment or occupation;

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

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

(IV) Pay all court-ordered legal financial obligations as provided in RCW 9.94A.030, perform community service work, or any combination thereof; or

(V) Make recoupment to the victim for the cost of any counseling required as a result of the offender's crime.

(iii) The sex offender therapist shall submit quarterly reports on the defendant's progress in treatment to the court and the parties. The report shall reference the treatment plan and include at a minimum the following: Dates of attendance, defendant's compliance with requirements, treatment activities, the defendant's relative progress in treatment, and any other material as specified by the court at sentencing.

(iv) At the time of sentencing, the court shall set a treatment termination hearing for three months prior to the anticipated date for completion of treatment. Prior to the treatment termination hearing, the treatment professional and community corrections officer shall submit written reports to the court and parties regarding the defendant's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment, including proposed community supervision conditions. Either party may request and the court may order another evaluation regarding the advisability of termination from treatment. The defendant shall pay the cost of any additional evaluation ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost. At the treatment termination hearing the court

may: (A) Modify conditions of community supervision, and either (B) terminate treatment, or (C) extend treatment for up to the remaining period of community supervision.

(v) The court may revoke the suspended sentence at any time during the period of community supervision and order execution of the sentence if: (A) The defendant violates the conditions of the suspended sentence, or (B) the court finds that the defendant is failing to make satisfactory progress in treatment. All confinement time served during the period of community supervision shall be credited to the offender if the suspended sentence is revoked.

(vi) Except as provided in (a)(vii) of this subsection, after July 1, 1991, examinations and treatment ordered pursuant to this subsection shall only be conducted by sex offender treatment providers certified by the department of health pursuant to chapter 18.155 RCW.

(vii) A sex offender therapist who examines or treats a sex offender pursuant to this subsection (7) does not have to be certified by the department of health pursuant to chapter 18.155 RCW if the court finds that: (A) The offender has already moved to another state or plans to move to another state for reasons other than circumventing the certification requirements; (B) no certified providers are available for treatment within a reasonable geographical distance of the offender's home; and (C) the evaluation and treatment plan comply with this subsection (7) and the rules adopted by the department of health.

For purposes of this subsection, "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a result of the crime charged. "Victim" also means a parent or guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense.

(b) When an offender is convicted of any felony sex offense committed before July 1, 1987, and is sentenced to a term of confinement of more than one year but less than six years, the sentencing court may, on its own motion or on the motion of the offender or the state, order the offender committed for up to thirty days to the custody of the secretary of social and health services for evaluation and report to the court on the offender's amenability to treatment at these facilities. If the secretary of social and health services cannot begin the evaluation within thirty days of the court's order of commitment, the offender shall be transferred to the state for confinement pending an opportunity to be evaluated at the appropriate facility. The court shall review the reports and may order that the term of confinement imposed be served in the sexual offender treatment program at the location determined by the secretary of social and health services or the secretary's designee, only if the report indicates that the offender is amenable to the treatment program provided at these facilities. The offender shall be transferred to the state pending placement in the treatment program. Any offender who has escaped from the treatment program shall be referred back to the sentencing court.

If the offender does not comply with the conditions of the treatment program, the secretary of social and health services may refer the matter to the sentencing court. The sentencing court shall commit the offender to the department of corrections to serve the balance of the term of confinement.

If the offender successfully completes the treatment program before the expiration of the term of confinement, the court may convert the balance of confinement to community supervision and may place conditions on the offender including crime-related prohibitions and requirements that the offender perform any one or more of the following:

(i) Devote time to a specific employment or occupation;

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

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

(iv) Undergo available outpatient treatment.

If the offender violates any of the terms of community supervision, the court may order the offender to serve out the balance of the community supervision term in confinement in the custody of the department of corrections.

After June 30, 1993, this subsection (b) shall cease to have effect.

(c) When an offender commits any felony sex offense on or after July 1, 1987, and is sentenced to a term of confinement of more than one year but less than six years, the sentencing court may, on its own motion or on the motion of the offender or the state, request the department of corrections to evaluate whether the offender is amenable to treatment and the department may place the offender in a treatment program within a correctional facility operated by the department.

Except for an offender who has been convicted of a violation of RCW 9A.44.040 or 9A.44.050, if the offender completes the treatment program before the expiration of his term of confinement, the department of corrections may request the court to convert the balance of confinement to community supervision and to place conditions on the offender including crime-related prohibitions and requirements that the offender perform any one or more of the following:

(i) Devote time to a specific employment or occupation;

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

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

(iv) Undergo available outpatient treatment.

If the offender violates any of the terms of his community supervision, the court may order the offender to serve out the balance of his community supervision term in confinement in the custody of the department of corrections.

Nothing in (c) of this subsection shall confer eligibility for such programs for offenders convicted and sentenced for a sex offense committed prior to July

1, 1987. This subsection (c) does not apply to any crime committed after July 1, 1990.

(d) Offenders convicted and sentenced for a sex offense committed prior to July 1, 1987, may, subject to available funds, request an evaluation by the department of corrections to determine whether they are amenable to treatment. If the offender is determined to be amenable to treatment, the offender may request placement in a treatment program within a correctional facility operated by the department. Placement in such treatment program is subject to available funds.

(8)(a) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense or a serious violent offense committed after July 1, 1988, but before July 1, 1990, assault in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 1988, the court shall in addition to the other terms of the sentence, sentence the offender to a one-year term of community placement beginning either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2). When the court sentences an offender under this subsection to the statutory maximum period of confinement then the community placement portion of the sentence shall consist entirely of such community custody to which the offender may become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any period of community custody actually served shall be credited against the community placement portion of the sentence.

(b) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense or serious violent offense committed on or after July 1, 1990, the court shall in addition to other terms of the sentence, sentence the offender to community placement for two years or up to the period of earned early release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The community placement shall begin either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2). When the court sentences an offender under this subsection to the statutory maximum period of confinement then the community placement portion of the sentence shall consist entirely of the community custody to which the offender may become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any period of community custody actually served shall be credited against the community placement portion of the sentence. Unless a condition is waived by

the court, the terms of community placement for offenders sentenced pursuant to this section shall include the following conditions:

(i) The offender shall report to and be available for contact with the assigned community corrections officer as directed;

(ii) The offender shall work at department of corrections-approved education, employment, and/or community service;

(iii) The offender shall not consume controlled substances except pursuant to lawfully issued prescriptions;

(iv) An offender in community custody shall not unlawfully possess controlled substances; and

(v) The offender shall pay supervision fees as determined by the department of corrections.

(c) The court may also order any of the following special conditions:

(i) The offender shall remain within, or outside of, a specified geographical boundary;

(ii) The offender shall not have direct or indirect contact with the victim of the crime or a specified class of individuals;

(iii) The offender shall participate in crime-related treatment or counseling services;

(iv) The offender shall not consume alcohol;

(v) The residence location and living arrangements of a sex offender shall be subject to the prior approval of the department of corrections; or

(vi) The offender shall comply with any crime-related prohibitions.

(d) Prior to transfer to, or during, community placement, any conditions of community placement may be removed or modified so as not to be more restrictive by the sentencing court, upon recommendation of the department of corrections.

(9) If the court imposes a sentence requiring confinement of thirty days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than thirty days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.

(10) If a sentence imposed includes payment of a legal financial obligation, the sentence shall specify the total amount of the legal financial obligation owed, and shall require the offender to pay a specified monthly sum toward that legal financial obligation. Restitution to victims shall be paid prior to any other payments of monetary obligations. Any legal financial obligation that is imposed by the court may be collected by the department, which shall deliver the amount paid to the county clerk for credit. The offender's compliance with payment of legal financial obligations shall be supervised by the department. All monetary payments ordered shall be paid no later than ten years after the last date of release from confinement pursuant to a felony conviction or the date the sentence was entered. Independent of the department, the party or entity to whom the

legal financial obligation is owed shall have the authority to utilize any other remedies available to the party or entity to collect the legal financial obligation. Nothing in this section makes the department, the state, or any of its employees, agents, or other persons acting on their behalf liable under any circumstances for the payment of these legal financial obligations. If an order includes restitution as one of the monetary assessments, the county clerk shall make disbursements to victims named in the order.

(11) Except as provided under RCW 9.94A.140(1) and 9.94A.142(1), a court may not impose a sentence providing for a term of confinement or community supervision or community placement which exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

(12) All offenders sentenced to terms involving community supervision, community service, community placement, or legal financial obligation shall be under the supervision of the secretary of the department of corrections or such person as the secretary may designate and shall follow explicitly the instructions of the secretary including reporting as directed to a community corrections officer, remaining within prescribed geographical boundaries, notifying the community corrections officer of any change in the offender's address or employment, and paying the supervision fee assessment.

(13) All offenders sentenced to terms involving community supervision, community service, or community placement under the supervision of the department of corrections shall not own, use, or possess firearms or ammunition. Offenders who own, use, or are found to be in actual or constructive possession of firearms or ammunition shall be subject to the appropriate violation process and sanctions. "Constructive possession" as used in this subsection means the power and intent to control the firearm or ammunition. "Firearm" as used in this subsection means a weapon or device from which a projectile may be fired by an explosive such as gunpowder.

(14) The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.

(15) A departure from the standards in RCW 9.94A.400 (1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in subsections (2) and (3) of this section, and may be appealed by the defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

(16) The court shall order restitution whenever the offender is convicted of a felony that results in injury to any person or damage to or loss of property, whether the offender is sentenced to confinement or placed under community supervision, unless extraordinary circumstances exist that make restitution inappropriate in the court's judgment. The court shall set forth the extraordinary circumstances in the record if it does not order restitution.

(17) As a part of any sentence, the court may impose and enforce an order that relates directly to the circumstances of the crime for which the offender has been convicted, prohibiting the offender from having any contact with other specified individuals or a specific class of individuals for a period not to exceed the maximum allowable sentence for the crime, regardless of the expiration of the offender's term of community supervision or community placement.

(18) In any sentence of partial confinement, the court may require the defendant to serve the partial confinement in work release, in a program of home detention, on work crew, or in a combined program of work crew and home detention.

(19) All court-ordered legal financial obligations collected by the department and remitted to the county clerk shall be credited and paid where restitution is ordered. Restitution shall be paid prior to any other payments of monetary obligations.

**Sec. 6.** RCW 13.40.160 and 1990 c 3 s 302 are each amended to read as follows:

(1) When the respondent is found to be a serious offender, the court shall commit the offender to the department for the standard range of disposition for the offense, as indicated in option A of schedule D-3, RCW 13.40.0357 except as provided in subsection (5) of this section.

If the court concludes, and enters reasons for its conclusion, that disposition within the standard range would effectuate a manifest injustice the court shall impose a disposition outside the standard range, as indicated in option B of schedule D-3, RCW 13.40.0357. The court's finding of manifest injustice shall be supported by clear and convincing evidence.

A disposition outside the standard range shall be determinate and shall be comprised of confinement or community supervision, or a combination thereof. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding thirty days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2), as now or hereafter amended, shall be used to determine the range. A disposition outside the standard range is appealable under RCW 13.40.230, as now or hereafter amended, by the state or the respondent. A disposition within the standard range is not appealable under RCW 13.40.230 as now or hereafter amended.

(2) Where the respondent is found to be a minor or first offender, the court shall order that the respondent serve a term of community supervision as indicated in option A or option B of schedule D-1, RCW 13.40.0357 except as provided in subsection (5) of this section. If the court determines that a disposition of community supervision would effectuate a manifest injustice the court may impose another disposition under option C of schedule D-1, RCW 13.40.0357. Except as provided in subsection (5) of this section, a disposition other than a community supervision may be imposed only after the court enters reasons upon which it bases its conclusions that imposition of community

supervision would effectuate a manifest injustice. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding thirty days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2), as now or hereafter amended, shall be used to determine the range. The court's finding of manifest injustice shall be supported by clear and convincing evidence.

Except for disposition of community supervision or a disposition imposed pursuant to subsection (5) of this section, a disposition may be appealed as provided in RCW 13.40.230, as now or hereafter amended, by the state or the respondent. A disposition of community supervision or a disposition imposed pursuant to subsection (5) of this section may not be appealed under RCW 13.40.230 as now or hereafter amended.

(3) Where a respondent is found to have committed an offense for which the respondent declined to enter into a diversion agreement, the court shall impose a term of community supervision limited to the conditions allowed in a diversion agreement as provided in RCW 13.40.080(2) as now or hereafter amended.

(4) If a respondent is found to be a middle offender:

(a) The court shall impose a determinate disposition within the standard range(s) for such offense, as indicated in option A of schedule D-2, RCW 13.40.0357 except as provided in subsection (5) of this section: PROVIDED, That if the standard range includes a term of confinement exceeding thirty days, commitment shall be to the department for the standard range of confinement; or

(b) The court shall impose a determinate disposition of community supervision and/or up to thirty days confinement, as indicated in option B of schedule D-2, RCW 13.40.0357 in which case, if confinement has been imposed, the court shall state either aggravating or mitigating factors as set forth in RCW 13.40.150 as now or hereafter amended.

(c) Only if the court concludes, and enters reasons for its conclusions, that disposition as provided in subsection (4)(a) or (b) of this section would effectuate a manifest injustice, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2), as now or hereafter amended, shall be used to determine the range. The court's finding of manifest injustice shall be supported by clear and convincing evidence.

(d) A disposition pursuant to subsection (4)(c) of this section is appealable under RCW 13.40.230, as now or hereafter amended, by the state or the respondent. A disposition pursuant to subsection (4) (a) or (b) of this section is not appealable under RCW 13.40.230 as now or hereafter amended.

(5) When a serious, middle, or minor first offender is found to have committed a sex offense, other than a sex offense that is also a serious violent offense as defined by RCW 9.94A.030, and has no history of a prior sex offense, the court, on its own motion or the motion of the state or the respondent, may

order an examination to determine whether the respondent is amenable to treatment.

The report of the examination shall include at a minimum the following: The respondent's version of the facts and the official version of the facts, the respondent's offense history, an assessment of problems in addition to alleged deviant behaviors, the respondent's social, educational, and employment situation, and other evaluation measures used. The report shall set forth the sources of the evaluator's information.

The examiner shall assess and report regarding the respondent's amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

- (a)(i) Frequency and type of contact between the offender and therapist;
- (ii) Specific issues to be addressed in the treatment and description of planned treatment modalities;
- (iii) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members, legal guardians, or others;
- (iv) Anticipated length of treatment; and
- (v) Recommended crime-related prohibitions.

The court on its own motion may order, or on a motion by the state shall order, a second examination regarding the offender's amenability to treatment. The evaluator shall be selected by the party making the motion. The defendant shall pay the cost of any second examination ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost.

After receipt of reports of the examination, the court shall then consider whether the offender and the community will benefit from use of this special sex offender disposition alternative and consider the victim's opinion whether the offender should receive a treatment disposition under this section. If the court determines that this special sex offender disposition alternative is appropriate, then the court shall impose a determinate disposition within the standard range for the offense, and the court may suspend the execution of the disposition and place the offender on community supervision for up to two years. As a condition of the suspended disposition, the court may impose the conditions of community supervision and other conditions, including up to thirty days of confinement and requirements that the offender do any one or more of the following:

- (b)(i) Devote time to a specific education, employment, or occupation;
- (ii) Undergo available outpatient sex offender treatment for up to two years, or inpatient sex offender treatment not to exceed the standard range of confinement for that offense. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment. The respondent shall not change sex offender treatment providers or treatment conditions without first notifying the prosecutor, the

probation counselor, and the court, and shall not change providers without court approval after a hearing if the prosecutor or probation counselor object to the change;

(iii) Remain within prescribed geographical boundaries and notify the court or the probation counselor prior to any change in the offender's address, educational program, or employment;

(iv) Report to the prosecutor and the probation counselor prior to any change in a sex offender treatment provider. This change shall have prior approval by the court;

(v) Report as directed to the court and a probation counselor;

(vi) Pay all court-ordered legal financial obligations, perform community service, or any combination thereof; or

(vii) Make restitution to the victim for the cost of any counseling reasonably related to the offense.

The sex offender treatment provider shall submit quarterly reports on the respondent's progress in treatment to the court and the parties. The reports shall reference the treatment plan and include at a minimum the following: Dates of attendance, respondent's compliance with requirements, treatment activities, the respondent's relative progress in treatment, and any other material specified by the court at the time of the disposition.

At the time of the disposition, the court may set treatment review hearings as the court considers appropriate.

Except as provided in this subsection (5), after July 1, 1991, examinations and treatment ordered pursuant to this subsection shall only be conducted by sex offender treatment providers certified by the department of health pursuant to chapter 18.155 RCW. A sex offender therapist who examines or treats a juvenile sex offender pursuant to this subsection does not have to be certified by the department of health pursuant to chapter 18.155 RCW if the court finds that: (A) The offender has already moved to another state or plans to move to another state for reasons other than circumventing the certification requirements; (B) no certified providers are available for treatment within a reasonable geographical distance of the offender's home; and (C) the evaluation and treatment plan comply with this subsection (5) and the rules adopted by the department of health.

If the offender violates any condition of the disposition or the court finds that the respondent is failing to make satisfactory progress in treatment, the court may revoke the suspension and order execution of the sentence. The court shall give credit for any confinement time previously served if that confinement was for the offense for which the suspension is being revoked.

For purposes of this section, "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged. "Victim" may also include a known parent

or guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense.

(6) Whenever a juvenile offender is entitled to credit for time spent in detention prior to a dispositional order, the dispositional order shall specifically state the number of days of credit for time served.

(7) Except as provided for in subsection (5) of this section, the court shall not suspend or defer the imposition or the execution of the disposition.

(8) In no case shall the term of confinement imposed by the court at disposition exceed that to which an adult could be subjected for the same offense.

**Sec. 7.** RCW 71.09.090 and 1990 c 3 s 1009 are each amended to read as follows:

(1) If the secretary of the department of social and health services determines that the person's mental abnormality or personality disorder has so changed that the person is not likely to ~~((commit))~~ engage in predatory acts of sexual violence if released, the secretary shall authorize the person to petition the court for release. The petition shall be served upon the court and the prosecuting attorney. The court, upon receipt of the petition for release, shall within forty-five days order a hearing. The prosecuting attorney or the attorney general, if requested by the county, shall represent the state, and shall have the right to have the petitioner examined by an expert or professional person of his or her choice. The hearing shall be before a jury if demanded by either the petitioner or the prosecuting attorney or attorney general. The burden of proof shall be upon the prosecuting attorney or attorney general to show beyond a reasonable doubt that the petitioner's mental abnormality or personality disorder remains such that the petitioner is not safe to be at large and that if discharged is likely to ~~((commit))~~ engage in predatory acts of sexual violence.

(2) Nothing contained in this chapter shall prohibit the person from otherwise petitioning the court for discharge without the secretary's approval. The secretary shall provide the committed person with an annual written notice of the person's right to petition the court for release over the secretary's objection. The notice shall contain a waiver of rights. The secretary shall forward the notice and waiver form to the court with the annual report. If the person does not affirmatively waive the right to petition, the court shall set a show cause hearing to determine whether facts exist that warrant a hearing on whether the person's condition has so changed that he or she is safe to be at large. The committed person shall have a right to have an attorney represent him or her at the show cause hearing but the person is not entitled to be present at the show cause hearing. If the court at the show cause hearing determines that probable cause exists to believe that the person's mental abnormality or personality disorder has so changed that the person is safe to be at large and ~~((with))~~ is not likely to engage in predatory acts of sexual violence if discharged, then the court shall set a hearing on the issue. At the hearing, the committed

person shall be entitled to be present and to the benefit of all constitutional protections that were afforded to the person at the initial commitment proceeding. The prosecuting attorney or the attorney general if requested by the county shall represent the state and shall have a right to a jury trial and to have the committed person evaluated by experts chosen by the state. The committed person shall also have the right to have experts evaluate him or her on his or her behalf and the court shall appoint an expert if the person is indigent and requests an appointment. The burden of proof at the hearing shall be upon the state to prove beyond a reasonable doubt that the committed person's mental abnormality or personality disorder remains such that the person is not safe to be at large and if released ((with)) is likely to engage in predatory acts of sexual violence.

**NEW SECTION. Sec. 8.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 9.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

**NEW SECTION. Sec. 10.** This act applies to sex offenses committed on, before, or after the effective date of this act.

Passed the House March 7, 1992.

Passed the Senate March 5, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

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## CHAPTER 46

[Substitute Senate Bill 5425]

### BLUE OR PURPLE DOT TAILLIGHTS ALLOWED ON VEHICLES

FORTY OR MORE YEARS OLD

Effective Date: 6/11/92

AN ACT Relating to taillights on old vehicles; and amending RCW 46.37.100.

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

**Sec. 1.** RCW 46.37.100 and 1961 c 12 s 46.37.100 are each amended to read as follows:

(1) Front clearance lamps and those marker lamps and reflectors mounted on the front or on the side near the front of a vehicle shall display or reflect an amber color.

(2) Rear clearance lamps and those marker lamps and reflectors mounted on the rear or on the sides near the rear of a vehicle shall display or reflect a red color.

(3) All lighting devices and reflectors mounted on the rear of any vehicle shall display or reflect a red color, except the stop lamp or other signal device,

which may be red, amber, or yellow, and except that on any vehicle forty or more years old, the taillight may also contain a blue or purple insert of not more than one inch in diameter, and except that the light illuminating the license plate shall be white and the light emitted by a back-up lamp shall be white or amber.

Passed the Senate January 31, 1992.

Passed the House March 3, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

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## CHAPTER 47

[Senate Bill 6074]

### TIMBER RETRAINING BENEFITS—EXTENSION TO WORKERS FILING UNEMPLOYMENT CLAIM AFTER JANUARY 1, 1989

Effective Date: 3/26/92

AN ACT Relating to additional unemployment insurance benefits; amending RCW 50.22.090; creating new sections; and declaring an emergency.

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

**NEW SECTION. Sec. 1.** The legislature finds that the timber retraining benefits program as enacted in RCW 50.22.090 did not provide benefits to workers who were unemployed more than one year prior to its effective date. In order to provide benefits to these individuals, this act extends the benefits of the timber retraining benefits program to any eligible worker who filed an unemployment claim beginning on or after January 1, 1989.

**Sec. 2.** RCW 50.22.090 and 1991 c 315 s 4 are each amended to read as follows:

(1) An additional benefit period is established for counties identified under subsection (2) of this section beginning on the first Sunday after July 1, 1991, and for the forest products industry beginning with the third week after the first Sunday after July 1, 1991. Benefits shall be paid as provided in subsection (3) of this section to exhaustees eligible under subsection (4) of this section.

(2) The additional benefit period applies to counties having a population of less than five hundred thousand beginning with the third week after a week in which the commissioner determines that a county meets two of the following three criteria, as determined by the department, for the most recent year in which such data is available: (a) A lumber and wood products employment location quotient at or above the state average; (b) projected or actual direct lumber and wood products job losses of one hundred positions or more, except counties having a population greater than two hundred thousand but less than five hundred thousand must have direct lumber and wood products job losses of one thousand positions or more; or (c) an annual unemployment rate twenty percent or more above the state average. The additional benefit period for a county may end no sooner than fifty-two weeks after the additional benefit period begins.

(3) Additional benefits shall be paid as follows:

(a) No new claims for additional benefits shall be accepted for weeks beginning after July 3, 1993, but for claims established on or before July 3, 1993, weeks of unemployment occurring after July 3, 1993, shall be compensated as provided in this section.

(b) The total additional benefit amount shall be fifty-two times the individual's weekly benefit amount, reduced by the total amount of regular benefits and extended benefits paid, or deemed paid, with respect to the benefit year. Additional benefits shall not be payable for weeks more than one year beyond the end of the benefit year of the regular claim for an individual whose benefit year ends on or after July 27, 1991, and shall not be payable for weeks ending on or after one year after the effective date of this act for individuals who become eligible as a result of chapter ---, Laws of 1992 (this act), and shall be payable for up to five weeks following the completion of the training required by this section.

(c) The weekly benefit amount shall be calculated as specified in RCW 50.22.040.

(d) Benefits paid under this section shall be paid under the same terms and conditions as regular benefits and shall not be charged to the experience rating account of individual employers. The additional benefit period shall be suspended with the start of an extended benefit period, or any totally federally funded benefit program, with eligibility criteria and benefits comparable to the program established by this section, and shall resume the first week following the end of the federal program.

(4) An additional benefit eligibility period is established for any exhaustee who:

(a)(i) At the time of last separation from employment, resided in or was employed in a county identified under subsection (2) of this section; or

(ii) During his or her base year, earned wages in at least six hundred eighty hours in the forest products industry, which shall be determined by the department but shall include the industries assigned the major group standard industrial classification codes "24" and "26" and the industries involved in the harvesting and management of logs, transportation of logs and wood products, processing of wood products, and the manufacturing and distribution of wood processing and logging equipment. The commissioner may adopt rules further interpreting the industries covered under this subsection. For the purposes of this subsection, "standard industrial classification code" means the code identified in RCW 50.29.025(6)(c); and

(b)(i) Has received notice of termination or layoff; and

(ii) Is unlikely to return to employment in his or her principal occupation or previous industry because of a diminishing demand within his or her labor market for his or her skills in the occupation or industry; and

(c)(i) Is notified by the department of the requirements of this section and develops an individual training program that is submitted to the commissioner for approval not later than sixty days after the individual is notified of the requirements of this section, and enters the approved training program not later than ninety days after the date of the individual's termination or layoff, or ninety days after July 1, 1991, whichever is later, unless the department determines that the training is not available during the ninety-day period, in which case the individual shall enter training as soon as it is available; or

(ii) Is enrolled in training approved under this section on a full-time basis and maintains satisfactory progress in the training; and

(d) Does not receive a training allowance or stipend under the provisions of any federal or state law.

(5) For the purposes of this section:

(a) "Training program" means:

(i) A remedial education program determined to be necessary after counseling at the educational institution in which the individual enrolls pursuant to his or her approved training program; or

(ii) A vocational training program at an educational institution that:

(A) Is training for a labor demand occupation;

(B) Is likely to facilitate a substantial enhancement of the individual's marketable skills and earning power; and

(C) Does not include on-the-job training or other training under which the individual is paid by an employer for work performed by the individual during the time that the individual receives additional benefits under subsection (1) of this section.

(b) "Educational institution" means an institution of higher education as defined in RCW 28B.10.016 or an educational institution as defined in RCW 28C.04.410(3).

(c) "Training allowance or stipend" means discretionary use, cash-in-hand payments available to the individual to be used as the individual sees fit, but does not mean direct or indirect compensation for training costs, such as tuition or books and supplies.

(6) The commissioner shall adopt rules as necessary to implement this section.

(7) For the purpose of this section, an individual who has a benefit year beginning after January 1, 1989, and ending before July 27, 1991, shall be treated as if his or her benefit year ended on July 27, 1991.

**NEW SECTION. Sec. 3.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 4.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal

unemployment tax credits, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this act. The rules under this act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state.

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

Passed the Senate February 18, 1992.

Passed the House March 3, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

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**CHAPTER 48**

[House Bill 2682]

**INTANGIBLE UNCLAIMED PROPERTY**

**Effective Date:** 6/11/92

AN ACT Relating to recovery of unclaimed property; and adding a new section to chapter 63.29 RCW.

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

**NEW SECTION. Sec. 1.** (1) All intangible property, including but not limited to securities, principal, interest, dividends, or other earnings thereon, less any lawful charges, held by a business association, federal, state or local government or governmental subdivision, agency or entity, or any other person or entity, regardless of where the holder may be found, if the owner has not claimed such property or corresponded in writing with the holder concerning the property within three years after the date prescribed for payment or delivery by the issuer, unless the holder is a state that has taken custody pursuant to its own unclaimed property laws, in which case no additional period of holding beyond that of such state is necessary hereunder is presumed abandoned and subject to the custody of the state of Washington as unclaimed property if:

(a) The last known address of the owner is unknown; and

(b) The person or entity originating or issuing the intangible property is the state of Washington or any political subdivision of the state of Washington, or is incorporated, organized, created, or otherwise located in the state of Washington.

(2) The provisions of subsection (1) of this section shall not apply to property that is or may be presumed abandoned and subject to the custody of the

state of Washington pursuant to any other provision of law containing a dormancy period different than that prescribed in subsection (1) of this section.

(3) The provisions of subsection (1) of this section shall apply to all property held on the effective date of this act, or at any time thereafter, regardless of when the property became or becomes presumptively abandoned.

NEW SECTION. Sec. 2. The code reviser shall codify section 1 of this act between RCW 63.29.030 and 63.29.040.

Passed the House February 13, 1992.

Passed the Senate March 6, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

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## CHAPTER 49

[Second Engrossed Substitute House Bill 1932]

### SCHOOL DISTRICT EXCESS LEVY—CALCULATION OF MAXIMUM DOLLAR AMOUNT AND DISTRIBUTION OF REVENUE

Effective Date: 6/11/92

AN ACT Relating to excess levies by school districts; and amending RCW 84.52.0531 and 28A.500.010.

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

Sec. 1. RCW 84.52.0531 and 1990 c 33 s 601 are each amended to read as follows:

The maximum dollar amount which may be levied by or for any school district for maintenance and operation support under the provisions of RCW 84.52.053 shall be determined as follows:

(1) For excess levies for collection in calendar year 1992, the maximum dollar amount shall be calculated pursuant to the laws and rules in effect in November 1991.

(2) For the purpose of this section, the basic education allocation shall be determined pursuant to RCW 28A.150.250, 28A.150.260, and 28A.150.350: PROVIDED, That when determining the basic education allocation under subsection (4) of this section, nonresident full time equivalent pupils who are participating in a program provided for in chapter 28A.545 RCW or in any other program pursuant to an interdistrict agreement shall be included in the enrollment of the resident district and excluded from the enrollment of the serving district.

~~((2) For the purposes of subsection (5) of this section, a base year levy percentage shall be established. The base year levy percentage shall be equal to the greater of: (a) The district's actual levy percentage for calendar year 1985, (b) the average levy percentage for all school district levies in the state in calendar year 1985, or (c) the average levy percentage for all school district levies in the educational service district of the district in calendar year 1985.))~~

(3) For excess levies for collection in calendar year ~~((1988))~~ 1993 and thereafter, the maximum dollar amount shall be the ~~((total-of))~~ sum of (a) and (b) of this subsection minus (c) of this subsection:

(a) The district's levy base as defined in subsection (4) of this section multiplied by the district's maximum levy percentage as defined in subsection ~~((s))~~ (5) ~~((and-(6)))~~ of this section; ~~((plus))~~

(b) In the case of nonhigh school districts only, an amount equal to the total estimated amount due by the nonhigh school district to high school districts pursuant to chapter 28A.545 RCW for the school year during which collection of the levy is to commence, less the increase in the nonhigh school district's basic education allocation as computed pursuant to subsection (1) of this section due to the inclusion of pupils participating in a program provided for in chapter 28A.545 RCW in such computation; ~~((less))~~

(c) The maximum amount of state matching funds under RCW 28A.500.010 for which the district is eligible in that tax collection year.

(4) For excess levies for collection in calendar year ~~((1988))~~ 1993 and thereafter, a district's levy base shall be the sum of ~~((the-following))~~ allocations in (a) through (c) of this subsection received by the district for the prior school year, including allocations for compensation increases, ~~((adjusted))~~ plus the sum of such allocations multiplied by the percent increase per full time equivalent student as stated in the state basic education appropriation section of the biennial budget between the prior school year and the current school year ~~((:))~~ and divided by fifty-five percent. A district's levy base shall not include local school district property tax levies or other local revenues, or state and federal allocations not identified in (a) through (c) of this subsection.

(a) The district's basic education allocation as determined pursuant to RCW 28A.150.250, 28A.150.260, and 28A.150.350;

(b) State and federal categorical allocations for the following programs:

(i) Pupil transportation;

(ii) Handicapped education;

(iii) Education of highly capable students;

(iv) Compensatory education, including but not limited to learning assistance, migrant education, Indian education, refugee programs, and bilingual education;

(v) Food services; and

(vi) State-wide block grant programs; and

(c) Any other federal allocations for elementary and secondary school programs, including direct grants, other than federal impact aid funds and allocations in lieu of taxes.

(5) ~~((For levies to be collected in calendar year 1988, a district's maximum levy percentage shall be determined as follows:~~

~~(a) Multiply the district's base year levy percentage as defined in subsection (2) of this section by the district's levy base as determined in subsection (4) of this section;~~

~~(b) Reduce the amount in (a) of this subsection by the total estimated amount of any levy reduction funds as defined in subsection (7) of this section which are to be allocated to the district for the 1987-88 school year;~~

~~(c) Divide the amount in (b) of this subsection by the district's levy base to compute a new percentage; and~~

~~(d) The percentage in (c) of this subsection or twenty percent, whichever is greater, shall be the district's maximum levy percentage for levies collected in calendar year 1988.~~

~~(6))~~ For excess levies for collection in calendar year ~~((1989))~~ 1993 and thereafter, a district's maximum levy percentage shall be determined as follows:

~~(a) Multiply the district's maximum levy percentage for the prior year ((or thirty percent, whichever is less,))~~ by the district's levy base as determined in subsection (4) of this section;

~~(b) Reduce the amount in (a) of this subsection by the total estimated amount of any levy reduction funds as defined in subsection ((7))~~ (6) of this section which are to be allocated to the district for the current school year;

~~(c) Divide the amount in (b) of this subsection by the district's levy base to compute a new percentage; and~~

~~(d) The percentage in (c) of this subsection or twenty percent, whichever is greater, shall be the district's maximum levy percentage for levies collected in that calendar year.~~

~~((7))~~ (6) "Levy reduction funds" shall mean increases in state funds from the prior school year for programs included under subsection (4) of this section: (a) That are not attributable to enrollment changes, compensation increases, or inflationary adjustments; and (b) that are or were specifically identified as levy reduction funds in the appropriations act. If levy reduction funds are dependent on formula factors which would not be finalized until after the start of the current school year, the superintendent of public instruction shall estimate the total amount of levy reduction funds by using prior school year data in place of current school year data. Levy reduction funds shall not include moneys received by school districts from cities or counties.

~~((8))~~ (7) For the purposes of this section, "prior school year" shall mean the most recent school year completed prior to the year in which the levies are to be collected.

~~((9))~~ (8) For the purposes of this section, "current school year" shall mean the year immediately following the prior school year.

~~((10))~~ (9) The superintendent of public instruction shall develop rules and regulations and inform school districts of the pertinent data necessary to carry out the provisions of this section.

**Sec. 2.** RCW 28A.500.010 and 1987 1st ex.s. c 2 s 102 are each amended to read as follows:

(1) Commencing with taxes assessed in 1988 to be collected in calendar year 1989 and thereafter, in addition to a school district's other general fund allocations, each eligible district shall be provided local effort assistance funds as provided in this section. Such funds are not part of the district's basic education allocation. For the first distribution of local effort assistance funds provided under this section in calendar year 1989, state funds may be prorated according to the formula in this section.

(2) (a) "Prior tax collection year" shall mean the year immediately preceding the year in which the local effort assistance shall be allocated.

(b) The "state-wide average ten percent levy rate" shall mean ten percent of the total levy bases as defined in RCW 84.52.0531(4) summed for all school districts, and divided by the total assessed valuation for excess levy purposes in the prior tax collection year for all districts as adjusted to one hundred percent by the county indicated ratio established in RCW 84.48.075.

(c) The "ten percent levy rate" of a district shall mean:

(i) Ten percent of the district's levy base as defined in RCW 84.52.0531(4), plus one-half of any amount computed under RCW 84.52.0531(3)(b) in the case of nonhigh school districts; divided by

(ii) The district's assessed valuation for excess levy purposes for the prior tax collection year as adjusted to one hundred percent by the county indicated ratio.

(d) "Eligible districts" shall mean those districts with a ten percent levy rate which exceeds the state-wide average ten percent levy rate.

(3) Allocation of state matching funds to eligible districts for local effort assistance shall be determined as follows:

(a) Funds raised by the district through maintenance and operation levies during that tax collection year shall be matched with state funds using the following ratio of state funds to levy funds: (i) The difference between the district's ten percent levy rate and the state-wide average ten percent levy rate; to (ii) the state-wide average ten percent levy rate.

(b) The maximum amount of state matching funds for which a district may be eligible in any tax collection year shall be ten percent of the district's levy base as defined in RCW 84.52.0531(4), multiplied by the following percentage: (i) The difference between the district's ten percent levy rate and the state-wide average ten percent levy rate; divided by (ii) the district's ten percent levy rate.

(4)(a) Through tax collection year 1992, fifty-five percent of local effort assistance funds shall be distributed to qualifying districts during the applicable tax collection year on or before June 30 and forty-five percent shall be distributed on or before December 31 of any year.

(b) In tax collection year 1993 and thereafter, local effort assistance funds shall be distributed to qualifying districts as follows:

- (i) Thirty percent in April;
- (ii) Twenty-three percent in May;
- (iii) Two percent in June;
- (iv) Twenty-six percent in October;
- (v) Seventeen percent in November; and
- (vi) Two percent in December.

Passed the House February 18, 1992.

Passed the Senate March 6, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

## CHAPTER 50

[Substitute Senate Bill 6327]

### EXCELLENCE IN EDUCATION AWARD—RECOGNITION OF CLASSIFIED EMPLOYEES

Effective Date: 6/30/93

AN ACT Relating to the award for excellence in education program; amending RCW 28A.625.041, 28B.80.255, and 28A.625.060; creating a new section; and providing an effective date.

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

**Sec. 1.** RCW 28A.625.041 and 1991 c 255 s 3 are each amended to read as follows:

(1) All recipients of the Washington award for excellence in education shall receive a certificate presented by the governor and the superintendent of public instruction, or their designated representatives, at a public ceremony or ceremonies in appropriate locations.

(2) In addition to certificates under subsection (1) of this section, awards for teachers, classified employees, and principals or administrators shall include one of the following:

(a) Except as provided under RCW 28B.80.255, an academic grant which shall be used to take courses at a state institution of higher education. The academic grant shall not exceed the current academic year full-time resident graduate tuition for courses taken at one of the state's research universities and shall not exceed the current academic year full-time resident graduate tuition for courses taken at one of the state's regional universities or The Evergreen State College. The academic grant shall not be considered compensation for the purposes of RCW 28A.400.200; or

(b) A recognition stipend not to exceed one thousand dollars. The stipend shall not be considered compensation for the purposes of RCW 28A.400.200; or

(c) An educational grant not to exceed one thousand dollars. The educational grant shall be awarded under RCW 28A.625.060 and shall not be considered compensation for the purposes of RCW 28A.400.200.

(3) In addition to certificates under subsection (1) of this section, the award for the superintendent shall include one of the following:

(a) A recognition stipend not to exceed one thousand dollars. The stipend shall not be considered compensation for the purposes of RCW 28A.400.200; or

(b) An educational grant not to exceed one thousand dollars. The educational grant shall be awarded under RCW 28A.625.060 and shall not be considered compensation for the purposes of RCW 28A.400.200.

(4) In addition to certificates under subsection (1) of this section, the award for the school board shall include an educational grant not to exceed two thousand five hundred dollars. The educational grant shall be awarded under RCW 28A.625.060.

(5) Within one year of receiving the Washington award for excellence in education, teachers, classified employees, principals or administrators, and the school district superintendent shall notify the superintendent of public instruction in writing of their decision to apply for an academic grant, a recognition stipend, or an educational grant as provided under subsections (2) and (3) of this section. The superintendent shall notify the higher education coordinating board of those recipients who select the academic grant.

**Sec. 2.** RCW 28B.80.255 and 1991 c 255 s 6 are each amended to read as follows:

(1) Teachers, classified employees, and principals or administrators who select an academic grant under RCW 28A.625.041(2)(a) shall use the grant to attend a state public institution of higher education located in the state of Washington, except that the academic grant may be used for courses at a private institution of higher education in the state of Washington if the conditions in subsection (3) of this section are met, and the academic grant may be used for courses at a public or a private institution of higher education in another state or country if the conditions in subsection (4) of this section are met.

(2) "Institution of higher education" means:

(a) Any public university, college, community college, or vocational-technical institute operated by the state of Washington or any political subdivision thereof; or

(b) Any other university, college, school, or institute in the state of Washington offering instruction beyond the high school level which is a member institution of an accrediting association recognized by rule of the board. Any institution, branch, extension, or facility operating within the state of Washington which is affiliated with an institution operating in another state must be a separately accredited member institution of an accrediting association recognized by the board.

(3) Teachers, classified employees, and principals or administrators who select an academic grant under RCW 28A.625.041(2)(a) may use the grant for courses at any private institution as defined in subsection (2)(b) of this section subject to the following conditions:

(a) The academic grant shall not exceed the current academic year full-time resident graduate tuition and the services and activities fees in effect at the state-funded research universities;

(b) The academic grant shall be contingent on the private institution matching on at least a dollar-for-dollar basis, either with actual money or by waiver of fees, the amount of the academic grant received by the recipient from the state; and

(c) The academic grant may not be used for any courses that include any religious worship or exercise, or apply to any degree in religious, seminarian, or theological academic studies.

(4) Teachers, classified employees, and principals or administrators who select an academic grant under RCW 28A.625.041(2)(a) may use the grant for courses at a public or private higher education institution in another state or country subject to the following conditions:

(a) The institution has an exchange program with a public or private higher education institution in Washington and the exchange program is approved or recognized by the higher education coordinating board; or

(b) The institution is approved or recognized by the higher education coordinating board; and

(c) The recipient of the Washington award for excellence in education has submitted in writing to the higher education coordinating board an explanation of why the preferred course or courses are not available at a public or private institution in Washington; and

(d) The academic grant may not be used for any courses that include any religious worship or exercise, or apply to any degree in religious, seminarian, or theological academic studies.

**Sec. 3.** RCW 28A.625.060 and 1991 c 255 s 9 are each amended to read as follows:

Teachers, classified employees, principals or administrators, and superintendents who have received an award for excellence in education and choose to apply for an educational grant under RCW 28A.625.041 shall be awarded the grant by the superintendent of public instruction as long as a written grant application is submitted to the superintendent within one year after the award was received. The grant application shall identify the educational purpose toward which the grant shall be used.

**NEW SECTION. Sec. 4.** This act shall take effect June 30, 1993.

***\*NEW SECTION. Sec. 5. If specific funding for the purposes of this act, referencing this act by bill number, is not provided in the appropriations act of 1993, this act is null and void.***

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

Passed the Senate February 14, 1992.

Passed the House March 4, 1992.

Approved by the Governor March 26, 1992, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State March 26, 1992.

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

"I am returning herewith, without my approval as to section 5, Substitute Senate Bill No. 6327 entitled:

"AN ACT Relating to the award for excellence in education program."

Substitute Senate Bill No. 6327 adds classified school employees to those eligible to receive recognition, and a stipend or tuition reimbursement, for outstanding performance and contribution to our public education system. The work of classified school staff is vital to an effective school program. They are deserving of this recognition.

Section 5 puts this recognition in jeopardy by providing that if specific funding is not included in the 1993 appropriations act, the act will become null and void. In recognition of the important service rendered by classified school employees, I am eliminating this "null and void" provision to ensure full participation in the award for excellence in education program. For this reason, I have vetoed section 5 of Substitute Senate Bill No. 6327.

With the exception of section 5, Substitute Senate Bill No. 6327 is approved."

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## CHAPTER 51

[Substitute Senate Bill 6241]

### NONPROFIT ORGANIZATIONS—AUTHORITY TO NAME AS OWNER AND BENEFICIARY OF LIFE INSURANCE POLICY

**Effective Date:** 6/11/92

AN ACT Relating to life insurance for the benefit of certain tax exempt organizations; and amending RCW 48.18.030.

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

**Sec. 1.** RCW 48.18.030 and 1973 1st ex.s. c 89 s 3 are each amended to read as follows:

(1) Any individual of competent legal capacity may procure or effect an insurance contract upon his own life or body for the benefit of any person. But no person shall procure or cause to be procured any insurance contract upon the life or body of another individual unless the benefits under such contract are payable to the individual insured or his personal representatives, or to a person having, at the time when such contract was made, an insurable interest in the individual insured.

(2) If the beneficiary, assignee or other payee under any contract made in violation of this section receives from the insurer any benefits thereunder accruing upon the death, disablement or injury of the individual insured, the individual insured or his executor or administrator, as the case may be, may maintain an action to recover such benefits from the person so receiving them.

(3) "Insurable interest" as used in this section and in RCW 48.18.060 includes only interests as follows:

(a) In the case of individuals related closely by blood or by law, a substantial interest engendered by love and affection; and

(b) In the case of other persons, a lawful and substantial economic interest in having the life, health or bodily safety of the individual insured continue, as distinguished from an interest which would arise only by, or would be enhanced in value by, the death, disablement or injury of the individual insured.

(c) An individual heretofore or hereafter party to a contract or option for the purchase or sale of an interest in a business partnership or firm, or of shares of stock of a close corporation or of an interest in such shares, has an insurable interest in the life of each individual party to such contract and for the purposes of such contract only, in addition to any insurable interest which may otherwise exist as to the life of such individual.

(d) A guardian, trustee or other fiduciary has an insurable interest in the life of any person for whose benefit the fiduciary holds property, and in the life of any other individual in whose life such person has an insurable interest.

(e) Subject to rules adopted under subsection (4) of this section, upon joint application with a nonprofit organization for, or transfer to a nonprofit organization of, an insurance policy on the life of a person naming the organization as owner and beneficiary, a nonprofit organization's interest in the life of a person if:

(i) The nonprofit organization was established exclusively for religious, charitable, scientific, literary, or educational purposes, or to promote amateur athletic competition, to conduct testing for public safety, or to prevent cruelty to children or animals; and

(ii) The nonprofit organization:

(A) Has existed for a minimum of five years; or

(B) Has been issued a certificate of exemption to conduct a charitable gift annuity business under RCW 48.38.010, or is authorized to conduct a charitable gift annuity business under RCW 28B.10.485; or

(C) Has been organized, and at all times has been operated, exclusively for benefit of, to perform the functions of, or to carry out the purposes of one or more nonprofit organizations described in (e)(ii)(A) or (B) of this subsection and is operated, supervised, or controlled by or in connection with one or more such nonprofit organizations; and

(iii) For a joint application, the person is not an employee, officer, or director of the organization who receives significant compensation from the organization and who became affiliated with the organization in that capacity less than one year before the joint application.

(4) The commissioner may adopt rules governing joint applications for, and transfers of, life insurance under subsection (3)(e) of this section. The rules may include:

(a) Standards for full and fair disclosure that set forth the manner, content, and required disclosure for the sale of life insurance issued under subsection (3)(e) of this section; and

(b) For joint applications, a grace period of thirty days during which the insured person may direct the nonprofit organization to return the policy and the insurer to refund any premium paid to the party that, directly or indirectly, paid the premium; and

(c) Standards for granting an exemption from the five-year existence requirement of subsection (3)(e)(i)(A) of this section to a private foundation that files with the insurance commissioner documents, stipulations, and information as the insurance commissioner may require to carry out the purpose of subsection (3)(e) of this section.

(5) Nothing in this section permits the personal representative of the insured's estate to recover the proceeds of a policy on the life of a deceased insured person that was applied for jointly by, or transferred to, an organization covered by subsection (3)(e) of this section, where the organization was named owner and beneficiary of the policy.

This subsection applies to all life insurance policies applied for by, or transferred to, an organization covered by subsection (3)(e) of this section, regardless of the time of application or transfer and regardless of whether the organization would have been covered at the time of application or transfer.

Passed the Senate February 12, 1992.

Passed the House March 4, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

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## CHAPTER 52

[Substitute House Bill 2330]

### FOREST LAND BASE RETENTION INCENTIVES

Effective Date: 6/11/92 - Except Section 22 which becomes effective on 8/1/92.

AN ACT Relating to incentives to maintain the productive forest land base; amending RCW 7.48.300, 7.48.305, 7.48.310, 76.09.330, 84.33.100, 84.34.300, 84.34.310, 84.34.320, 84.34.330, 84.34.340, 84.34.360, 84.34.370, 84.34.380, 76.09.060, 76.09.230, and 76.04.005; reenacting and amending RCW 4.24.210; adding new sections to chapter 84.33 RCW; creating a new section; and providing an effective date.

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

**Sec. 1.** RCW 4.24.210 and 1991 c 69 s 1 and 1991 c 50 s 1 are each reenacted and amended to read as follows:

(1) Except as otherwise provided in subsection (3) of this section, any public or private landowners or others in lawful possession and control of any lands whether designated resource, rural, or urban, or water areas or channels and lands adjacent to such areas or channels, who allow members of the public to use them for the purposes of outdoor recreation, which term includes, but is not limited to,

the cutting, gathering, and removing of firewood by private persons for their personal use without purchasing the firewood from the landowner, hunting, fishing, camping, picnicking, swimming, hiking, bicycling, the riding of horses or other animals, clam digging, pleasure driving of off-road vehicles, snowmobiles, and other vehicles, boating, nature study, winter or water sports, viewing or enjoying historical, archaeological, scenic, or scientific sites, without charging a fee of any kind therefor, shall not be liable for unintentional injuries to such users.

(2) Except as otherwise provided in subsection (3) of this section, any public or private landowner or others in lawful possession and control of any lands whether rural or urban, or water areas or channels and lands adjacent to such areas or channels, who offer or allow such land to be used for purposes of a fish or wildlife cooperative project, or allow access to such land for cleanup of litter or other solid waste, shall not be liable for unintentional injuries to any volunteer group or to any other users.

(3) Any public or private landowner, or others in lawful possession and control of the land, may charge an administrative fee of up to ~~((ten))~~ twenty-five dollars for the cutting, gathering, and removing of firewood from the land. Nothing in this section shall prevent the liability of such a landowner or others in lawful possession and control for injuries sustained to users by reason of a known dangerous artificial latent condition for which warning signs have not been conspicuously posted. Nothing in RCW 4.24.200 and 4.24.210 limits or expands in any way the doctrine of attractive nuisance. Usage by members of the public, volunteer groups, or other users is permissive and does not support any claim of adverse possession.

(4) For purposes of this section, a license or permit issued for state-wide use under authority of chapter 43.51 RCW, Title 75, or Title 77 RCW is not a fee.

**Sec. 2.** RCW 7.48.300 and 1979 c 122 s 1 are each amended to read as follows:

The legislature finds that agricultural activities conducted on farmland and forest practices in urbanizing areas are often subjected to nuisance lawsuits, and that such suits encourage and even force the premature removal of the lands from agricultural uses and timber production. It is therefore the purpose of RCW 7.48.300 through 7.48.310 and 7.48.905 to provide that agricultural activities conducted on farmland and forest practices be protected from nuisance lawsuits.

**Sec. 3.** RCW 7.48.305 and 1979 c 122 s 2 are each amended to read as follows:

Notwithstanding any other provision of this chapter, agricultural activities conducted on farmland and forest practices, if consistent with good agricultural and forest practices and established prior to surrounding nonagricultural and nonforestry activities, are presumed to be reasonable and do not constitute a nuisance unless the activity has a substantial adverse effect on the public health and safety.

If ~~((that))~~ those agricultural ~~((activity-is))~~ activities and forest practices are undertaken in conformity with ~~((federal, state, and local))~~ all applicable laws and ~~((regulations))~~ rules, ~~((it-is))~~ the activities are presumed to be good agricultural and forest practices ~~((and))~~ not adversely affecting the public health and safety for purposes of this section and RCW 7.48.300.

Sec. 4. RCW 7.48.310 and 1991 c 317 s 2 are each amended to read as follows:

As used in RCW 7.48.305:

(1) "Agricultural activity" means a condition or activity which occurs on a farm in connection with the commercial production of farm products and includes, but is not limited to, marketed produce at roadside stands or farm markets; noise; odors; dust; fumes; operation of machinery and irrigation pumps; movement, including, but not limited to, use of current county road ditches, streams, rivers, canals, and drains, and use of water for agricultural activities; ground and aerial application of seed, fertilizers, conditioners, and plant protection products; employment and use of labor; roadway movement of equipment and livestock; protection from damage by wildlife; prevention of trespass; construction and maintenance of buildings, fences, roads, bridges, ponds, drains, waterways, and similar features and maintenance of streambanks and watercourses; and conversion from one agricultural activity to another.

(2) "Farm" means the land, buildings, freshwater ponds, freshwater culturing and growing facilities, and machinery used in the commercial production of farm products.

(3) "Farmland" means land or freshwater ponds devoted primarily to the production, for commercial purposes, of livestock, freshwater aquacultural, or other agricultural commodities.

(4) "Farm product" means those plants and animals useful to humans and includes, but is not limited to, forages and sod crops, dairy and dairy products, poultry and poultry products, livestock, including breeding, grazing, and recreational equine use, fruits, vegetables, flowers, seeds, grasses, trees, freshwater fish and fish products, apiaries, equine and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur.

(5) "Forest practice" means "forest practice" as defined in RCW 76.09.020.

Sec. 5. RCW 76.09.330 and 1987 c 95 s 7 are each amended to read as follows:

The legislature hereby finds and declares that riparian ecosystems on forest lands in addition to containing valuable timber resources, provide benefits for wildlife, fish, and water quality. The legislature further finds and declares that leaving upland areas unharvested for wildlife and leaving snags and green trees for future snag recruitment provides benefits for wildlife. Forest landowners may be required to leave trees standing in riparian and upland areas to benefit public resources. It is recognized that these trees may blow down or fall into streams and that organic debris may be allowed to remain in streams. This is beneficial

to riparian dependent and other wildlife species. The landowner shall not be held liable for any injury or damages resulting from ~~((the leave trees falling from natural causes in riparian areas))~~ these actions, including but not limited to wildfire, erosion, flooding, and other damages resulting from the trees being left.

Sec. 6. RCW 84.33.100 and 1983 c 3 s 224 are each amended to read as follows:

As used in RCW 84.33.110 through 84.33.140 and sections 7 through 13 of this act:

(1) "Forest land" is synonymous with timberland and means all land in any contiguous ownership of twenty or more acres which is primarily devoted to and used for growing and harvesting timber and means the land only.

(2) "Owner" means the party or parties having the fee interest in land, except where land is subject to a real estate contract "owner" means the contract vendee.

(3) "Local government" shall mean any city, town, county, sewer district, water district, public utility district, port district, irrigation district, flood control district, or any other municipal corporation, quasi-municipal corporation, or other political subdivision authorized to levy special benefit assessments for sanitary or storm sewerage systems, domestic water supply or distribution systems, or road construction or improvement purposes.

(4) "Local improvement district" shall mean any local improvement district, utility local improvement district, local utility district, road improvement district, or any similar unit created by a local government for the purpose of levying special benefit assessments against property specially benefited by improvements relating to such districts.

(5) The term "average rate of inflation" shall mean the annual rate of inflation as determined by the department of revenue averaged over the period of time as provided in section 8 (1) and (2) of this act. Such determination shall be published not later than January 1 of each year for use in that assessment year.

(6) "Special benefit assessments" shall mean special assessments levied or capable of being levied in any local improvement district or otherwise levied or capable of being levied by a local government to pay for all or part of the costs of a local improvement and which may be levied only for the special benefits to be realized by property by reason of that local improvement.

NEW SECTION. Sec. 7. (1) Any forest land that is designated for classification pursuant to chapter 84.33 RCW at the earlier of the times the legislative authority of a local government adopts a resolution, ordinance, or legislative act (a) to create a local improvement district, in which such land is included or would have been included but for such classification designation, or (b) to approve or confirm a final special benefit assessment roll relating to a sanitary or storm sewerage system, domestic water supply or distribution system, or road construction or improvement, which roll would have included such land

but for such classification designation, shall be exempt from special benefit assessments or charges in lieu of assessment for such purposes as long as that land remains in such classification, except as otherwise provided in section 11 of this act.

(2) Whenever a local government creates a local improvement district, the levying, collection, and enforcement of assessments shall be in the manner and subject to the same procedures and limitations as are provided pursuant to the law concerning the initiation and formation of local improvement districts for the particular local government. Notice of the creation of a local improvement district that includes forest land shall be filed with the county assessor and the legislative authority of the county in which such land is located. The county assessor, upon receiving notice of the creation of such a local improvement district, shall send a notice to the owner of the forest lands listed on the tax rolls of the applicable county treasurer of:

(a) The creation of the local improvement district;

(b) The exemption of that land from special benefit assessments;

(c) The fact that the forest land may become subject to the special benefit assessments if the owner waives the exemption by filing a notarized document with the governing body of the local government creating the local improvement district before the confirmation of the final special benefit assessment roll; and

(d) The potential liability, pursuant to section 8 of this act, if the exemption is not waived and the land is subsequently removed from the forest land status.

(3) When a local government approves and confirms a special benefit assessment roll, from which forest land has been exempted pursuant to this section, it shall file a notice of such action with the county assessor and the legislative authority of the county in which such land is located and with the treasurer of that local government, which notice shall describe the action taken, the type of improvement involved, the land exempted, and the amount of the special benefit assessment that would have been levied against the land if it had not been exempted. The filing of such notice with the county assessor and the treasurer of that local government shall constitute constructive notice to a purchaser or encumbrancer of the affected land, and every person whose conveyance or encumbrance is subsequently executed or subsequently recorded, that such exempt land is subject to the charges provided in sections 8 and 9 of this act, if such land is withdrawn or removed from its classification as forest land.

(4) The owner of the land exempted from special benefit assessments pursuant to this section may waive that exemption by filing a notarized document to that effect with the legislative authority of the local government upon receiving notice from said local government concerning the assessment roll hearing and before the local government confirms the final special benefit assessment roll. A copy of that waiver shall be filed by the local government with the county assessor, but the failure of such filing shall not affect the waiver.

(5) Except to the extent provided in section 11 of this act, the local government shall have no duty to furnish service from the improvement financed by the special benefit assessment to such exempted land.

**NEW SECTION. Sec. 8.** Whenever forest land has once been exempted from special benefit assessments pursuant to section 7 of this act, any withdrawal from classification or change in use from forest land under chapter 84.33 RCW shall result in the following:

(1) If the bonds used to fund the improvement in the local improvement district have not been completely retired, such land shall immediately become liable for:

(a) The amount of the special benefit assessment listed in the notice provided for in section 7 of this act; plus

(b) Interest on the amount determined in (a) of this subsection, compounded annually at a rate equal to the average rate of inflation from the time the initial notice is filed by the governmental entity that created the local improvement district as provided in section 7 of this act to the time the owner withdraws such land from the exemption category provided by this chapter; or

(2) If the bonds used to fund the improvement in the local improvement district have been completely retired, such land shall immediately become liable for:

(a) The amount of the special benefit assessment listed in the notice provided for in section 7 of this act; plus

(b) Interest on the amount determined in (a) of this subsection compounded annually at a rate equal to the average rate of inflation from the time the initial notice is filed by the governmental entity that created the local improvement district as provided in section 7 of this act, to the time the bonds used to fund the improvement have been retired; plus

(c) Interest on the total amount determined in (a) and (b) of this subsection at a simple per annum rate equal to the average rate of inflation from the time the bonds used to fund the improvement have been retired to the time the owner withdraws such lands from the exemption category provided by this chapter;

(3) The amount payable pursuant to this section shall become due on the date such land is withdrawn or removed from its forest land classification and shall be a lien on the land prior and superior to any other lien whatsoever except for the lien for general taxes, and shall be enforceable in the same manner as the collection of special benefit assessments are enforced by that local government.

**NEW SECTION. Sec. 9.** Whenever forest land is withdrawn or removed from its forest land classification, the county assessor of the county in which such land is located shall forthwith give written notice of such withdrawal or removal to the local government or its successor that had filed with the assessor the notice required by section 7 of this act. Upon receipt of the notice from the assessor, the local government shall mail a written statement to the owner of such land for the amounts payable as provided in section 8 of this act.

Such amounts due shall be delinquent if not paid within one hundred eighty days after the date of mailing of the statement, and shall be subject to the same interest, penalties, lien priority, and enforcement procedures that are applicable to delinquent assessments on the assessment roll from which that land had been exempted, except that the rate of interest charged shall not exceed the rate provided in section 8 of this act.

**NEW SECTION. Sec. 10.** Payments collected pursuant to sections 8 and 9 of this act, or by enforcement procedures referred to therein, after the payment of the expenses of their collection, shall first be applied to the payment of general or special debt incurred to finance the improvements related to the special benefit assessments, and, if such debt is retired, then into the maintenance fund or general fund of the governmental entity that created the local improvement district, or its successor, for any of the following purposes: (1) Redemption or servicing of outstanding obligations of the district; (2) maintenance expenses of the district; or (3) construction or acquisition of any facilities necessary to carry out the purpose of the district.

**NEW SECTION. Sec. 11.** The department of revenue shall adopt rules it shall deem necessary to implement RCW 84.33.100 and sections 7 through 13 of this act, which shall include, but not be limited to, procedures to determine the extent to which a portion of the land otherwise exempt may be subject to a special benefit assessment for: (1) The actual connection to the domestic water system or sewerage facilities; (2) for access to the road improvement in relation to its value as forest land as distinguished from its value under more intensive uses; and (3) for such lands that benefit from or cause the need for a local improvement district. The provision for limited special benefit assessments shall not relieve such land from liability for the amounts provided in sections 8 and 9 of this act when such land is withdrawn or removed from its forest land classification.

**NEW SECTION. Sec. 12.** Whenever a portion of a parcel of land that was classified as forest land pursuant to this chapter is withdrawn from classification or there is a change in use, and such land has been exempted from any benefit assessments pursuant to section 6 of this act, the previously exempt benefit assessments shall become due on only that portion of the land that is withdrawn or changed.

**NEW SECTION. Sec. 13.** (1) Forest land on which the right to future development has been acquired by any local government, the state of Washington, or the United States government shall be exempt from special benefit assessments in lieu of assessment for such purposes in the same manner, and under the same liabilities for payment and interest, as land classified under this chapter as forest land, for as long as such classification applies.

(2) Any interest, development right, easement, cover ant, or other contractual right that effectively protects, preserves, maintains, improves, restores, prevents

the future nonforest use of, or otherwise conserves forest land shall be exempt from special benefit assessments as long as such development right or other such interest effectively serves to prevent nonforest development of such land.

**Sec. 14.** RCW 84.34.300 and 1979 c 84 s 1 are each amended to read as follows:

The legislature finds that farming, timber production, and the related agricultural (~~(industry)~~) and forest industries have historically been and currently are central factors in the economic and social lifeblood of the state; that it is a fundamental policy of the state to protect agricultural and timber lands as a major natural resource in order to maintain a source to supply a wide range of agricultural and forest products; and that the public interest in the protection and stimulation of farming, timber production, and the agricultural (~~(industry)~~) and forest industries is a basic element of enhancing the economic viability of this state. The legislature further finds that farmland and timber land in urbanizing areas (~~(is)~~) are often subjected to high levels of property taxation and benefit assessment, and that such levels of taxation and assessment encourage and even force the (~~(premature)~~) removal of such lands from agricultural and forest uses. The legislature further finds that because of this level of taxation and assessment, such farmland and timber land in urbanizing areas (~~(is)~~) are either converted to nonagricultural and nonforest uses when significant amounts of nearby nonagricultural and nonforest area could be suitably used for such nonagricultural and nonforest uses, or, much of this farmland and timber land is left in an unused state. The legislature further finds that with the approval by the voters of the Fifty-third Amendment to the state Constitution, and with the enactment of chapter 84.34 RCW, the owners of farmlands and timber lands were provided with an opportunity to have such land valued on the basis of its current use and not its "highest and best use" and that such current use valuation is one mechanism to protect agricultural and timber lands. The legislature further finds that despite this potential property tax reduction, farmlands and timber lands in urbanized areas are still subject to high levels of benefit assessments and continue to be removed from farm and forest uses.

It is therefore the purpose of the legislature to establish, with the enactment of RCW 84.34.300 through 84.34.380, another mechanism to protect agricultural and timber land which creates an analogous system of relief from certain benefit assessments for farm and agricultural land and timber land. It is the intent of the legislature that special benefit assessments not be imposed for the availability of sanitary and/or storm sewerage service, or domestic water service, or for road construction and/or improvement purposes on farm and agricultural lands and timber lands which have been designated for current use classification as farm and agricultural lands or timber lands until such lands are withdrawn or removed from such classification or unless such lands benefit from or cause the need for the local improvement district.

The legislature finds, and it is the intent of RCW 84.34.300 through 84.34.380 and 84.34.922, that special benefit assessments for the improvement or construction of sanitary and/or storm sewerage service, or domestic water service, or certain road construction do not generally benefit land which has been classified as open space farm and agricultural land or timber land under the open space act, chapter 84.34 RCW, until such land is withdrawn from such classification or such land is used for a more intense and nonagricultural use, or the land is no longer used as timber land. The purpose of RCW 84.34.300 through 84.34.380 and 84.34.922 is to provide an exemption from certain special benefit assessments which do not benefit timber land or open space farm and agricultural land, and to provide the means for local governmental entities to recover such assessments in current dollar value in the event such land is no longer devoted to farming or timber production under chapter 84.34 RCW. Where the owner of such land chooses to make limited use of improvements related to special benefit assessments, RCW 84.34.300 through 84.34.380 (~~and 84.34.922~~) provides the means for the partial assessment on open space timber and farmland to the extent the land is directly benefited by the improvement.

**Sec. 15.** RCW 84.34.310 and 1979 c 84 s 2 are each amended to read as follows:

As used in RCW 84.34.300 through 84.34.380, unless a different meaning is required, the words defined in this section shall have the meanings indicated.

(1) "Farm and agricultural land" shall mean the same as defined in RCW 84.34.020(2).

(2) "Timber land" shall mean the same as defined in RCW 84.34.020(3).

(3) "Local government" shall mean any city, town, county, sewer district, water district, public utility district, port district, irrigation district, flood control district, or any other municipal corporation, quasi municipal corporation, or other political subdivision authorized to levy special benefit assessments for sanitary and/or storm sewerage systems, domestic water supply and/or distribution systems, or road construction or improvement purposes.

~~((3))~~ (4) "Local improvement district" shall mean any local improvement district, utility local improvement district, local utility district, road improvement district, or any similar unit created by a local government for the purpose of levying special benefit assessments against property specially benefited by improvements relating to such districts.

~~((4))~~ (5) "Owner" shall mean the same as defined in RCW 84.34.020(5) or the applicable statutes relating to special benefit assessments.

~~((5))~~ (6) The term "average rate of inflation" shall mean the annual rate of inflation as determined by the department of revenue averaged over the period of time as provided in RCW 84.34.330 (1) and (2). Such determination shall be published not later than January 1 of each year for use in that assessment year.

~~((6))~~ (7) "Special benefit assessments" shall mean special assessments levied or capable of being levied in any local improvement district or otherwise

levied or capable of being levied by a local government to pay for all or part of the costs of a local improvement and which may be levied only for the special benefits to be realized by property by reason of that local improvement.

**Sec. 16.** RCW 84.34.320 and 1979 c 84 s 3 are each amended to read as follows:

Any farm and agricultural land or timber land which is designated for current use classification pursuant to chapter 84.34 RCW at the earlier of the times the legislative authority of a local government adopts a resolution, ordinance, or legislative act (1) to create a local improvement district, in which such land is included or would have been included but for such classification designation, or (2) to approve or confirm a final special benefit assessment roll relating to a sanitary and/or storm sewerage system, domestic water supply and/or distribution system, or road construction and/or improvement, which roll would have included such land but for such classification designation, shall be exempt from special benefit assessments or charges in lieu of assessment for such purposes as long as that land remains in such classification, except as otherwise provided in RCW 84.34.360.

Whenever a local government creates a local improvement district, the levying, collection and enforcement of assessments shall be in the manner and subject to the same procedures and limitations as are provided pursuant to the law concerning the initiation and formation of local improvement districts for the particular local government. Notice of the creation of a local improvement district that includes farm and agricultural land or timber land shall be filed with the county assessor and the legislative authority of the county in which such land is located. The county assessor, upon receiving notice of the creation of such a local improvement district, shall send a notice to the owner of the farm and agricultural land((s)) or timber land listed on the tax rolls of the applicable county treasurer of: (1) The creation of the local improvement district; (2) the exemption of that land from special benefit assessments; (3) the fact that the farm and agricultural land or timber land may become subject to the special benefit assessments if the owner waives the exemption by filing a notarized document with the governing body of the local government creating the local improvement district before the confirmation of the final special benefit assessment roll; and (4) the potential liability, pursuant to RCW 84.34.330, if the exemption is not waived and the land is subsequently removed from the farm and agricultural land or timber land status. When a local government approves and confirms a special benefit assessment roll, from which farm and agricultural land or timber land has been exempted pursuant to this section, it shall file a notice of such action with the county assessor and the legislative authority of the county in which such land is located and with the treasurer of that local government, which notice shall describe the action taken, the type of improvement involved, the land exempted, and the amount of the special benefit assessment which would have been levied against the land if it had not been exempted. The filing

of such notice with the county assessor and the treasurer of that local government shall constitute constructive notice to a purchaser or encumbrancer of the affected land, and every person whose conveyance or encumbrance is subsequently executed or subsequently recorded, that such exempt land is subject to the charges provided in RCW 84.34.330 and 84.34.340 if such land is withdrawn or removed from its current use classification as farm and agricultural land or timber land.

The owner of the land exempted from special benefit assessments pursuant to this section may waive that exemption by filing a notarized document to that effect with the legislative authority of the local government upon receiving notice from said local government concerning the assessment roll hearing and before the local government confirms the final special benefit assessment roll. A copy of that waiver shall be filed by the local government with the county assessor, but the failure of such filing shall not affect the waiver.

Except to the extent provided in RCW 84.34.360, the local government shall have no duty to furnish service from the improvement financed by the special benefit assessment to such exempted land.

**Sec. 17.** RCW 84.34.330 and 1979 c 84 s 4 are each amended to read as follows:

Whenever farm and agricultural land or timber land has once been exempted from special benefit assessments pursuant to RCW 84.34.320, any withdrawal from classification or change in use from farm and agricultural land or timber land under chapter 84.34 RCW shall result in the following:

(1) If the bonds used to fund the improvement in the local improvement district have not been completely retired, such land shall immediately become liable for: (a) The amount of the special benefit assessment listed in the notice provided for in RCW 84.34.320; plus (b) interest on the amount determined in (1)(a) of this section, compounded annually at a rate equal to the average rate of inflation from the time the initial notice is filed by the governmental entity which created the local improvement district as provided in RCW 84.34.320 to the time the owner withdraws such land from the exemption category provided by this chapter; or

(2) If the bonds used to fund the improvement in the local improvement district have been completely retired, such land shall immediately become liable for: (a) The amount of the special benefit assessment listed in the notice provided for in RCW 84.34.320; plus (b) interest on the amount determined in (2)(a) of this section compounded annually at a rate equal to the average rate of inflation from the time the initial notice is filed by the governmental entity which created the local improvement district as provided in RCW 84.34.320, to the time the bonds used to fund the improvement have been retired; plus (c) interest on the total amount determined in (2) (a) and (b) of this section at a simple per annum rate equal to the average rate of inflation from the time the bonds used

to fund the improvement have been retired to the time the owner withdraws such lands from the exemption category provided by this chapter.

(3) The amount payable pursuant to this section shall become due on the date such land is withdrawn or removed from its current use or timber land classification and shall be a lien on the land prior and superior to any other lien whatsoever except for the lien for general taxes, and shall be enforceable in the same manner as the collection of special benefit assessments are enforced by that local government.

**Sec. 18.** RCW 84.34.340 and 1979 c 84 s 5 are each amended to read as follows:

Whenever farm and agricultural land or timber land is withdrawn or removed from its current use classification as farm and agricultural land or timber land, the county assessor of the county in which such land is located shall forthwith give written notice of such withdrawal or removal to the local government or its successor which had filed with the assessor the notice required by RCW 84.34.320. Upon receipt of the notice from the assessor, the local government shall mail a written statement to the owner of such land for the amounts payable as provided in RCW 84.34.330. Such amounts due shall be delinquent if not paid within one hundred and eighty days after the date of mailing of the statement, and shall be subject to the same interest, penalties, lien priority, and enforcement procedures that are applicable to delinquent assessments on the assessment roll from which that land had been exempted, except that the rate of interest charged shall not exceed the rate provided in RCW 84.34.330.

**Sec. 19.** RCW 84.34.360 and 1979 c 84 s 7 are each amended to read as follows:

~~(Within ninety days after June 7, 1979,)~~ The department of revenue shall adopt rules it shall deem necessary to implement RCW 84.34.300 through 84.34.380 which shall include, but not be limited to, procedures to determine the extent to which a portion of the land otherwise exempt may be subject to a special benefit assessment for the actual connection to the domestic water system or sewerage facilities, and further to determine the extent to which all or a portion of such land may be subject to a special benefit assessment for access to the road improvement in relation to its value as farm and agricultural land or timber land as distinguished from its value under more intensive uses. The provision for limited special benefit assessments shall not relieve such land from liability for the amounts provided in RCW 84.34.330 and 84.34.340 when such land is withdrawn or removed from its current use classification as farm and agricultural land or timber land.

**Sec. 20.** RCW 84.34.370 and 1979 c 84 s 8 are each amended to read as follows:

Whenever a portion of a parcel of land which was classified as farm and agricultural or timber land pursuant to this chapter is withdrawn from classifica-

tion or there is a change in use, and such land has been exempted from any benefit assessments pursuant to RCW 84.34.320, the previously exempt benefit assessments shall become due on only that portion of the land which is withdrawn or changed.

**Sec. 21.** RCW 84.34.380 and 1979 c 84 s 9 are each amended to read as follows:

Farm and agricultural land or timber land on which the right to future development has been acquired by any local government, the state of Washington, or the United States government shall be exempt from special benefit assessments in lieu of assessment for such purposes in the same manner, and under the same liabilities for payment and interest, as land classified under this chapter as farm and agricultural land or timber land, for as long as such classification applies.

Any interest, development right, easement, covenant, or other contractual right which effectively protects, preserves, maintains, improves, restores, prevents the future nonagricultural or nonforest use of, or otherwise conserves farm and agricultural land or timber land shall be exempt from special benefit assessments as long as such development right or other such interest effectively serves to prevent nonagricultural or nonforest development of such land.

**Sec. 22.** RCW 76.09.060 and 1990 1st ex.s. c 17 s 62 are each amended to read as follows:

(1) The department shall prescribe the form and contents of the notification and application. The forest practices (~~((regulations))~~) rules shall specify by whom and under what conditions the notification and application shall be signed or otherwise certified as acceptable. The application or notification shall be delivered in person (~~((or))~~) to the department, sent by (~~((certified))~~) first class mail to the department or electronically filed in a form defined by the department. The form for electronic filing shall be readily convertible to a paper copy, which shall be available to the public pursuant to chapter 42.17 RCW. The information required may include, but (~~((shall))~~) is not ((be)) limited to:

(a) Name and address of the forest landowner, timber owner, and operator;  
 (b) Description of the proposed forest practice or practices to be conducted;  
 (c) Legal description of the land on which the forest practices are to be conducted;

(d) Planimetric and topographic maps showing location and size of all lakes and streams and other public waters in and immediately adjacent to the operating area and showing all existing and proposed roads and major tractor roads;

(e) Description of the silvicultural, harvesting, or other forest practice methods to be used, including the type of equipment to be used and materials to be applied;

(f) Proposed plan for reforestation and for any revegetation necessary to reduce erosion potential from roadsides and yarding roads, as required by the forest practices (~~((regulations))~~) rules;

(g) Soil, geological, and hydrological data with respect to forest practices;  
 (h) The expected dates of commencement and completion of all forest practices specified in the application;

(i) Provisions for continuing maintenance of roads and other construction or other measures necessary to afford protection to public resources; and

(j) An affirmation that the statements contained in the notification or application are true.

(2) ~~((At the option of the applicant, the application or notification may be submitted to cover a single forest practice or any number of forest practices within reasonable geographic or political boundaries as specified by the department.))~~ Long range plans may be submitted to the department for review and consultation.

(3) The application for a forest practice or the notification of a Class II forest practice shall indicate whether any land covered by the application or notification will be converted or is intended to be converted to a use other than commercial timber production within three years after completion of the forest practices described in it.

(a) If the application states that any such land will be or is intended to be so converted:

(i) The reforestation requirements of this chapter and of the forest practices ~~((regulations))~~ rules shall not apply if the land is in fact so converted unless applicable alternatives or limitations are provided in forest practices ~~((regulations))~~ rules issued under RCW 76.09.070 as now or hereafter amended;

(ii) Completion of such forest practice operations shall be deemed conversion of the lands to another use for purposes of chapters 84.28, 84.33, and 84.34 RCW unless the conversion is to a use permitted under a current use tax agreement permitted under chapter 84.34 RCW;

(iii) The forest practices described in the application are subject to applicable county, city, town, and regional governmental authority permitted under RCW 76.09.240 as now or hereafter amended as well as the forest practices ~~((regulations))~~ rules.

(b) If the application or notification does not state that any land covered by the application or notification will be or is intended to be so converted:

(i) For six years after the date of the application the county, city, town, and regional governmental entities may deny any or all applications for permits or approvals, including building permits and subdivision approvals, relating to nonforestry uses of land subject to the application;

(ii) Failure to comply with the reforestation requirements contained in any final order or decision shall constitute a removal from classification under the provisions of RCW 84.28.065, a removal of designation under the provisions of RCW 84.33.140, and a change of use under the provisions of RCW 84.34.080, and, if applicable, shall subject such lands to the payments and/or penalties resulting from such removals or changes; and

(iii) Conversion to a use other than commercial timber operations within three years after completion of the forest practices without the consent of the county, city, or town shall constitute a violation of each of the county, municipal city, town, and regional authorities to which the forest practice operations would have been subject if the application had so stated.

(c) The application or notification shall be either signed by the landowner or accompanied by a statement signed by the landowner indicating his or her intent with respect to conversion and acknowledging that he or she is familiar with the effects of this subsection.

(4) Whenever an approved application authorizes a forest practice which, because of soil condition, proximity to a water course or other unusual factor, has a potential for causing material damage to a public resource, as determined by the department, the applicant shall, when requested on the approved application, notify the department two days before the commencement of actual operations.

(5) Before the operator commences any forest practice in a manner or to an extent significantly different from that described in a previously approved application or notification, there shall be submitted to the department a new application or notification form in the manner set forth in this section.

(6) The notification to or the approval given by the department to an application to conduct a forest practice shall be effective for a term of ~~((one))~~ two years from the date of approval or notification and shall not be renewed unless a new application is filed and approved or a new notification has been filed. At the option of the applicant, an application or notification may be submitted to cover a single forest practice or a number of forest practices within reasonable geographic or political boundaries as specified by the department. An application or notification that covers more than one forest practice may have an effective term of more than two years. The board shall adopt rules that establish standards and procedures for approving an application or notification that has an effective term of more than two years. Such rules shall include extended time periods for application or notification approval or disapproval. On an approved application with a term of more than two years, the applicant shall inform the department before commencing operations.

(7) Notwithstanding any other provision of this section, no prior application or notification shall be required for any emergency forest practice necessitated by fire, flood, windstorm, earthquake, or other emergency as defined by the board, but the operator shall submit an application or notification, whichever is applicable, to the department within forty-eight hours after commencement of such practice.

**Sec. 23.** RCW 76.09.230 and 1989 c 175 s 165 are each amended to read as follows:

(1) In all appeals over which the appeals board has jurisdiction, a party taking an appeal may elect either a formal or an informal hearing, unless such

party has had an informal hearing with the department. Such election shall be made according to the rules of practice and procedure to be promulgated by the appeals board. In the event that appeals are taken from the same decision, order, or determination, as the case may be, by different parties and only one of such parties elects a formal hearing, a formal hearing shall be granted.

(2) In all appeals over which the appeals board has jurisdiction, upon request of one or more parties and with the consent of all parties, the appeals board shall promptly schedule a conference for the purpose of attempting to mediate the case. The mediation conference shall be held prior to the hearing on not less than seven days' advance written notice to all parties. All other proceedings pertaining to the appeal shall be stayed until completion of mediation, which shall continue so long as all parties consent: PROVIDED, That this shall not prevent the appeals board from deciding motions filed by the parties while mediation is ongoing: PROVIDED, FURTHER, That discovery may be conducted while mediation is ongoing if agreed to by all parties. Mediation shall be conducted by an administrative appeals judge or other duly authorized agent of the appeals board who has received training in dispute resolution techniques or has a demonstrated history of successfully resolving disputes, as determined by the appeals board. A person who mediates in a particular appeal shall not participate in a hearing on that appeal or in writing the decision and order in the appeal. Documentary and other physical evidence presented and evidence of conduct or statements made during the course of mediation shall be treated by the mediator and the parties in a confidential manner and shall not be admissible in subsequent proceedings in the appeal except in accordance with the provisions of the Washington Rules of Evidence pertaining to compromise negotiations.

(3) In all appeals the appeals board shall have all powers relating to administration of oaths, issuance of subpoenas, and taking of depositions, but such powers shall be exercised in conformity with chapter 34.05 RCW.

~~((3))~~ (4) In all appeals involving formal hearing the appeals board, and each member thereof, shall be subject to all duties imposed upon and shall have all powers granted to, an agency by those provisions of chapter 34.05 RCW relating to adjudicative proceedings.

~~((4))~~ (5) All proceedings, including both formal and informal hearings, before the appeals board or any of its members shall be conducted in accordance with such rules of practice and procedure as the board may prescribe. The appeals board shall publish such rules and arrange for the reasonable distribution thereof.

~~((5))~~ (6) Judicial review of a decision of the appeals board shall be de novo except when the decision has been rendered pursuant to the formal hearing, in which event judicial review may be obtained only pursuant to RCW 34.05.510 through 34.05.598.

Sec. 24. RCW 76.04.005 and 1986 c 100 s 1 are each amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Additional fire hazard" means a condition existing on any land in the state covered wholly or in part by forest debris which is likely to further the spread of fire and thereby endanger life or property. The term "additional fire hazard" does not include green trees or snags left standing in upland or riparian areas under the provisions of RCW 76.04.465 or chapter 76.09 RCW.

(2) "Closed season" means the period between April 15 and October 15, unless the department designates different dates because of prevailing fire weather conditions.

(3) "Department" means the department of natural resources, or its authorized representatives, as defined in chapter 43.30 RCW.

(4) "Department protected lands" means all lands subject to the forest protection assessment under RCW 76.04.610 or covered under contract or agreement pursuant to RCW 76.04.135 by the department.

(5) "Emergency fire costs" means those costs incurred or approved by the department for emergency forest fire suppression, including the employment of personnel, rental of equipment, and purchase of supplies over and above costs regularly budgeted and provided for nonemergency fire expenses for the biennium in which the costs occur.

(6) "Forest debris" includes forest slash, chips, and any other vegetative residue resulting from activities on forest land.

(7) "Forest fire service" includes all wardens, rangers, and other persons employed especially for preventing or fighting forest fires.

(8) "Forest land" means any unimproved lands which have enough trees, standing or down, or flammable material, to constitute in the judgment of the department, a fire menace to life or property. Sagebrush and grass areas east of the summit of the Cascade mountains may be considered forest lands when such areas are adjacent to or intermingled with areas supporting tree growth. Forest land, for protection purposes, does not include structures.

(9) "Forest landowner," "owner of forest land," "landowner," or "owner" means the owner or the person in possession of any public or private forest land.

(10) "Forest material" means forest slash, chips, timber, standing or down, or other vegetation.

(11) "Landowner operation" means every activity, and supporting activities, of a forest landowner and the landowner's agents, employees, or independent contractors or permittees in the management and use of forest land subject to the forest protection assessment under RCW 76.04.610 for the primary benefit of the owner. The term includes, but is not limited to, the growing and harvesting of forest products, the development of transportation systems, the utilization of minerals or other natural resources, and the clearing of land. The term does not include recreational and/or residential activities not associated with these enumerated activities.

(12) "Participating landowner" means an owner of forest land whose land is subject to the forest protection assessment under RCW 76.04.610.

(13) "Slash" means organic forest debris such as tree tops, limbs, brush, and other dead flammable material remaining on forest land as a result of a landowner operation.

(14) "Slash burning" means the planned and controlled burning of forest debris on forest lands by broadcast burning, underburning, pile burning, or other means, for the purposes of silviculture, hazard abatement, or reduction and prevention or elimination of a fire hazard.

(15) "Suppression" means all activities involved in the containment and control of forest fires, including the patrolling thereof until such fires are extinguished or considered by the department to pose no further threat to life or property.

(16) "Unimproved lands" means those lands that will support grass, brush and tree growth, or other flammable material when such lands are not cleared or cultivated and, in the opinion of the department, are a fire menace to life and property.

NEW SECTION. **Sec. 25.** Nothing in RCW 84.34.300 through 84.34.340 or 84.34.360 through 84.34.380 shall amend the provisions of chapter 79.44 RCW.

NEW SECTION. **Sec. 26.** Sections 7 through 13 of this act are each added to chapter 84.33 RCW.

NEW SECTION. **Sec. 27.** Section 22 of this act shall take effect August 1, 1992.

Passed the House February 14, 1992.

Passed the Senate March 3, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

## CHAPTER 53

[Substitute House Bill 1258]

### NURSING HOME ADMINISTRATORS—REVISIONS

Effective Date: 6/11/92

AN ACT Relating to nursing home administration; amending RCW 18.52.020, 18.52.030, 18.52.040, 18.52.050, 18.52.110, 18.52.130, and 18.52.140; adding new sections to chapter 18.52 RCW; and repealing RCW 18.52.060, 18.52.100, 18.52.170, and 18.52.070.

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

**Sec. 1.** RCW 18.52.020 and 1991 c 3 s 116 are each amended to read as follows:

When used in this chapter, unless the context otherwise clearly requires:

(1) "Board" means the state board ~~((of examiners for the licensing))~~ of nursing home administrators representative of the professions and institutions concerned with the care of the chronically ill and infirm aged patients.

(2) "Secretary" means the secretary of health or the secretary's designee.

(3) "Nursing home" means any facility or portion thereof licensed under state law as a nursing home.

(4) "Nursing home administrator" means an individual ~~((in active administrative charge of nursing homes as defined herein, whether or not having an ownership interest in such homes, and although functions and duties may be shared with or delegated to other persons: PROVIDED HOWEVER, That))~~ qualified by education, experience, training, and examination to administer a nursing home. A nursing home administrator administering a nursing home must be in active administrative charge as defined by the board. Nothing in this definition or this chapter shall be construed to prevent any person, so long as he or she is otherwise qualified, from obtaining and maintaining a license even though he or she has not administered or does not continue to administer a nursing home.

NEW SECTION. Sec. 2. A new section is added to chapter 18.52 RCW to read as follows:

In addition to any other authority provided by law, the secretary shall have the following authority:

(1) To set all fees required in this chapter in accordance with RCW 43.70.250 which may include fees for approval of continuing competency, supervision of practical experience, all applications, verification, renewal, examination, and late penalties;

(2) To establish forms necessary to administer this chapter;

(3) To issue a license to any applicant who has met the education, training, and examination requirements for licensure and deny a license to applicants who do not meet the minimum qualifications for licensure, except that proceedings concerning the denial of licenses based on unprofessional conduct or impaired practice shall be governed by the uniform disciplinary act, chapter 18.130 RCW;

(4) To employ clerical, administrative, and investigative staff as needed to implement and administer this chapter and to employ individuals including those licensed under this chapter to serve as examiners or consultants as necessary to implement and administer this chapter; and

(5) To maintain the official department record of all applicants and licensees.

Sec. 3. RCW 18.52.030 and 1970 ex.s. c 57 s 3 are each amended to read as follows:

~~((On or after July 1, 1970))~~ Nursing homes operating within this state ~~((must))~~ shall be under the active, overall administrative charge and supervision of an on-site full-time administrator licensed as provided in this chapter. ~~((A administrator may delegate functions and duties to other persons.))~~ No person

acting in any capacity, unless ~~((he is))~~ the holder of a nursing home administrator's license issued under this chapter, shall be charged with the overall responsibility to make decisions or direct actions involved in managing the internal operation of a nursing home, except as specifically delegated in writing by the administrator to identify a responsible person to act on the administrator's behalf when the administrator is absent. The administrator shall review the decisions upon the administrator's return and amend the decisions if necessary. The board shall define by rule the parameters for on-site full-time administrators in nursing homes with small resident populations and nursing homes in rural areas, or separately licensed facilities collocated on the same campus, as well as provide for the administrative requirements for nursing homes that are temporarily without administrators.

Sec. 4. RCW 18.52.040 and 1975 1st ex.s. c 97 s 1 are each amended to read as follows:

~~((There is hereby created a))~~ The state board of ((examiners for)) nursing home administrators ~~((which))~~ shall consist of nine members appointed by the governor. ~~((All members shall be representative of the professions and institutions concerned with the care and treatment of chronically ill or infirm elderly patients. However, at no time shall representatives of a single profession or a single institutional category compose a majority of the board membership. In addition, no member who is a noninstitutional representative shall have any direct financial interest in nursing homes while serving as a member of the board. For purposes of this section, nursing home administrators are considered representatives of institutions. Eight of the board's members shall be privately or self-employed persons who the governor finds have had at least four years of actual experience in the administration or overall management of licensed nursing homes in this state immediately prior to the governor's appointment of them to the board; or shall be representatives from the medical professions, or health care administration education, or persons with four years actual experience in the administration of the nursing home unit of a licensed hospital immediately preceding the governor's appointment of them to the board; and shall be privately or self-employed persons, or persons employed by educational institutions, whom the governor appoints because of their special knowledge or expertise in the field of long term care or the care of the aged and chronically ill: PROVIDED, That one member shall be a citizen eligible for medicare who shall have no financial interest in or family ownership connection with nursing homes. Board members selected who meet any of the preceding qualifications may in addition be nurses, physicians or other persons with special health care training.))~~ Four members shall be persons licensed under this chapter who have at least four years actual experience in the administration of a licensed nursing home in this state immediately preceding appointment to the board and who are not employed by the state or federal government.

Four members shall be representatives of the health care professions providing medical or nursing services in nursing homes who are privately or self-employed; or shall be persons employed by educational institutions who have special knowledge or expertise in the field of health care administration, health care education or long-term care or both, or care of the aged and chronically ill.

One member shall be a resident of a nursing home or a family member of a resident or a person eligible for medicare. No member who is a nonadministrator representative shall have any direct or family financial interest in nursing homes while serving as a member of the board. The governor shall consult with and seek the recommendations of the appropriate state-wide business and professional organizations and societies primarily concerned with long term health care facilities in the course of considering his appointments to the board. Board members currently serving shall continue to serve until the expiration of their appointments.

Sec. 5. RCW 18.52.050 and 1970 ex.s. c 57 s 5 are each amended to read as follows:

Members of the board shall be citizens of the United States and residents of this state. ~~((Except for the initial appointments to the first board,))~~ All administrator members of the board shall be holders of licenses under this chapter. ~~((Three members of the board shall be appointed initially for terms of three years, three members shall be appointed for terms of two years, and three members shall be appointed for terms of one year. Thereafter))~~ The terms of all members shall be ~~((three))~~ five years. ~~((Members of the board may be removed by the governor for cause after appropriate notice and hearing.))~~ Any board member may be removed for just cause including a finding of fact of unprofessional conduct or impaired practice. The governor may appoint a new member to fill any vacancy on the board for the remainder of the unexpired term. No board member may serve more than two consecutive terms, whether full or partial. Board members shall serve until their successors are appointed. Board members shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. The board may elect annually a chair and vice-chair to direct the meetings of the board. The board shall meet at least four times each year and may hold additional meetings as called by the secretary or the chair.

NEW SECTION. Sec. 6. A new section is added to chapter 18.52 RCW to read as follows:

In addition to any authority provided by law, the board shall have the following authority:

(1) To adopt rules in accordance with chapter 34.05 RCW necessary to implement this chapter;

(2) To prepare and administer or approve the preparation and administration of examinations for licensure;

(3) To conduct a hearing on an appeal of a denial of license based on the applicant's failure to meet the minimum qualifications for licensure. The hearing shall be conducted pursuant to chapter 34.05 RCW;

(4) To establish by rule the procedures for an appeal of an examination failure;

(5) To adopt rules implementing a continuing competency program;

(6) To issue subpoenas, statements of charges, statements of intent to deny licenses, and orders, and to delegate in writing to a designee to issue subpoenas; and

(7) To issue temporary license permits under circumstances defined by the board.

**NEW SECTION.** Sec. 7. A new section is added to chapter 18.52 RCW to read as follows:

The department shall issue a license to any person applying for a nursing home administrator's license after July 1, 1993, who meets the following requirements:

(1) Successful completion of the requirements for a baccalaureate degree from a recognized institution of higher learning: PROVIDED, That if education requirements are adopted by the federal government, the board may adopt rules requiring educational qualifications to meet those requirements;

(2) Successful completion of a practical experience requirement as determined by the board;

(3) Successful completion of examinations administered or approved by the board, or both, which shall be designed to test the candidate's competence to administer a nursing home;

(4) At least twenty-one years of age; and

(5) Not having engaged in unprofessional conduct as defined in RCW 18.130.180 or being unable to practice with reasonable skill and safety as defined in RCW 18.130.170. The board shall establish by rule what constitutes adequate proof of meeting the above requirements.

A limited license indicating the limited extent of authority to administer institutions certified by such church or denomination teaching religious or spiritual means for healing through prayer, shall be issued to individuals demonstrating membership in such church or denomination. However, nothing in this chapter shall be construed to require an applicant certified by any well established and generally recognized church or religious denomination teaching reliance on spiritual means alone to demonstrate proficiency in any medical techniques or to meet any medical educational qualifications or medical standards not in accord with: the remedial care and treatment provided in such institutions.

**Sec. 8.** RCW 18.52.110 and 1991 c 3 s 120 are each amended to read as follows:

(1) Every holder of a nursing home administrator's license shall reregister ~~((it annually with the secretary))~~ on dates specified by the secretary ~~((by making~~

~~application for reregistration on forms provided by the secretary)). Such ((reregistration)) relicensure shall be granted ((automatically)) upon receipt of a fee determined by the secretary as provided in RCW 43.70.250, and upon fulfilling the continuing competency requirement. In the event that any license is not reregistered ((within thirty days after the date for reregistration specified by the secretary)), the secretary ((shall, in accordance with rules prescribed by the board, give notice to the license holder, and)) may ((thereafter in accordance with rules prescribed by the board)) charge up to double the ((normal reregistration)) relicensure fee. In the event that the license of an individual is not ((reregistered)) relicensed within two years from the most recent date for ((reregistration)) relicensure it shall lapse and such individual must again apply for licensing and meet all requirements of this chapter for a new applicant. The board may prescribe rules for maintenance of a license at a reduced fee for temporary or permanent withdrawal or retirement from the active practice of nursing home administration.~~

~~(2) A condition of ((reregistration)) relicensure shall be the presentation of proof by the applicant that ((he or she has attended the number of classroom hours of approved educational programs, classes, seminars, or proceedings set by the board. The board shall have the power to approve programs, classes, seminars, or proceedings offered in this state or elsewhere by any accredited institution of higher learning or any national or local group or society if such programs, classes, seminars, or proceedings are reasonably related to the administration of nursing homes. The board shall establish rules providing that the applicant for reregistration may present such proofs yearly, or may obtain the cumulative number of required hours over a three year period and present such proofs over periods of three years. In no event shall the number of classroom hours required for any time period exceed the number of such board approved classroom hours reasonably available over such time period on an adult or continuing education basis to nonmatriculating participants in this state.~~

~~(3) An individual may obtain and reregister a license under this chapter although he or she does not actively engage in nursing home administration. The licensee shall meet requirements set by the board to ensure the individual's continued competency)) the board requirement for continuing competency related to the administration of nursing homes has been met.~~

**Sec. 9.** RCW 18.52.130 and 1991 c 3 s 121 are each amended to read as follows:

The secretary may issue a nursing home administrator's license to anyone who holds a current administrator's license from another jurisdiction upon receipt of an application fee ((determined by the secretary as provided in RCW 43.70.250)) and an annual license fee, ((the secretary may issue a nursing home administrator's license, without examination, to any person who holds a current license as a nursing home administrator from another jurisdiction: PROVIDED, That the board finds that)) as provided in RCW 43.70.250, if the standards for

licensing in such other jurisdiction are ~~((at least the substantial))~~ substantially equivalent ~~((of))~~ to those prevailing in this state, and that the applicant is otherwise qualified ~~((-- In the event that there is developed a nationally recognized standard for the licensing of nursing home administrators which is in fact utilized in licensing procedures on a reasonably uniform basis the board may by rule or regulation provide for granting reciprocal licensing on a showing of compliance with such standard))~~ as determined by the board.

**Sec. 10.** RCW 18.52.140 and 1970 ex.s. c 57 s 14 are each amended to read as follows:

It shall be unlawful and constitute a gross misdemeanor for any person to act or serve in the capacity of a nursing home administrator unless he or she is the holder of a nursing home administrator's license issued in accordance with the provisions of this chapter: PROVIDED HOWEVER, That persons carrying out functions and duties delegated by a licensed administrator as defined in RCW 18.52.030 shall not be construed to be committing any unlawful act under this chapter.

**NEW SECTION.** **Sec. 11.** The following acts or parts of acts are each repealed:

(1) RCW 18.52.060 and 1991 c 3 s 117, 1984 c 287 s 40, 1979 c 158 s 45, 1975-'76 2nd ex.s. c 34 s 38, & 1970 ex.s. c 57 s 6;

(2) RCW 18.52.100 and 1991 c 3 s 119, 1987 c 150 s 33, 1977 ex.s. c 243 s 4, & 1970 ex.s. c 57 s 10; and

(3) RCW 18.52.170 and 1970 ex.s. c 57 s 19.

**NEW SECTION.** **Sec. 12.** RCW 18.52.070 and 1991 c 3 s 118, 1984 c 279 s 65, 1977 ex.s. c 243 s 2, 1975 1st ex.s. c 30 s 52, & 1970 ex.s. c 57 s 7 are each repealed, effective July 1, 1993.

Passed the House March 9, 1992.

Passed the Senate March 6, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

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## CHAPTER 54

[Second Engrossed Substitute House Bill 1378]

### SUPERIOR COURT FEES

Effective Date: 4/1/92

AN ACT Relating to superior court fees; amending RCW 36.18.020, 36.18.025, and 27.24.070; reenacting and amending RCW 43.08.250; adding a new section to chapter 43.08 RCW; adding a new section to chapter 36.18 RCW; providing an effective date; and declaring an emergency.

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

**Sec. 1.** RCW 36.18.020 and 1989 c 342 s 1 are each amended to read as follows:

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

(1) The party filing the first or initial paper in any civil action, including an action for restitution, or change of name, shall pay, at the time said paper is filed, a fee of (~~seventy-eight~~) one hundred ten dollars except in proceedings filed under RCW 26.50.030 or 49.60.227 where the petitioner shall pay a filing fee of twenty dollars, or an unlawful detainer action under chapter 59.18 or 59.20 RCW where the plaintiff shall pay a filing fee of thirty dollars. If the defendant serves or files an answer to an unlawful detainer complaint under chapter 59.18 or 59.20 RCW, the plaintiff shall pay, prior to proceeding with the unlawful detainer action, an additional (~~forty-eight~~) eighty dollars which shall be considered part of the filing fee. The thirty dollar filing fee under this subsection for an unlawful detainer action shall not include an order to show cause or any other order or judgment except a default order or default judgment in an unlawful detainer action.

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

(3) The party filing a transcript or abstract of judgment or verdict from a United States court held in this state, or from the superior court of another county or from a district court in the county of issuance, shall pay at the time of filing, a fee of fifteen dollars.

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

(5) For the filing of a petition for modification of a decree of dissolution, a fee of twenty dollars shall be paid.

(6) The party filing a demand for jury of six in a civil action, shall pay, at the time of filing, a fee of (~~twenty-five~~) fifty dollars; if the demand is for a jury of twelve the fee shall be (~~fifty~~) one hundred dollars. If, after the party files a demand for a jury of six and pays the required fee, any other party to the action requests a jury of twelve, an additional (~~twenty-five~~) fifty-dollar fee will be required of the party demanding the increased number of jurors.

(7) For filing any paper, not related to or a part of any proceeding, civil or criminal, or any probate matter, required or permitted to be filed in the clerk's office for which no other charge is provided by law, or for filing a petition, written agreement, or memorandum as provided in RCW 11.96.170, the clerk shall collect two dollars.

(8) For preparing, transcribing or certifying any instrument on file or of record in the clerk's office, with or without seal, for the first page or portion thereof, a fee of two dollars, and for each additional page or portion thereof, a fee of one dollar. For authenticating or exemplifying any instrument, a fee of one dollar for each additional seal affixed.

(9) For executing a certificate, with or without a seal, a fee of two dollars shall be charged.

(10) For each garnishee defendant named in an affidavit for garnishment and for each writ of attachment, a fee of five dollars shall be charged.

(11) For approving a bond, including justification thereon, in other than civil actions and probate proceedings, a fee of two dollars shall be charged.

(12) In probate proceedings, the party instituting such proceedings, shall pay at the time of filing the first paper therein, a fee of ~~((seventy-eight))~~ one hundred ten dollars: PROVIDED, HOWEVER, A fee of two dollars shall be charged for filing a will only, when no probate of the will is contemplated. Except as provided for in subsection (13) of this section a fee of two dollars shall be charged for filing a petition, written agreement, or memorandum as provided in RCW 11.96.170.

(13) For filing any petition to contest a will admitted to probate or a petition to admit a will which has been rejected, or a petition objecting to a written agreement or memorandum as provided in RCW 11.96.170, there shall be paid a fee of ~~((seventy-eight))~~ one hundred ten dollars.

(14) For the issuance of each certificate of qualification and each certified copy of letters of administration, letters testamentary or letters of guardianship there shall be a fee of two dollars.

(15) For the preparation of a passport application there shall be a fee of four dollars.

(16) For searching records for which a written report is issued there shall be a fee of eight dollars per hour.

(17) Upon conviction or plea of guilty, upon failure to prosecute an appeal from a court of limited jurisdiction as provided by law, or upon affirmance of a conviction by a court of limited jurisdiction, a defendant in a criminal case shall be liable for a fee of ~~((seventy))~~ one hundred ten dollars.

(18) With the exception of demands for jury hereafter made and garnishments hereafter issued, civil actions and probate proceedings filed prior to midnight, July 1, 1972, shall be completed and governed by the fee schedule in effect as of January 1, 1972: PROVIDED, That no fee shall be assessed if an order of dismissal on the clerk's record be filed as provided by rule of the supreme court.

(19) No fee shall be collected when a petition for relinquishment of parental rights is filed pursuant to RCW 26.33.080 or for forms and instructional brochures provided under RCW 26.50.030.

**Sec. 2.** RCW 36.18.025 and 1985 c 389 s 9 are each amended to read as follows:

~~((Thirty-two))~~ Forty-six percent of the money received from filing fees paid pursuant to RCW 36.18.020~~((, as now or hereafter amended,))~~ shall be transmitted by the county treasurer each month to the state treasurer for deposit in the public safety and education account established under RCW 43.08.250.

**Sec. 3.** RCW 43.08.250 and 1991 sp.s. c 16 s 919 and 1991 sp.s. c 13 s 25 are each reenacted and amended to read as follows:

The money received by the state treasurer from fees, fines, forfeitures, penalties, reimbursements or assessments by any court organized under Title 3 or 35 RCW, or chapter 2.08 RCW, shall be deposited in the public safety and education account which is hereby created in the state treasury. The legislature shall appropriate the funds in the account to promote traffic safety education, highway safety, criminal justice training, crime victims' compensation, judicial education, the judicial information system, civil representation of indigent persons, winter recreation parking, and state game programs. During the fiscal biennium ending June 30, 1993, the legislature may appropriate moneys from the public safety and education account for the purposes of local jail population data collection under RCW 10.98.130, the department of corrections' county partnership program under RCW 72.09.300, the treatment alternatives to street crimes program, the criminal litigation unit of the attorney general's office, and contracts with county officials to provide support enforcement services.

**NEW SECTION. Sec. 4.** A new section is added to chapter 43.08 RCW to read as follows:

(1) Any money appropriated from the public safety and education account pursuant to RCW 43.08.250 for civil representation of indigent persons shall be used solely for the purpose of contracting with qualified legal aid programs for legal representation of indigent persons in matters relating to: (a) Domestic relations and family law matters, (b) public assistance, health care, and entitlement programs, (c) public housing and utilities, and (d) unemployment compensation. For purposes of this section, a "qualified legal aid program" means a not-for-profit corporation incorporated and operating exclusively in Washington which has received basic field funding for the provision of civil legal services to indigents under Public Law 101-515.

(2) Funds distributed to qualified legal aid programs under this section shall be distributed on a basis proportionate to the number of individuals with incomes below the official federal poverty income guidelines who reside within the counties in the geographic service areas of such programs. The department of community development shall use the same formula for determining this distribution as is used by the legal services corporation in allocating funds for basic field services in the state of Washington.

(3)(a) Funds distributed to qualified legal aid programs under this section may not be used directly or indirectly for lobbying or in class action suits. Further, these funds are subject to all limitations and conditions imposed on use of funds made available to legal aid programs under the legal services corporation act of 1974 (P.L. 93-355; P.L. 95-222) as currently in effect or hereafter amended.

(b)(i) For purposes of this section, "lobbying" means any personal service, advertisement, telegram, telephone communication, letter, printed or written

matter, or other device directly or indirectly intended to influence any member of congress or any other federal, state, or local nonjudicial official, whether elected or appointed:

(A) In connection with any act, bill, resolution, or similar legislation by the congress of the United States or by any state or local legislative body, or any administrative rule, standard, rate, or other enactment by any federal, state, or local administrative agency;

(B) In connection with any referendum, initiative, constitutional amendment, or any similar procedure of the congress, any state legislature, any local council, or any similar governing body acting in a legislative capacity; or

(C) In connection with inclusion of any provision in a legislative measure appropriating funds to, or defining or limiting the functions or authority of, the recipient of funds pursuant to this act.

(ii) "Lobbying" does not include the response of an employee of a legal aid program to a written request from a governmental agency, an elected or appointed official, or committee on a specific matter. This exception does not authorize communication with anyone other than the requesting party, or agent or employee of such agency, official, or committee.

NEW SECTION. Sec. 5. A new section is added to chapter 36.18 RCW to read as follows:

The court may waive the filing fees provided for under RCW 36.18.020 (1) and (2) upon affidavit by a party that the party is unable to pay the fee due to financial hardship.

Sec. 6. RCW 27.24.070 and 1985 c 389 s 2 are each amended to read as follows:

In each county pursuant to this chapter, the county treasurer shall deposit in the county or regional law library fund a sum equal to ~~((seven))~~ twelve dollars for every new probate or civil filing fee, including appeals, collected by the clerk of the superior court and ~~((three))~~ six dollars for every fee collected for the commencement of a civil action in district court for the support of the law library in that county or the regional law library to which the county belongs: PROVIDED, That upon a showing of need the ~~((seven))~~ twelve dollar contribution may be increased up to ~~((nine))~~ fifteen dollars upon the request of the law library board of trustees and with the approval of the county legislative body or bodies.

NEW SECTION. Sec. 7. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect April 1, 1992.

Passed the House March 12, 1992.

Passed the Senate March 12, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

## CHAPTER 55

[House Bill 2655]

MUNICIPAL CRIMINAL JUSTICE ACCOUNT—  
DISTRIBUTIONS BASED ON CITY CRIME RATES

Effective Date: 3/26/92

AN ACT Relating to municipal criminal justice account distributions based on city crime rates; reenacting and amending RCW 82.14.320; and declaring an emergency.

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

**Sec. 1.** RCW 82.14.320 and 1991 sp.s. c 26 s 1 and 1991 sp.s. c 13 s 30 are each reenacted and amended to read as follows:

(1) The municipal criminal justice assistance account is created in the state treasury. The account shall consist of all motor vehicle excise tax receipts deposited into the account under chapter 82.44 RCW.

(2) No city may receive a distribution under this section from the municipal criminal justice assistance account unless:

(a) The city has a crime rate in excess of one hundred twenty-five percent of the state-wide average as calculated in the most recent annual report on crime in Washington state as published by the Washington association of sheriffs and police chiefs;

(b) The city has levied the tax authorized in RCW 82.14.030(2) at the maximum rate or the tax authorized in RCW 82.46.010(2) at the maximum rate; and

(c) The city has a per capita yield from the tax imposed under RCW 82.14.030(1) at the maximum rate of less than one hundred fifty percent of the state-wide average per capita yield for all cities from such local sales and use tax.

(3) The moneys deposited in the municipal criminal justice assistance account for distribution under this section shall be distributed at such times as distributions are made under RCW 82.44.150. The distributions shall be made as follows:

(a) Unless reduced by this subsection, thirty percent of the moneys shall be distributed ratably based on population as last determined by the office of financial management to those cities eligible under subsection (2) of this section that have a crime rate determined under subsection (2)(a) of this section which is greater than ((two-times)) one hundred seventy-five percent of the state-wide average crime rate. No city may receive more than fifty percent of any moneys distributed under this subsection (a) but, if a city distribution is reduced as a result of exceeding the fifty percent limitation, the amount not distributed shall be distributed under (b) of this subsection.

(b) The remainder of the moneys, including any moneys not distributed in subsection (2)(a) of this section, shall be distributed to all cities eligible under

subsection (2) of this section ratably based on population as last determined by the office of financial management.

(4) No city may receive more than thirty percent of all moneys distributed under subsection (3) of this section.

(5) Moneys distributed under this section shall be expended exclusively for criminal justice purposes and shall not be used to replace or supplant existing funding. Criminal justice purposes are defined as activities that substantially assist the criminal justice system, which may include circumstances where ancillary benefit to the civil justice system occurs. Existing funding for purposes of this subsection is defined as calendar year 1989 actual operating expenditures for criminal justice purposes. Calendar year 1989 actual operating expenditures for criminal justice purposes exclude the following: Expenditures for extraordinary events not likely to reoccur, changes in contract provisions for criminal justice services, beyond the control of the local jurisdiction receiving the services, and major nonrecurring capital expenditures.

(6) This section expires January 1, 1994.

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

**NEW SECTION. Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House February 17, 1992.

Passed the Senate March 5, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

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## CHAPTER 56

[Senate Bill 6133]

STATE BOARD OF EDUCATION—

SIZE OF BOARD AND TERMS OF MEMBERS—REVISIONS

Effective Date: 6/11/92

AN ACT Relating to state board of education size and terms; and amending RCW 28A.305.010, 28A.305.080, and 28A.305.030.

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

**Sec. 1.** RCW 28A.305.010 and 1990 c 33 s 257 are each amended to read as follows:

The state board of education shall be comprised of ~~((two))~~ one member~~((s))~~ from each congressional district of the state, not including any congressional district at large, elected by the members of the boards of directors of school districts thereof, as hereinafter in this chapter provided, the superintendent of

public instruction and one member elected at large, as provided in this chapter, by the members of the boards of directors of all private schools in the state meeting the requirements of RCW 28A.195.010. The member representing private schools shall not vote on matters affecting public schools. If there is a dispute about whether or not an issue directly affects public schools, the dispute shall be settled by a majority vote of the other members of the board.

**Sec. 2.** RCW 28A.305.080 and 1990 c 33 s 263 are each amended to read as follows:

The term of office of each member of the state board of education shall begin on the second Monday in January next following the election at which he or she was elected, and he or she shall hold office for the term for which he or she was elected and until his or her successor is elected and qualified. Except as otherwise provided in RCW 28A.305.030, each member of the state board of education shall be elected for a term of ~~((six))~~ four years.

**Sec. 3.** RCW 28A.305.030 and 1990 c 33 s 259 are each amended to read as follows:

(1) Whenever any new and additional congressional district is created, except a congressional district at large, the superintendent of public instruction shall call an election in such district at the time of making the call provided for in RCW 28A.305.020. Such election shall be conducted as other elections provided for in this chapter. At the first such election ~~((two))~~ one member~~((s))~~ of the state board of education shall be elected~~((, one for a term of three years and one for a term of six years. At the expiration of the term of each, a member shall be elected))~~ for a term of ~~((six))~~ four years.

(2) The terms of office of members of the state board of education who are elected from the various congressional districts shall not be affected by the creation of either new or new and additional districts. In such an event, each board member may continue to serve in office for the balance of the term for which he or she was elected or appointed: PROVIDED, That the board member continues to reside within the boundaries of the congressional district as they existed at the time of his or her election or appointment. Vacancies which occur in a board member position during the balance of any such term shall be filled pursuant to RCW 28A.305.090 by a successor who resides within the boundaries of the congressional district from which the member whose office was vacated was elected as they existed at the time of his or her election. At the election immediately preceding expiration of the term of office of each board member provided for in this subsection following the creation of either new or new and additional congressional districts, and thereafter, a successor shall be elected from the congressional district which corresponds in number with the congressional district from which the incumbent was appointed or elected.

(3) Notwithstanding any other provision of this section or chapter, in order to reduce the number of state board of education members elected from each

congressional district from two members to one member the following transitional measures shall govern board member terms, elections, and voting:

(a) The terms of office for each of the sixteen state board of education members and positions representing the first through the eighth congressional districts shall terminate in a sequence commencing with the terms of the four members and positions representing the third and sixth congressional districts as of the second Monday of January 1993, followed by the terms of the six members and positions representing the first, fourth, and seventh congressional districts as of the second Monday of January 1994, and ending with the termination of the terms of the six members and positions representing the second, fifth, and eighth congressional districts as of the second Monday of January 1995;

(b) An election shall be conducted under RCW 28A.305.040 through 28A.305.060 each year preceding the termination of one or more terms under (a) of this subsection for the purpose of electing one state board of education member from each correspondingly numbered congressional district for a term of four years;

(c) If for any reason a vacancy occurs in one of two positions representing a congressional district before the termination of the term for the position under (a) of this subsection, no replacement may be appointed or elected and the position shall be deemed eliminated; and

(d) During the transition period from the second Monday of January 1993, to the second Monday of January 1995, a vote on any matter before the state board of education by any one of two members representing the same congressional district shall be equal to one-half a vote and a vote by any other member shall be equal to one full vote. Thereafter, the vote of each member shall be equal to one full vote.

Passed the Senate February 11, 1992.

Passed the House March 3, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

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## CHAPTER 57

[Senate Bill 6289]

### RULE-MAKING HEARINGS—ELECTRONIC TRANSMISSION OF COMMENTS TO

Effective Date: 6/11/92

AN ACT Relating to electronic transmission of comments to administrative rule-making hearings; and amending RCW 34.05.325.

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

**Sec. 1.** RCW 34.05.325 and 1988 c 288 s 304 are each amended to read as follows:

(1) The agency shall make a good faith effort to insure that the information on the proposed rule published pursuant to RCW 34.05.320 accurately reflects the rule to be presented and considered at the oral hearing on the rule. Written comment about a proposed rule, including supporting data, shall be accepted by an agency if received no later than the time and date specified in the notice, or such later time and date established at the rule-making hearing.

(2) The agency shall provide an opportunity for oral comment to be received by the agency in a rule-making hearing.

(3) If the agency possesses equipment capable of receiving telefacsimile transmissions or recorded telephonic communications, the agency may provide in its notice of hearing filed under RCW 34.05.320 that interested parties may comment on proposed rules by these means. If the agency chooses to receive comments by these means, the notice of hearing shall provide instructions for making such comments, including, but not limited to, appropriate telephone numbers to be used; the date and time by which comments must be received; required methods to verify the receipt and authenticity of the comments; and any limitations on the number of pages for telefacsimile transmission comments and on the minutes of tape recorded comments. The agency shall accept comments received by these means for inclusion in the official record if the comments are made in accordance with the agency's instructions.

(4) The agency head, a member of the agency head, or a presiding officer designated by the agency head shall preside at the rule-making hearing. Rule-making hearings shall be open to the public. The agency shall cause a record to be made of the hearing by stenographic, mechanical, or electronic means. Unless the agency head presides or is present at substantially all the hearings, the presiding official shall prepare a memorandum for consideration by the agency head, summarizing the contents of the presentations made at the rule-making hearing. The summarizing memorandum is a public document and shall be made available to any person in accordance with chapter 42.17 RCW.

~~((4))~~ (5) Rule-making hearings are legislative in character and shall be reasonably conducted by the presiding official to afford interested persons the opportunity to present comment. Rule-making hearings may be continued to a later time and place established on the record without publication of further notice under RCW 34.05.320.

Passed the Senate March 8, 1992.

Passed the House March 4, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

## CHAPTER 58

[Senate Bill 6155]

## MILK MARKET AREA POOLING PLANS—REGULATION OF PRODUCER-DEALERS

Effective Date: 6/11/92

AN ACT Relating to state milk marketing orders; amending RCW 15.35.080, 41.06.084, 15.35.110, 15.35.150, and 15.35.310; and adding a new section to chapter 15.35 RCW.

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

**Sec. 1.** RCW 15.35.080 and 1991 c 239 s 4 are each amended to read as follows:

For the purposes of this chapter:

(1) "Department" means the department of agriculture of the state of Washington;

(2) "Director" means the director of the department or the director's duly appointed representative;

(3) "Person" means a natural person, individual, firm, partnership, corporation, company, society, and association, and every officer, agent, or employee thereof. This term shall import either the singular or plural as the case may be;

(4) "Market" or "marketing area" means any geographical area within the state comprising one or more counties or parts thereof, or one or more cities or towns or parts thereof where marketing conditions are substantially similar and which may be designated by the director as one marketing area;

(5) "Milk" means all fluid milk from cows as defined in ~~((chapters 15.32 and 15.36))~~ RCW 15.36.011 as enacted or hereafter amended and rules adopted thereunder;

(6) "Milk products" includes any product manufactured from milk or any derivative or product of milk;

(7) "Milk dealer" means any person engaged in the handling of milk in his or her capacity as the operator of a milk plant, as that term is defined in RCW 15.36.040 as enacted or hereafter amended and rules adopted thereunder:

(a) Who receives milk in an unprocessed state from dairy farms, and who processes milk into milk or milk products; and

(b) Whose milk plant is located within the state or ((of any other plant)) from ((which)) whose milk plant milk or milk products that are produced at least in part from milk from producers are disposed of to any place or establishment within a marketing area;

(8) "Producer" means a person producing milk within this state for sale under a grade A milk permit issued by the department under the provisions of chapter 15.36 RCW as enacted or hereafter amended;

(9) "Classification" means the classification of milk into classes according to its utilization by the department;

(10) The terms "plan," "market area and pooling arrangement," "market area pooling plan," "market area and pooling plan," "market pool," and "market plan" all have the same meaning;

(11) "Producer-dealer" means a producer who engages in the production of milk and also operates a plant from which an average of more than three hundred pounds daily of milk products, except filled milk, is sold within the marketing area and who has been so designated by the director. A state institution which processes and distributes milk of its own production shall be considered a producer-dealer for purposes of this chapter, but the director may by rule exempt such state institutions from any of the requirements otherwise applicable to producer-dealers.

NEW SECTION. **Sec. 2.** A new section is added to chapter 15.35 RCW to read as follows:

(1) Not less than sixty days before a referendum creating a market area and pooling plan with quotas is to be conducted under RCW 15.35.110, the director shall notify each producer-dealer regarding the referendum. Any producer-dealer may choose to vote on the referendum and each choosing to do so shall notify the director in writing of this choice not later than thirty days before the referendum is conducted. Such a producer-dealer and any person who becomes a producer-dealer or producer by acquiring the quota of such a producer-dealer shall be a fully regulated producer under such an approved plan and shall receive a quota which is not less than the sales of milk in fluid form from the producer facilities during the reference period used by the director in determining quotas for producers. Such a producer-dealer shall also be a fully regulated dealer under the terms of such an approved plan. RCW 15.35.310(1) does not apply to a producer-dealer who is subject to regulation under this subsection.

(2) If a person was not a producer-dealer at the time notice was provided to producer-dealers under subsection (1) of this section regarding a referendum on a proposed market area and pooling plan with quotas, the plan was approved by referendum, and the person subsequently became a producer-dealer (other than by virtue of the person's acquisition of the quota of a producer-dealer who is fully regulated under the plan), the person is subject to all of the terms of the plan for producers and dealers during the duration of the plan and RCW 15.35.310(1) does not apply to such a person with regard to that plan.

(3) This subsection applies: To a person who was a producer-dealer at the time the notice was provided to producer-dealers under subsection (1) of this section regarding a referendum which was approved and who did not notify the director under subsection (1) of this section to vote in that referendum; and to a person who acquires the facility of such a person.

If such a person's sales of milk in fluid form subsequent to the adoption of the plan increases such that those sales in any year are more than fifty percent greater than the sales of milk in fluid form from the producer facilities during any of the previous five years, RCW 15.35.310(1) does not apply to that person with regard to that plan. Such a producer-dealer shall be a fully regulated producer under such an approved plan and shall receive a quota which is not less than the producer-dealer's sales of milk in fluid form during the reference period

used by the director in determining quotas for producers. Such a producer-dealer shall also be a fully regulated dealer under the terms of such an approved plan.

If changes are made, on a market area-wide basis, to the quotas established under the plan, the director shall by rule adjust the fifty percent limitation provided by this section by an equivalent amount.

**Sec. 3.** RCW 41.06.084 and 1990 c 37 s 2 are each amended to read as follows:

In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply in the department of agriculture to the director, the director's confidential secretary, the deputy director, not more than eight assistant directors, ~~((and))~~ the state veterinarian, and the milk pooling administrator employed under RCW 15.35.100.

**Sec. 4.** RCW 15.35.110 and 1991 c 239 s 8 are each amended to read as follows:

(1) The director, either upon his or her own motion or upon petition by ten percent of the producers in any proposed area, shall conduct a hearing to determine whether to establish or discontinue a market area pooling arrangement. Upon determination by the director that in order to satisfy the purposes of this chapter a pooling arrangement should be established, a referendum of affected individual producers and milk dealers shall be conducted by the department.

(2) In order for the director to establish a market area and pooling plan:

(a) Sixty-six and two-thirds percent of the producers and producer-dealers that vote must be in favor of establishing a market area and pooling plan; ~~((and))~~

(b) Sixty-six and two-thirds percent of the milk dealers and producer-dealers that vote must be in favor of establishing a market area and pooling plan; and

(c) Producer-dealers providing notice to the director under section 2(1) of this act, shall be authorized to vote both as producers and as milk dealers.

The director, within sixty days from the date the results of the referendum are filed with the secretary of state, shall establish a market pool in the market area, as provided for in this chapter.

(3) If fifty-one percent of the producers and producer-dealers voting representing fifty-one percent of the milk produced in the market area vote to terminate a pooling plan, the director, within one hundred twenty days, shall terminate all the provisions of said market area and pooling arrangement.

(4) A referendum of affected producers, producer-dealers, and milk dealers shall be conducted only when a market area pooling arrangement is to be established ~~((or-terminated))~~. Only producers and producer-dealers who are subject to the plan may vote on the termination of a pooling plan.

**Sec. 5.** RCW 15.35.150 and 1991 c 239 s 11 are each amended to read as follows:

(1) Under a market pool and as used in this section, "quota" means a producer's or producer-dealer's portion of the total sales of milk in fluid form in a market area plus a reserve determined by the director.

(2) The director may in each market area subject to a market plan establish each producer's and each producer-dealer's initial quota in the market area. Such initial quotas shall be determined by the department after due notice and the opportunity for a hearing as provided in chapter 34.05 RCW. In making this determination, consideration shall be given to a history of the producer's production record. In no case shall a producer-dealer receive as a quota an amount which is less than his or her fluid milk sales for the reference period used by the director in determining quotas for other producers.

In any system of establishing quotas, provision shall be made for new producers to qualify for allocation of quota in a reasonable proportion and for old and new producers to participate in any new increase in fluid milk sales in a reasonable proportion. The director may establish a method to proportionately decrease quota allocations in the event decreases in fluid milk consumption occur.

All subsequent changes or new quotas issued shall be determined by the department after due notice and the opportunity for a hearing as provided in chapter 34.05 RCW.

**Sec. 6.** RCW 15.35.310 and 1991 c 239 s 16 are each amended to read as follows:

(1) Except as provided in section 2 of this act, the provisions of this chapter shall not apply to persons designated as producer-dealers, except that:

(a) The director may require pursuant to RCW 15.35.100 any information deemed necessary to verify a producer-dealer's status as a producer-dealer; and

(b) A producer-dealer shall comply with all requirements of this chapter applicable to milk dealers, except those which the director may deem unnecessary.

(2) The director shall upon request designate producer-dealers and adopt rules governing eligibility for designation of a producer-dealer and cancellation of such designation. To receive such designation, a producer-dealer shall, at a minimum:

(a) In its capacity as a handler, have and exercise complete and exclusive control over the operation and management of a plant at which it handles and processes milk received from its own milk production resources and facilities as designated in subsection (4)(a) of this section, the operation and management of which are under the complete and exclusive control of the producer-dealer in its capacity as a dairy farmer;

(b) Neither receive at its designated milk production resources and facilities nor receive, handle, process, or distribute at or through any of its milk handling, processing, or distributing resources and facilities, as designated in subsection (4)(b) of this section, milk products for reconstitution into fluid milk products, or fluid milk products derived from any source other than (i) its designated milk production resources and facilities, (ii) other milk dealers within the limitation

specified in subsection (2)(e) of this section, or (iii) nonfat milk solids which are used to fortify fluid milk products;

(c) Neither be directly nor indirectly associated with the business control or management of, nor have a financial interest in, another dealer's operation; nor shall any other dealer be so associated with the producer-dealer's operation;

(d) Not allow milk from the designated milk production resources and facilities of the producer-dealer to be delivered in the name of another person as producer milk to another handler; and

(e) Not handle fluid milk products derived from sources other than the designated milk production facilities and resources, except for fluid milk product purchased from pool plants which do not exceed in the aggregate a daily average during the month of one hundred pounds.

(3) Designation of any person as a producer-dealer following a cancellation of its prior designation shall be preceded by performance in accordance with subsection (2) of this section for a period of one month.

(4) Designation of a person as a producer-dealer shall include the determination and designation of the milk production, handling, processing, and distributing resources and facilities, all of which shall be deemed to constitute an integrated operation, as follows:

(a) As milk production resources and facilities: All resources and facilities, milking herd, buildings housing such herd, and the land on which such buildings are located, used for the production of milk:

(i) Which are directly, indirectly, or partially owned, operated, or controlled by the producer-dealer;

(ii) In which the producer-dealer in any way has an interest including any contractual arrangement; and

(iii) Which are directly, indirectly, or partially owned, operated, or controlled by any partner or stockholder of the producer-dealer. However, for purposes of this item (4)(a)(iii) any such milk production resources and facilities which the producer-dealer proves to the satisfaction of the director do not constitute an actual or potential source of milk supply for the producer-dealer's operation as such shall not be considered a part of the producer-dealer's milk production resources and facilities; and

(b) As milk handling, processing, and distributing resources and facilities: All resources and facilities including store outlets used for handling, processing, and distributing any fluid milk product:

(i) Which are directly, indirectly, or partially owned, operated, or controlled by the producer-dealer; or

(ii) In which the producer-dealer in any way has an interest, including any contractual arrangement, or with respect to which the producer-dealer directly or indirectly exercises any degree of management or control.

(5) Designation as a producer-dealer shall be canceled automatically upon determination by the director that any of the requirements of subsection (2) of

this section are not continuing to be met, such cancellation to be effective on the first day of the month following the month in which the requirements were not met, or the conditions for cancellation occurred.

- Passed the Senate March 12, 1992.
- Passed the House March 11, 1992.
- Approved by the Governor March 26, 1992.
- Filed in Office of Secretary of State March 26, 1992.

**CHAPTER 59**

[Substitute House Bill 2555]

**DENTAL PRACTICE—UNIVERSITY OF WASHINGTON DENTAL RESIDENTS**

**Effective Date: 6/11/92**

AN ACT Relating to limited dental practice for University of Washington dental residents; and amending RCW 18.32.195.

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

**Sec. 1.** RCW 18.32.195 and 1991 c 3 s 69 are each amended to read as follows:

The board may, without examination, issue a license to persons who possess the qualifications set forth in this section.

(1) The board may, upon written request of the dean of the school of dentistry of the University of Washington, issue a license to practice dentistry in this state to persons who have been licensed or otherwise authorized to practice dentistry in another state or country and who have been accepted for employment by the school of dentistry as full-time faculty members. For purposes of this ((section)) subsection, this means teaching members of the faculty of the school of dentistry of the University of Washington who are so employed on a one hundred percent of work time basis. Such license shall permit the holder thereof to practice dentistry within the confines of the university facilities for a period of one year while he or she is so employed as a full-time faculty member by the school of dentistry of the University of Washington. It shall terminate whenever the holder ceases to be such a full-time faculty member. Such license shall permit the holder thereof to practice dentistry only in connection with his or her duties in employment with the school of dentistry of the University of Washington. This limitation shall be stated on the license.

(2) The board may, upon written request of the dean of the school of dentistry of the University of Washington, issue a limited license to practice dentistry in this state to university residents in postgraduate dental education. The license shall permit the resident dentist to provide dental care only in connection with his or her duties as a university resident.

(3) The board may condition the granting of ((such)) a license under this section with terms the board deems appropriate. All persons licensed under this section shall be subject to the jurisdiction of the dental disciplinary board to the

same extent as other members of the dental profession, in accordance with this chapter, and in addition the licensee may be disciplined by the dental disciplinary board after a hearing has been held in accordance with the provisions set forth in this chapter, and determination by the dental disciplinary board that such licensee has violated any of the restrictions set forth in this section.

((3)) (4) Persons applying for licensure pursuant to this section shall pay the application fee determined by the secretary and, in the event the license applied for is issued, a license fee at the rate provided for licenses generally. After review by the board of dental examiners, licenses issued under this section may be renewed annually if the licensee continues to be employed as a full-time faculty member of the school of dentistry of the University of Washington, or a university resident in postgraduate dental education, and otherwise meets the requirements of the provisions and conditions deemed appropriate by the board of dental examiners. Any person who obtains a license pursuant to this section may, without an additional application fee, apply for licensure under this chapter, in which case the applicant shall be subject to examination and the other requirements of this chapter.

Passed the House February 13, 1992.

Passed the Senate March 6, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

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**CHAPTER 60**

[House Bill 1664]

**AMERICAN SIGN LANGUAGE COURSE AS SATISFYING  
FOREIGN LANGUAGE REQUIREMENT**

**Effective Date:** 6/11/92

AN ACT Relating to education; amending RCW 28A.230.090 and 28B.80.350; and reenacting and amending RCW 28A.410.010.

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

**Sec. 1.** RCW 28A.230.090 and 1990 1st ex.s. c 9 s 301 are each amended to read as follows:

(1) The state board of education shall establish high school graduation requirements or equivalencies for students who commence the ninth grade subsequent to July 1, 1985, that meet or exceed the following:

SUBJECT	CREDITS
English	3
Mathematics	2
Social Studies	
United States history	

and government	1
Washington state	
history and government	1/2
Contemporary world	
history, geography,	
and problems	1
Science (1 credit	
must be in	
laboratory science)	2
Occupational Education	1
Physical Education	2
Electives	5 1/2
Total	18

(2) For the purposes of this section one credit is equivalent to one year of study.

(3) The Washington state history and government requirement may be fulfilled by students in grades seven or eight or both. Students who have completed the Washington state history and government requirement in grades seven or eight or both shall be considered to have fulfilled the Washington state history and government requirement.

(4) A candidate for graduation must have in addition earned a minimum of 18 credits including all required courses. These credits shall consist of the state requirements listed above and such additional requirements and electives as shall be established by each district.

(5) In recognition of the statutory authority of the state board of education to establish and enforce minimum high school graduation requirements, the state board shall periodically reevaluate the graduation requirements and shall report such findings to the legislature in a timely manner as determined by the state board.

(6) Pursuant to any foreign language requirement established by the state board of education or a local school district, or both, for purposes of high school graduation, students who receive instruction in American sign language shall be considered to have satisfied the state or local school district foreign language graduation requirement.

(7) If requested by the student and his or her family, a student who has completed high school courses while in seventh and eighth grade shall be given high school credit which shall be applied to fulfilling high school graduation requirements if:

(a) The course was taken with high school students and the student has successfully passed by completing the same course requirements and examinations as the high school students enrolled in the class; or

(b) The course would qualify for high school credit, because the course is similar or equivalent to a course offered at a high school in the district as determined by the school district board of directors.

(8) Students who have taken and successfully completed high school courses under the circumstances in subsection (7) of this section shall not be required to take an additional competency examination or perform any other additional assignment to receive credit. Subsection (7) of this section shall also apply to students enrolled in high school on April 11, 1990, who took the courses while they were in seventh and eighth grade.

**Sec. 2.** RCW 28A.410.010 and 1988 c 172 s 3 and 1988 c 97 s 1 are each reenacted and amended to read as follows:

The state board of education shall establish, publish, and enforce rules and regulations determining eligibility for and certification of personnel employed in the common schools of this state, including certification for emergency or temporary, substitute or provisional duty and under such certificates or permits as the board shall deem proper or as otherwise prescribed by law. Except for applicants who are applying for certificates which restrict the holder of the certificate to the teaching of students who are sixteen years of age or older, the rules shall require that the initial application for certification shall require a background check of the applicant through the Washington state patrol criminal identification system at the applicant's expense.

In establishing rules pertaining to the qualifications of instructors of American sign language the state board shall consult with the national association of the deaf, "sign instructors guidance network" (s.i.g.n.), and the Washington state association of the deaf for evaluation and certification of sign language instructors.

The superintendent of public instruction shall act as the administrator of any such rules and regulations and have the power to issue any certificates or permits and revoke the same in accordance with board rules and regulations.

**Sec. 3.** RCW 28B.80.350 and 1988 c 172 s 4 are each amended to read as follows:

The board shall coordinate educational activities among all segments of higher education taking into account the educational programs, facilities, and other resources of both public and independent two and four-year colleges and universities. The four-year institutions and the state board for community college education shall coordinate information and activities with the board. The board shall have the following additional responsibilities:

- (1) Promote interinstitutional cooperation;
- (2) Establish minimum admission standards for four-year institutions, including a requirement that coursework in American sign language shall satisfy any foreign language requirement the board or the institutions may establish as a general undergraduate admissions requirement;
- (3) Establish transfer policies;

- (4) Adopt rules implementing statutory residency requirements;
- (5) Develop and administer reciprocity agreements with bordering states and the province of British Columbia;
- (6) Review and recommend compensation practices and levels for administrative employees, exempt under chapter 28B.16 RCW, and faculty using comparative data from peer institutions;
- (7) Monitor higher education activities for compliance with all relevant state policies for higher education;
- (8) Arbitrate disputes between and among four-year institutions or between and among four-year institutions and community colleges at the request of one or more of the institutions involved, or at the request of the governor, or from a resolution adopted by the legislature. The decision of the board shall be binding on the participants in the dispute;
- (9) Establish and implement a state system for collecting, analyzing, and distributing information;
- (10) Recommend to the governor and the legislature ways to remove any economic incentives to use off-campus program funds for on-campus activities; and
- (11) Make recommendations to increase minority participation, and monitor and report on the progress of minority participation in higher education.

Passed the House February 3, 1992.

Passed the Senate March 6, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

**CHAPTER 61**

[Substitute House Bill 2873]

**LOW-LEVEL RADIOACTIVE WASTE TRANSPORTATION AND DISPOSAL—  
FINANCIAL ASSURANCE BY PERMIT HOLDERS**

**Effective Date:** 6/11/92

AN ACT Relating to financial assurance; and amending RCW 43.200.200, 43.200.210, 70.98.095, and 70.98.098.

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

**Sec. 1.** RCW 43.200.200 and 1990 c 82 s 1 are each amended to read as follows:

(1) The director of the department of ecology shall periodically review the potential for bodily injury and property damage ~~((in the packaging, shipping, transporting, treatment, storage,))~~ arising from the transportation and disposal of commercial low-level radioactive ((materials)) waste under ~~((licenses or))~~ permits issued by the state.

(2) ~~((Except as otherwise provided in subsection (7) of this section,))~~ The director ((shall)) may require ((each)) permit holders to ((maintain liability

~~coverage)) demonstrate financial assurance~~ in an amount that is adequate to protect the state and its citizens from all claims, suits, losses, damages, or expenses on account of injuries to persons and property damage arising or growing out of the ~~((packaging, shipping, transporting, treatment, storage, and)) transportation or disposal of commercial low-level radioactive ((materials)) waste. The ~~((liability coverage)) financial assurance~~ may be in the form of insurance, cash deposits, surety bonds, corporate guarantees, and other acceptable instruments or guarantees determined by the director to be acceptable evidence of financial assurance.~~

(3) In making the determination of the appropriate level of ~~((liability coverage)) financial assurance~~, the director shall consider:

(a) The nature and purpose of the activity and its potential for injury and damages to or claims against the state and its citizens;

(b) The current and cumulative manifested volume and radioactivity of ~~((material)) waste~~ being packaged, transported, buried, or otherwise handled;

(c) The location where the ~~((material)) waste~~ is being packaged, transported, buried, or otherwise handled, including the proximity to the general public and geographic features such as geology and hydrology, if relevant; and

(d) The legal defense cost, if any, that will be paid from the required ~~((liability coverage)) financial assurance~~ amount.

(4) The director may establish different levels of required ~~((liability coverage)) financial assurance~~ for various classes of permit holders.

(5) The director shall establish by rule the instruments or mechanisms by which a ~~((person)) permit applicant or holder~~ may demonstrate ~~((liability coverage)) financial assurance~~ as required by RCW 43.200.210. ~~((Any instrument or mechanism approved as an alternative to liability insurance shall provide the state and its citizens with a level of financial protection at least as great as would be provided by liability insurance.))~~

(6) The director shall complete ~~((the first)) a~~ review and determination, and report the results to the legislature~~((,))~~ by December 1, ~~((1987.)) 1994, and~~ at least every five years thereafter, the director shall conduct a new review and determination and report its results to the legislature.

~~((7) (a) The director by rule may exempt from the requirement to provide liability coverage a class of permit holders if the director determines that the exemption of that class will not pose a significant risk to persons or property and will not pose substantial financial risk to the state.~~

~~(b) The director may exempt from the requirement to provide liability coverage an individual permit holder if the director determines that the cost of obtaining that coverage for that permit holder would impose a substantial financial hardship on the person and that failure to maintain the coverage will not pose a significant risk to persons or property and will not pose a substantial financial risk to the state.))~~

**Sec. 2.** RCW 43.200.210 and 1990 c 82 s 2 are each amended to read as follows:

(1)~~((a))~~ The department of ecology shall require that any person who holds or applies for a permit under this chapter indemnify and hold harmless the state from claims, suits, damages, or expenses on account of injuries to or death of persons and property damage, arising or growing out of any operations and activities for which the person holds the ~~((license or))~~ permit, and any necessary or incidental operations.

~~((b) Except for a permit holder not required to maintain liability insurance coverage under RCW 43.200.200(7), the department shall require any person who holds or applies for a permit under this chapter to demonstrate that the person has and maintains liability coverage for the operations for which the state has been indemnified and held harmless pursuant to this section. The agency shall require coverage in an amount determined by the director of the department of ecology pursuant to RCW 43.200.200.))~~

(2) The department of ecology shall refuse to issue or shall suspend the ~~((license))~~ permit of any person required by this section to ~~((hold and maintain liability coverage))~~ demonstrate adequate financial assurance who fails to demonstrate compliance with this section. The permit shall not be issued or reinstated until the person demonstrates compliance with this section.

(3) The department of ecology shall require (a) that any person required to ~~((maintain liability coverage))~~ demonstrate financial assurance maintain with the agency current copies of any insurance policies, certificates of insurance, or any other documents ~~((used to comply with this))~~ sufficient to evidence compliance with this section, (b) that the agency be notified of any changes in the ~~((insurance coverage))~~ instruments of financial assurance or financial condition of the person, and (c) that the state be named as an insured party on any insurance policy used to comply with this section. This subsection shall not apply to any person subject to the same requirements under RCW 70.98.095.

**Sec. 3.** RCW 70.98.095 and 1990 c 82 s 4 are each amended to read as follows:

(1)~~((a))~~ ~~The radiation control agency shall require that any person who holds or applies for a license or permit under this chapter indemnify and hold harmless the state from claims, suits, damages, or expenses on account of injuries to or death of persons and property, arising or growing out of any operations or activities for which the person holds the license or permit, and any necessary or incidental operations.~~

~~((b) Except for a license or permit holder who the secretary has exempted from maintaining liability coverage pursuant to RCW 70.98.098(5), the radiation control agency shall require any person who holds or applies for a license or permit under this chapter to demonstrate that the person has and maintains liability coverage for the operations for which the state has been indemnified and held harmless pursuant to this section.))~~ The radiation control agency ~~((shall))~~

may require ((coverage)) any person who applies for, or holds, a license under this chapter to demonstrate that the person has financial assurance sufficient to assure that liability incurred as a result of licensed operations and activities can be fully satisfied. Financial assurance may be in the form of insurance, cash deposits, surety bonds, corporate guarantees, letters of credit, or other financial instruments or guarantees determined by the agency to be acceptable financial assurance. The agency may require financial assurance in an amount determined by the secretary pursuant to RCW 70.98.098.

(2) ~~The radiation control agency shall ((suspend the license or permit of)) refuse to issue a license or permit or suspend the license or permit of any person required by this section to ((hold and maintain liability coverage)) demonstrate financial assurance who fails to demonstrate compliance with this section. The license or permit shall not be issued or reinstated until the person demonstrates compliance with this section.~~

(3) The radiation control agency shall require (a) that any person required to ~~((maintain liability coverage))~~ demonstrate financial assurance, maintain with the agency current copies of any insurance policies, certificates of insurance, letters of credit, surety bonds, or any other documents used to comply with this section, (b) that the agency be notified of any changes in the ~~((insurance coverage))~~ financial assurance or financial condition of the person, and (c) that the state be named as an insured party on any insurance policy used to comply with this section.

Sec. 4. RCW 70.98.098 and 1990 c 82 s 3 are each amended to read as follows:

(1) ~~((Except as otherwise provided in subsection (5) of this section, the secretary shall require each permit or license holder to maintain liability coverage in an amount that is adequate to protect the state and its citizens from all claims, suits, losses, damages, or expenses on account of injuries to persons and property damage arising or growing out of the packaging, shipping, transporting, treatment, storage, and disposal of commercial low-level radioactive materials. The liability coverage may be in the form of insurance, cash, surety bonds, corporate guarantees, and other acceptable instruments.~~

~~(2))~~ In making the determination of the appropriate level of ~~((liability coverage))~~ financial assurance, the secretary shall consider:

(a) ~~The ((nature and purpose of the activity and its potential for injury and damages to or claims against the state and its citizens;~~

~~(b) The current and cumulative manifested volume and radioactivity of material being packaged, transported, buried, or otherwise handled;~~

~~(c) The location where the material is being packaged, transported, buried, or otherwise handled, including the proximity to the general public and geographic features such as geology and hydrology, if relevant;~~

~~(d) The report prepared by the department of ecology pursuant to RCW 43.200.200; and~~

~~(e) The legal defense cost, if any, that will be paid from the required liability coverage amount.~~

~~(3)) report prepared by the department of ecology pursuant to RCW 43.200.200; (b) the potential cost of decontamination, treatment, disposal, decommissioning, and cleanup of facilities or equipment; (c) federal cleanup and decommissioning requirements; and (d) the legal defense cost, if any, that might be paid from the required financial assurance.~~

~~(2) The secretary may establish different levels of required ((liability coverage)) financial assurance for various classes of permit or license holders.~~

~~((4)) (3) The secretary shall establish by rule the instruments or mechanisms by which a person may demonstrate ((liability coverage)) financial assurance as required by RCW 70.98.095. ((Any instrument or mechanism approved as an alternative to liability insurance shall provide the state and its citizens with a level of financial protection at least as great as would be provided by liability insurance.~~

~~(5)(a) The secretary by rule may exempt from the requirement to provide liability coverage a class of permit or license holders if the secretary determines that the exemption of that class will not pose a significant risk to persons or property and will not pose substantial financial risk to the state.~~

~~(b) The secretary may exempt from the requirement to provide liability coverage an individual permit or license holder if the secretary determines that the cost of obtaining that coverage for that license or permit or license holder would impose a substantial financial hardship on the person and that failure to maintain the coverage will not pose a significant risk to persons or property and will not pose a substantial financial risk to the state.))~~

Passed the House February 18, 1992.

Passed the Senate March 6, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

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**CHAPTER 62**

[Substitute House Bill 2284]

**COUNTY LAW LIBRARIES—**

**GOVERNANCE, MAINTENANCE, AND FUNDING REVISIONS**

**Effective Date: 4/1/92**

AN ACT Relating to counties; amending RCW 27.24.010, 27.24.020, 27.24.040, 27.24.062, 27.24.066, 27.24.067, and 3.62.060; adding a new section to chapter 3.62 RCW; repealing RCW 27.24.050, 27.24.060, 27.24.063, 27.24.064, and 27.24.065; providing an effective date; and declaring an emergency.

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

**Sec. 1.** RCW 27.24.010 and 1919 c 84 s 1 are each amended to read as follows:

~~((In))~~ Each county ~~((having))~~ with a population of ~~((three hundred))~~ eight thousand or more ~~((there))~~ shall ~~((be))~~ have a county law library, which shall be governed and maintained as hereinafter provided.

**Sec. 2.** RCW 27.24.020 and 1919 c 84 s 2 are each amended to read as follows:

~~((There shall be in))~~ (1) Every ~~((such))~~ county with a population of three hundred thousand or more must have a board of law library trustees consisting of five members to be constituted as follows: The chairman of the ~~((board of))~~ county ~~((commissioners shall be))~~ legislative authority is an ex officio ~~((a))~~ trustee, ~~((and))~~ the judges of the superior court of the county shall choose two of their number to be trustees, and the members of the county bar association shall choose two members of the bar of the county to be trustees.

(2) Every county with a population of eight thousand or more but less than three hundred thousand must have a board of law library trustees consisting of five members to be constituted as follows: The chairman of the county legislative authority is an ex officio trustee, the judges of the superior court of the county shall choose one of their number to be a trustee, and the members of the county bar association shall choose three members of the county to be trustees. If there is no county bar association, then the lawyers of the county shall choose three of their number to be trustees.

(3) If a county has a population of less than eight thousand, then the provisions contained in RCW 27.24.068 shall apply to the establishment and operation of the county law library.

(4) If a regional law library is created pursuant to RCW 27.24.062, then it shall be governed by one board of trustees. The board shall consist of the following representatives from each county: The judges of the superior court of the county shall choose one of their number to be a trustee, the county legislative authority shall choose one of their number to be a trustee, and the members of the county bar association shall choose one member of the bar of the county to be a trustee. If there is no county bar association, then the lawyers of the county shall choose one of their number to be a trustee.

(5) The term of office of a member of the board who is a judge ~~((shall be))~~ is for as long as he or she continues to be a judge, and the term of a member who is from the bar ~~((shall be))~~ is four years. Vacancies shall be filled as they occur and in the manner ~~((above))~~ directed in this section. The office of trustee shall be without salary or other compensation. The board shall elect one of their number president and the librarian shall act as secretary, except that in counties with a population of eight thousand or more but less than three hundred thousand, the board shall elect one of their number to act as secretary if no librarian is appointed. Meetings shall be held at least ~~((quarterly and as much oftener and))~~ once per year, and if more often, then at such times as may be prescribed by rule.

**Sec. 3.** RCW 27.24.040 and 1919 c 84 s 4 are each amended to read as follows:

The board of law library trustees shall, on or before the first Monday in September of each year, make a report to the ~~((board of))~~ county ~~((commissioners))~~ legislative authority of their county giving the condition of their trust, with a full statement of all property received and how used, the number of books and other publications on hand, the number added by purchase, gift or otherwise during the preceding year, the number lost or missing, and such other information as may be of public interest, together with a financial report showing all receipts and disbursements of money.

**Sec. 4.** RCW 27.24.062 and 1991 c 363 s 18 are each amended to read as follows:

~~((In each county with a population of from eight thousand to less than one hundred twenty-five thousand, there shall be a county law library which shall be governed and maintained as hereinafter provided.))~~

Two or more ~~((of such))~~ counties each with a population of from eight thousand to less than one hundred twenty-five thousand may, by agreement of the respective law library boards of trustees, create a regional law library and establish and maintain one principal law library at such location as the regional board of trustees may determine will best suit the needs of the users: PROVIDED, HOWEVER, That there shall be at all times a law library in such size as the board of trustees may determine necessary to be located at the courthouse where each superior court is located.

**Sec. 5.** RCW 27.24.066 and 1933 c 167 s 3 are each amended to read as follows:

The ~~((board of))~~ county ~~((commissioners))~~ legislative authority of each county ~~((to which this act is applicable.))~~ that is required to maintain a county law library shall upon demand by the board of law library trustees, provide a room suitable for the law library, ~~((adequately heated, lighted))~~ with adequate heat, light, and janitor service.

**Sec. 6.** RCW 27.24.067 and 1933 c 167 s 3 are each amended to read as follows:

The use of the county law library shall be free to the judges of the state, to state and county officials, and to members of the bar, and to such others as the board of trustees may by rule provide. Residents of counties with a population of three hundred thousand or more shall have free use of the law library.

**NEW SECTION. Sec. 7.** A new section is added to chapter 3.62 RCW to read as follows:

All courts organized under Title 3 or 35 RCW may charge fees as prescribed in RCW 3.62.060. The fees or charges imposed under this section shall be allowed as court costs whenever a judgment for costs is awarded.

**Sec. 8.** RCW 3.62.060 and 1990 c 172 s 2 are each amended to read as follows:

Clerks of the district courts shall collect the following fees for their official services:

(1) In any civil action commenced before or transferred to a district court, the plaintiff shall, at the time of such commencement or transfer, pay to such court a filing fee of ((twenty-five)) thirty-one dollars plus any surcharge authorized by RCW 7.75.035. No party shall be compelled to pay to the court any other fees or charges up to and including the rendition of judgment in the action other than those listed.

(2) For issuing a writ of garnishment or other writ a fee of six dollars.

(3) For filing a supplemental proceeding a fee of twelve dollars.

(4) For demanding a jury in a civil case a fee of fifty dollars to be paid by the person demanding a jury.

(5) For preparing a transcript of a judgment a fee of six dollars.

(6) For certifying any document on file or of record in the clerk's office a fee of five dollars.

(7) For preparing the record of a case for appeal to superior court a fee of forty dollars including any costs of tape duplication as governed by the rules of appeal for courts of limited jurisdiction (RALJ).

(8) For duplication of part or all of the electronic tape or tapes of a proceeding ten dollars per tape.

The fees or charges imposed under this section shall be allowed as court costs whenever a judgment for costs is awarded.

NEW SECTION. Sec. 9. The following acts or parts of acts are each repealed:

- (1) RCW 27.24.050 and 1919 c 84 s 5;
- (2) RCW 27.24.060 and 1919 c 84 s 6;
- (3) RCW 27.24.063 and 1971 ex.s. c 141 s 2 & 1933 c 167 s 3;
- (4) RCW 27.24.064 and 1933 c 167 s 3; and
- (5) RCW 27.24.065 and 1933 c 167 s 3.

NEW SECTION. Sec. 10. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect April 1, 1992.

Passed the House March 12, 1992.

Passed the Senate March 10, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

CHAPTER 63

[Substitute House Bill 2560]

SENIOR ENVIRONMENTAL CORPS

Effective Date: 3/26/92

AN ACT Relating to senior environmental corps; adding new sections to chapter 43.63A RCW; adding a new section to chapter 43.23 RCW; adding a new section to chapter 43.21A RCW; adding a new section to chapter 43.30 RCW; adding a new section to chapter 75.08 RCW; adding a new section to chapter 43.70 RCW; adding a new section to chapter 77.12 RCW; adding a new section to chapter 43.51 RCW; adding a new section to chapter 90.70 RCW; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that:

Enhancement and protection of the state's environment demands more resources than government funding can provide;

A critical underutilized asset to society is the knowledge, skills, abilities, and wisdom of our expanding, able senior population;

Central to the well-being and continued connection to society of Washington's senior citizens is the opportunity for them to voluntarily continue to provide meaningful contributions and to share their professional training, lifelong skills, talents, and wisdom with Washington state's citizens;

It will benefit all the citizens of the state of Washington to create a partnership between our senior citizens and the state's natural resource agencies to augment our capability to protect, enhance, and appreciate the environment.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout sections 1 through 7 of this act.

"Agency" means one of the agencies or organizations participating in the activities of the senior environmental corps.

"Coordinator" means the person designated by the director of the department of community development with the advice of the council to administer the activities of the senior environmental corps.

"Corps" means the senior environmental corps.

"Council" means the senior environmental corps coordinating council.

"Department" means the department of community development.

"Director" means the director of the department of community development or the director's authorized representative.

"Representative" means the person who represents an agency on the council and is responsible for the activities of the senior environmental corps in his or her agency.

"Senior" means any person who is fifty-five years of age or over.

"Volunteer" means a person who is willing to work without expectation of salary or financial reward, and who chooses where he or she provides services and the type of services he or she provides.

NEW SECTION. Sec. 3. The senior environmental corps is created within the department of community development. The departments of

agriculture, community development, ecology, fisheries, health, natural resources, and wildlife, the parks and recreation commission, and the Puget Sound water quality authority shall participate in the administration and implementation of the corps and shall appoint representatives to the council.

**NEW SECTION. Sec. 4.** The goals of the corps shall be to:

Provide resources and a support structure to facilitate corps activities and accomplish goals;

Carry out professional and paraprofessional projects that focus on conservation, protection, rehabilitation, and enhancement of the state's natural, environmental, and recreational resources and that otherwise would not be implemented because of limited financial resources;

Provide meaningful opportunities for senior volunteers to continue to utilize their professional training, lifelong skills, abilities, experience, and wisdom through participation in corps projects;

Assist agencies in carrying out statutory assignments with limited funding resources;

Enhance community understanding of environmental issues through educational outreach; and

Enhance the state's ability to provide needed public services in both urban and rural settings.

**NEW SECTION. Sec. 5.** The department shall convene a senior environmental corps coordinating council to meet as needed to establish and assess policies, define standards for projects, evaluate and select projects, develop recruitment, training, and placement procedures, receive and review project status and completion reports, and provide for recognition of volunteer activity. The council shall include representatives appointed by the departments of agriculture, community development, ecology, fisheries, health, natural resources, and wildlife, the parks and recreation commission, and the Puget Sound water quality authority. The council shall develop bylaws, policies and procedures to govern its activities.

The council shall advise the director on distribution of available funding for corps activities.

**NEW SECTION. Sec. 6.** (1) Contingent upon available funding, the department shall:

Provide a coordinator and staff support to the council as needed;

Provide support to the agencies for recruitment of volunteers;

Develop a budget and allocate available funds with the advice of the council;

Develop a written volunteer agreement;

Collect and maintain project and volunteer records;

Provide reports to the legislature and the council as requested;

Provide agency project managers and volunteers with orientation to the corps program and training in the use of volunteers;

Act as a liaison with and provide information to other states and jurisdictions on the corps program and program activities;

Appoint a representative to the coordinating council;

Develop project proposals;

Administer project activities within the agency;

Develop appropriate procedures for the use of volunteers;

Provide project orientation, technical training, safety training, equipment, and supplies to carry out project activities;

Maintain project records and provide project reports;

Apply for and accept grants or contributions for corps approved projects;  
and

With the approval of the council, enter into memoranda of understanding and cooperative agreements with federal, state, and local agencies to carry out corps approved projects.

(2) The department shall not use corps volunteers to displace currently employed workers.

**NEW SECTION. Sec. 7.** All volunteer activity must be performed under the terms of a written master agreement approved by the council and the attorney general. As a minimum, the volunteer agreement must include a description of the work that the volunteer is to perform, including the standards of performance required, any expenses or other benefits to which the volunteer is to be entitled, such as mileage, lodging, state industrial coverage, uniforms, or other clothing or supplies, training or other support to be provided to the volunteer by the agency, the duration of the agreement, and the terms under which the agreement may be canceled.

**NEW SECTION. Sec. 8.** A new section is added to chapter 43.23 RCW to read as follows:

(1) The department of agriculture shall have the following powers and duties in carrying out its responsibilities for the senior environmental corps created under section 3 of this act:

Appoint a representative to the coordinating council;

Develop project proposals;

Administer project activities within the agency;

Develop appropriate procedures for the use of volunteers;

Provide project orientation, technical training, safety training, equipment, and supplies to carry out project activities;

Maintain project records and provide project reports;

Apply for and accept grants or contributions for corps approved projects;  
and

With the approval of the council, enter into memoranda of understanding and cooperative agreements with federal, state, and local agencies to carry out corps approved projects.

(2) The department shall not use corps volunteers to displace currently employed workers.

**NEW SECTION.** **Sec. 9.** A new section is added to chapter 43.21A RCW to read as follows:

(1) The department of ecology shall have the following powers and duties in carrying out its responsibilities for the senior environmental corps created under section 3 of this act:

- Appoint a representative to the coordinating council;
  - Develop project proposals;
  - Administer project activities within the agency;
  - Develop appropriate procedures for the use of volunteers;
  - Provide project orientation, technical training, safety training, equipment, and supplies to carry out project activities;
  - Maintain project records and provide project reports;
  - Apply for and accept grants or contributions for corps approved projects;
- and

With the approval of the council, enter into memoranda of understanding and cooperative agreements with federal, state, and local agencies to carry out corps approved projects.

(2) The department shall not use corps volunteers to displace currently employed workers.

**NEW SECTION.** **Sec. 10.** A new section is added to chapter 43.30 RCW to read as follows:

(1) The department of natural resources shall have the following powers and duties in carrying out its responsibilities for the senior environmental corps created under section 3 of this act:

- Appoint a representative to the coordinating council;
  - Develop project proposals;
  - Administer project activities within the agency;
  - Develop appropriate procedures for the use of volunteers;
  - Provide project orientation, technical training, safety training, equipment, and supplies to carry out project activities;
  - Maintain project records and provide project reports;
  - Apply for and accept grants or contributions for corps-approved projects;
- and

With the approval of the council, enter into memoranda of understanding and cooperative agreements with federal, state, and local agencies to carry out corps-approved projects.

(2) The department shall not use corps volunteers to displace currently employed workers.

**NEW SECTION.** **Sec. 11.** A new section is added to chapter 75.08 RCW to read as follows:

(1) The department of fisheries shall have the following powers and duties in carrying out its responsibilities for the senior environmental corps created under section 3 of this act:

Appoint a representative to the coordinating council;

Develop project proposals;

Administer project activities within the agency;

Develop appropriate procedures for the use of volunteers;

Provide project orientation, technical training, safety training, equipment, and supplies to carry out project activities;

Maintain project records and provide project reports;

Apply for and accept grants or contributions for corps approved projects;  
and

With the approval of the council, enter into memoranda of understanding and cooperative agreements with federal, state, and local agencies to carry out corps approved projects.

(2) The department shall not use corps volunteers to displace currently employed workers.

**NEW SECTION. Sec. 12.** A new section is added to chapter 43.70 RCW to read as follows:

(1) The department of health shall have the following powers and duties in carrying out its responsibilities for the senior environmental corps created under section 3 of this act:

Appoint a representative to the coordinating council;

Develop project proposals;

Administer project activities within the agency;

Develop appropriate procedures for the use of volunteers;

Provide project orientation, technical training, safety training, equipment, and supplies to carry out project activities;

Maintain project records and provide project reports;

Apply for and accept grants or contributions for corps approved projects;  
and

With the approval of the council, enter into memoranda of understanding and cooperative agreements with federal, state, and local agencies to carry out corps approved projects.

(2) The department shall not use corps volunteers to displace currently employed workers.

**NEW SECTION. Sec. 13.** A new section is added to chapter 77.12 RCW to read as follows:

(1) The department of wildlife shall have the following powers and duties in carrying out its responsibilities for the senior environmental corps created under section 3 of this act:

Appoint a representative to the coordinating council;

Develop project proposals;

Administer project activities within the agency;  
 Develop appropriate procedures for the use of volunteers;  
 Provide project orientation, technical training, safety training, equipment, and supplies to carry out project activities;  
 Maintain project records and provide project reports;  
 Apply for and accept grants or contributions for corps approved projects;  
 and

With the approval of the council, enter into memoranda of understanding and cooperative agreements with federal, state, and local agencies to carry out corps approved projects.

(2) The department shall not use corps volunteers to displace currently employed workers.

**NEW SECTION.** Sec. 14. A new section is added to chapter 43.51 RCW to read as follows:

(1) The parks and recreation commission shall have the following powers and duties in carrying out its responsibilities for the senior environmental corps created under section 3 of this act:

Appoint a representative to the coordinating council;  
 Develop project proposals;  
 Administer project activities within the agency;  
 Develop appropriate procedures for the use of volunteers and procedures for reimbursement of volunteer expenses;  
 Provide project orientation, technical training, safety training, equipment, and supplies to carry out project activities;  
 Maintain project records and provide project reports;  
 Apply for and accept grants or contributions for corps approved projects;  
 and

With the approval of the council, enter into memoranda of understanding and cooperative agreements with federal, state, and local agencies to carry out corps approved projects.

(2) The commission shall not use corps volunteers to displace currently employed workers.

**NEW SECTION.** Sec. 15. A new section is added to chapter 90.70 RCW to read as follows:

(1) The Puget Sound water quality authority shall have the following powers and duties in carrying out its responsibilities for the senior environmental corps created under section 3 of this act:

Appoint a representative to the coordinating council;  
 Develop project proposals;  
 Administer project activities within the agency;  
 Develop appropriate procedures for the use of volunteers;  
 Provide project orientation, technical training, safety training, equipment, and supplies to carry out project activities;

Maintain project records and provide project reports;  
Apply for and accept grants or contributions for corps approved projects;  
and

With the approval of the council, enter into memoranda of understanding and cooperative agreements with federal, state, and local agencies to carry out corps approved projects.

(2) The authority shall not use corps volunteers to displace currently employed workers.

NEW SECTION. Sec. 16. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 17. Sections 1 through 7 of this act are each added to chapter 43.63A RCW.

NEW SECTION. Sec. 18. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House February 15, 1992.

Passed the Senate March 3, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

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**CHAPTER 64**

[Senate Bill 6295]

**DRIVING WHILE INTOXICATED OR UNDER INFLUENCE OF DRUG—  
ATTENDANCE AT PROGRAM FOCUSING ON VICTIMS**

**Effective Date:** 6/11/92

AN ACT Relating to penalties for driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs; adding a new section to chapter 46.61 RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. A new section is added to chapter 46.61 RCW to read as follows:

In addition to penalties that may be imposed under RCW 46.61.515, the court may require a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 or who enters a deferred prosecution program under RCW 10.05.020 based on a violation of RCW 46.61.502 or 46.61.504, to attend an educational program focusing on the emotional, physical, and financial suffering of victims who were injured by persons convicted of driving while under the influence of intoxicants.

Passed the Senate February 12, 1992.  
Passed the House March 4, 1992.  
Approved by the Governor March 26, 1992.  
Filed in Office of Secretary of State March 26, 1992.

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**CHAPTER 65**

[House Bill 2374]

**SENIOR VOLUNTEER PROGRAMS FUNDING**

**Effective Date: 6/11/92**

AN ACT Relating to senior volunteers; adding a new section to chapter 43.63A RCW; creating new sections; providing an effective date; and declaring an emergency.

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

**NEW SECTION. Sec. 1.** The legislature finds that there is a growing number of citizens in the state over the age of sixty who have much to offer their fellow citizens and communities through volunteer service. The legislature further finds that public programs for education, at-risk youth, adult literacy, and combating drug abuse have benefited from and are still in need of the assistance of skilled retired senior volunteer programs volunteers. In addition the legislature further finds that public programs for developmentally disabled, environmental protection, corrections, crime prevention, mental health, long-term and respite care, and housing and homeless, among others, are also in need of volunteer assistance from the retired senior volunteer program.

Therefore, the legislature intends to encourage the increased involvement of senior volunteers by providing funding throughout Washington to promote the development and enhancement of such programs.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.63A RCW to read as follows:

(1) Each biennium the department of community development shall distribute such funds as are appropriated for retired senior volunteer programs (RSVP) as follows:

(a) At least sixty-five percent of the moneys may be distributed according to formulae and criteria to be determined by the department of community development in consultation with the RSVP directors association.

(b) Up to twenty percent of the moneys may be distributed by competitive grant process to develop RSVP projects in counties not presently being served, or to expand existing RSVP services into counties not presently served.

(c) Ten percent of the moneys may be used by the department of community development for administration, monitoring of the grants, and providing technical assistance to the RSVP projects.

(d) Up to five percent of the moneys may be used to support projects that will benefit RSVPs state-wide.

(2) Grants under subsection (1) of this section shall give priority to programs in the areas of education, tutoring, English as a second language, combating of and education on drug abuse, housing and homeless, and respite care, and shall be distributed in accordance with the following:

(a) None of the grant moneys may be used to displace any paid employee in the area being served.

(b) Grants shall be made for programs that focus on:

(i) Developing new roles for senior volunteers in nonprofit and public organizations with special emphasis on areas targeted in section 1 of this act. The roles shall reflect the diversity of the local senior population and shall respect their life experiences;

(ii) Increasing the expertise of volunteer managers and RSVP managers in the areas of communication, recruitment, motivation, and retention of today's over-sixty population;

(iii) Increasing the number of senior citizens recruited, referred, and placed with nonprofit and public organizations; and

(iv) Providing volunteer support such as: Mileage to and from the volunteer assignment, recognition, and volunteer insurance.

***\*NEW SECTION. Sec. 3. The department of community development may immediately take such steps as are necessary to ensure that this act is implemented promptly.***

\*Sec. 3 was vetoed, see message at end of chapter.

***\*NEW SECTION. Sec. 4. (1) Sections 1 and 2 of this act shall take effect July 1, 1992.***

***(2) Section 3 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.***

\*Sec. 4 was vetoed, see message at end of chapter.

Passed the House February 14, 1992.

Passed the Senate March 5, 1992.

Approved by the Governor March 26, 1992, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State March 26, 1992.

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

"I am returning herewith, without my approval as to sections 3 and 4, House Bill No. 2374 entitled:

"AN ACT Relating to senior volunteers."

House Bill No. 2374 establishes a statutory formula for distributing funds to local retired senior volunteer programs. The legislation will provide a solid framework for funding these activities. Senior volunteer programs provide important assistance to respond to a wide range of social concerns and local needs.

I am concerned, however, with the possible confusion which may occur with the enactment of sections 3 and 4. These sections direct the Department of Community Development to act immediately to implement the bill, delay implementation of sections 1 and 2 until July 1 of this year, and enact section 3 of the bill at an intermediate date.

While I believe it is important to implement this legislation rapidly, the language in these sections is contradictory and unnecessary.

For this reason, I have vetoed sections 3 and 4 of House Bill No. 2374.

With the exception of sections 3 and 4, House Bill No. 2374 is approved."

## CHAPTER 66

[Substitute House Bill 2735]

### CENTER FOR VOLUNTEERISM AND CITIZEN SERVICE

Effective Date: 6/11/92

AN ACT Relating to the center for volunteerism and citizen service; and amending RCW 43.150.010, 43.150.020, 43.150.030, 43.150.040, 43.150.050, 43.150.060, and 43.150.070.

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

Sec. 1. RCW 43.150.010 and 1982 1st ex.s. c 11 s 1 are each amended to read as follows:

(1) The legislature finds that:

(a) Large numbers of Washington's citizens are actively engaged in carrying forward the ethic of service and voluntary activities that benefit their citizens, their communities, and the entire state;

~~(b) ((Volunteers, working on their own and with agencies and organizations, are involved in the development and enhancement of all areas of community service and activity;~~

~~(e) The)) This contribution ((thus made)) continues to provide((s)) the equivalent of hundreds of millions of dollars in services that might otherwise create a need for additional tax collections;~~

~~((d) The state itself, through the programs and services of its agencies as well as through the provisions of law and rule making, has a substantial impact on volunteer efforts and programs;~~

~~(e) Public and private agencies depend in large measure on the efforts of volunteers for the accomplishment of their missions and actively seek to increase these efforts;~~

~~(f) Business, industry, and labor in Washington state are increasingly interested in opportunities for community service;~~

~~(g) Many needs remain which could and should be met by volunteers working on their own and through local and state wide organizations, both governmental and private, nonprofit agencies;~~

~~(h) Many Washington citizens have yet to become fully involved in the life of their communities;~~

~~(i) The opportunity exists to encourage greater and more effective involvement of volunteers in the provision of needed community services; and~~

~~(j) Planned and coordinated recognition, information, training, and technical assistance for volunteer efforts through a state wide center for voluntary action~~

~~have been proven to be effective means of multiplying the resources volunteers bring to the needs of their communities.))~~

(c) Many Washington citizens have yet to become fully involved in the life of their communities; many societal needs exist that could and should be met by new citizen service initiatives;

(d) The state of Washington needs to continue to encourage and expand the ethic of civic responsibility among its citizenry, through individuals working on their own, and through local and state-wide organizations, both governmental and private and nonprofit agencies;

(e) This ethic of citizen service benefits those who serve and those who receive services; in both cases there is the betterment of all Washington communities;

(f) Public and private agencies depend in large measure on the efforts of volunteers for the accomplishment of their missions and actively seek to increase these efforts;

(g) State agencies can and should extend their service delivery programs through the increased use of and support for volunteers;

(h) The national and community service act of 1990 provides an opportunity for Washington to support citizen service and volunteer activities in Washington;

(i) Business, industry, communities, schools, and labor in Washington state are increasingly interested in opportunities for community service and in developing the volunteer and service ethic;

(j) While providing both tangible and intangible benefits, volunteers in turn need respect and support for their efforts;

(k) The state itself, through the programs and services of its agencies as well as through the provisions of law and rulemaking, can and should provide a primary role and focus for encouraging the ethic of citizen service and support for volunteer efforts and programs;

(l) Planned and coordinated recognition, information, training, and technical assistance for volunteer and citizen service efforts through a state-wide center for voluntary action have been proven to be effective means of multiplying the resources volunteers bring to the needs of their communities; and

(m) It is important that Washington state position itself to raise volunteerism to the highest attainable levels, and along with the private sector, become a voice in the role citizen service will take in providing solutions to societal needs.

(2) Therefore, the legislature, in recognition of these findings, enacts the center for ~~((Voluntary Action))~~ volunteerism and citizen service act to ensure that the state of Washington actively promotes the ethic of service and makes every appropriate effort to encourage effective involvement of individuals in their communities and of volunteers who supplement the services of private, nonprofit community agencies and organizations, agencies of local government throughout the state, and the state government.

**Sec. 2.** RCW 43.150.020 and 1982 1st ex.s. c 11 s 2 are each amended to read as follows:

This chapter may be known and cited as the center for ((Voluntary Action)) volunteerism and citizen service act.

**Sec. 3.** RCW 43.150.030 and 1982 1st ex.s. c 11 s 3 are each amended to read as follows:

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

(1) "Volunteer" means a person who is willing to work without expectation of salary or financial reward and who chooses where he or she provides services and the type of services he or she provides.

(2) "Center" means the state center for ((voluntary action)) volunteerism and citizen service.

(3) "Council" means the Washington state council on ((voluntary action)) volunteerism and citizen service.

**Sec. 4.** RCW 43.150.040 and 1985 c 6 s 11 are each amended to read as follows:

The governor may establish a state-wide center for ((voluntary action)) volunteerism and citizen service within the department of community development and appoint ((a coordinator)) an executive administrator, who may employ such staff as necessary to carry out the purposes of this chapter. The provisions of chapter 41.06 RCW do not apply to the ((coordinator)) executive administrator and the staff.

**Sec. 5.** RCW 43.150.050 and 1988 c 206 s 301 are each amended to read as follows:

The center, working in cooperation with individuals, local groups, and organizations throughout the state, may undertake any program or activity for which funds are available which furthers the goals of this chapter. These programs and activities may include, but are not limited to:

(1) Providing information about programs, activities, and resources of value to volunteers and to organizations operating or planning volunteer or citizen service programs;

(2) Sponsoring recognition events for outstanding individuals and organizations;

(3) Facilitating the involvement of business, industry, government, and labor in community service and betterment;

(4) Organizing, or assisting in the organization of, training workshops and conferences;

(5) Publishing schedules of significant events, lists of published materials, accounts of successful programs and programming techniques, and other information concerning the field of volunteerism and citizen service, and distributing this information broadly;

(6) Reviewing the laws and rules of the state of Washington, and proposed changes therein, to determine their impact on the success of volunteer activities and programs, and recommending such changes as seem appropriate to ensure the achievement of the goals of this chapter;

(7) Seeking funding sources for enhancing, promoting, and supporting the ethic of service and facilitating or providing information to those organizations and agencies which may benefit;

(8) Providing information about agencies and individuals who are working to prevent the spread of the human immunodeficiency virus, as defined in chapter 70.24 RCW, and to agencies and individuals who are working to provide health and social services to persons with acquired immunodeficiency syndrome, as defined in chapter 70.24 RCW.

Sec. 6. RCW 43.150.060 and 1987 c 505 s 39 are each amended to read as follows:

(1) There is created the Washington state council on ~~((voluntary-action))~~ volunteerism and citizen service to assist the governor and the center in the accomplishment of its mission.

(2) ~~((Giving due consideration to geographic representation,))~~ The governor shall appoint the members of the council as provided in this section. In making appointments to the council, the governor shall give due consideration to geographic, age, and ethnic representation. The governor shall also consider individuals involved in citizen service from private and public nonprofit organizations, state and local government, labor organizations and the business community, and educational institutions, as well as youth and low-income individuals who are involved in citizen service.

(3) The governor shall appoint a chair for the council.

(4) The advisory council shall have an odd number of members, including its chair, appointed or reappointed for three-year terms, with a total membership of no less than fifteen and no more than ~~((twenty-one))~~ twenty-five.

(5) Members of the council shall upon request be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(6) The council and its members shall:

(a) Advise the governor as the governor may request and direct;

(b) Propose, review, and evaluate activities and programs of the center and, to the degree practical, advocate decentralization of the center's activities, facilitate but not require or hinder existing local volunteer services, and not advocate the replacement of needed paid staff with volunteers; ~~((and))~~

(c) Seek additional funding sources, particularly federal grants if appropriate, that will support, promote, and enhance the ethic of citizen service throughout the state; and

(d) Represent the governor and the center on such occasions and in such manner as the governor may from time to time provide.

**Sec. 7.** RCW 43.150.070 and 1982 1st ex.s. c 11 s 7 are each amended to read as follows:

(1) The center may receive such gifts, grants, and endowments from private or public sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purpose of the center and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments. The center may charge reasonable fees, or other appropriate charges, for attendance at workshops and conferences, for various publications and other materials which it is authorized to prepare and distribute for the purpose of defraying all or part of the costs of those activities and materials.

(2) A fund known as the voluntary action center fund is created, which consists of all gifts, grants, and endowments, fees, and other revenues received pursuant to this chapter. The state treasurer is the custodian of the fund. Disbursements from the fund shall be on authorization of the ~~((coordinator))~~ executive administrator of the center or the ~~((coordinator's))~~ administrator's designee, and may be made for the following purposes to enhance the capabilities of the center's activities, such as: (a) Reimbursement of center volunteers for travel expenses as provided in RCW 43.03.050 and 43.03.060; (b) publication and distribution of materials involving volunteerism and citizen service; (c) for other purposes designated in gifts, grants, or endowments consistent with the purposes of this chapter. The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements.

Passed the House February 17, 1992.

Passed the Senate March 3, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

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## CHAPTER 67

[Substitute House Bill 2796]

### WATER WELL CONSTRUCTION PROGRAM—ENFORCEMENT BY LOCAL AGENCIES

Effective Date: 6/11/92

AN ACT Relating to delegation of water well construction enforcement authority; adding a new section to chapter 18.104 RCW; creating a new section; and providing an expiration date.

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

**NEW SECTION. Sec. 1.** The legislature finds that the public health and safety and the environment would be enhanced by permitting qualified local governmental agencies to administer and enforce portions of the water well construction program.

**NEW SECTION. Sec. 2.** A new section is added to chapter 18.104 RCW to read as follows:

(1) If requested in writing by the governing body of a local health district or county, the department by memorandum of agreement may delegate to the governing body the authority to administer and enforce the well sealing and decommissioning portions of the water well construction program.

(2) The department shall determine whether a local health district or county that seeks delegation under this section has the resources, capability, and expertise, including qualified field inspectors, to administer the delegated program. If the department determines the local government has these resources, it shall notify drilling contractors, consultants, and operators of the proposal. The department shall accept written comments on the proposal for sixty days after the notice is mailed.

(3) If the department determines that a delegation of authority to a local health district or county to administer and enforce the well sealing and decommissioning portions of the water well construction program will enhance the public health and safety and the environment, the department and the local governing body may enter into a memorandum of agreement setting forth the specific authorities delegated by the department to the local governing body. The memorandum of agreement shall provide for an initial review of the delegation within one year and for periodic review thereafter.

(4) The local governing body shall exercise any authority delegated under this section in accordance with this chapter, other applicable laws, the memorandum of agreement, and applicable ordinances. If, after a public hearing, the department determines that a local governing body is not administering the program in accordance with this chapter, it shall notify the local governing body of the deficiencies. If corrective action is not taken within a reasonable time, not to exceed sixty days, the department by order shall withdraw the delegation of authority.

(5) The department shall promptly furnish the local governing body with a copy of each water well report and notification of start cards received in the area covered by a delegated program.

(6) The department and the local governing body shall coordinate to reduce duplication of effort and shall share all appropriate information including technical reports, violations, and well reports.

(7) Any person aggrieved by a decision of a local health district or county under a delegated program may appeal the decision to the department. The department's decision is subject to review by the pollution control hearings board as provided in RCW 18.104.130.

(8) The department shall not delegate the authority to license water well contractors, renew licenses, receive notices of intent to commence drilling a well, receive well reports, or collect state fees provided for in this chapter.

NEW SECTION. Sec. 3. Sections 1 and 2 of this act shall expire June 30, 1996.

Passed the House March 7, 1992.  
Passed the Senate March 4, 1992.  
Approved by the Governor March 26, 1992.  
Filed in Office of Secretary of State March 26, 1992.

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**CHAPTER 68**

[Substitute House Bill 2465]

**TELECOMMUNICATIONS SERVICES—****TEMPORARY TARIFF REDUCTION OR WAIVER TO PROMOTE SERVICE****Effective Date: 6/11/92**

AN ACT Relating to authorizing a temporary reduction or waiver of existing tariff charges for the purpose of promoting a telecommunications service; and amending RCW 80.04.130 and 80.36.130.

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

**Sec. 1.** RCW 80.04.130 and 1990 c 170 s 1 are each amended to read as follows:

(1) Whenever any public service company shall file with the commission any schedule, classification, rule or regulation, the effect of which is to change any rate, charge, rental or toll theretofore charged, the commission shall have power, either upon its own motion or upon complaint, upon notice, to enter upon a hearing concerning such proposed change and the reasonableness and justness thereof, and pending such hearing and the decision thereon the commission may suspend the operation of such rate, charge, rental or toll for a period not exceeding ten months from the time the same would otherwise go into effect, and after a full hearing the commission may make such order in reference thereto as would be provided in a hearing initiated after the same had become effective. The commission shall not suspend a tariff that makes a decrease in a rate, charge, rental, or toll filed by a telecommunications company pending investigation of the fairness, justness, and reasonableness of the decrease when the filing does not contain any offsetting increase to another rate, charge, rental, or toll and the filing company agrees to not file for an increase to any rate, charge, rental, or toll to recover the revenue deficit that results from the decrease for a period of one year. The filing company shall file with any decrease sufficient information as the commission by rule may require to demonstrate the decreased rate, charge, rental, or toll is above the long run incremental cost of the service. A tariff decrease that results in a rate that is below long run incremental cost, or is contrary to commission rule or order, or the requirements of this chapter, shall be rejected for filing and returned to the company. The commission may prescribe a different rate to be effective on the prospective date stated in its final order after its investigation, if it concludes based on the record that the originally filed and effective rate is unjust, unfair, or unreasonable.

For the purposes of this section, tariffs for the following telecommunications services, that temporarily waive or reduce charges for existing or new subscribers

for a period not to exceed sixty days in order to promote the use of the services shall be considered tariffs that decrease rates, charges, rentals, or tolls:

(a) Custom calling service;

(b) Second access lines; or

(c) Other services the commission specifies by rule.

The commission may suspend any promotional tariff other than those listed in (a) through (c) of this subsection.

The commission may suspend the initial tariff filing of any water company removed from and later subject to commission jurisdiction because of the number of customers or the average annual gross revenue per customer provisions of RCW 80.04.010. The commission may allow temporary rates during the suspension period. These rates shall not exceed the rates charged when the company was last regulated. Upon a showing of good cause by the company, the commission may establish a different level of temporary rates.

(2) At any hearing involving any change in any schedule, classification, rule or regulation the effect of which is to increase any rate, charge, rental or toll theretofore charged, the burden of proof to show that such increase is just and reasonable shall be upon the public service company.

(3) The implementation of mandatory local measured telecommunications service is a major policy change in available telecommunications service. The commission shall not accept for filing or approve, prior to June 1, 1993, a tariff filed by a telecommunications company which imposes mandatory local measured service on any customer or class of customers, except that, upon finding that it is in the public interest, the commission may accept for filing and approve a tariff that imposes mandatory measured service for a telecommunications company's extended area service or foreign exchange service. This subsection does not apply to land, air, or marine mobile service, or to pay telephone service, or to any service which has been traditionally offered on a measured service basis.

(4) The implementation of Washington telephone assistance program service is a major policy change in available telecommunications service. The implementation of Washington telephone assistance program service will aid in achieving the stated goal of universal telephone service.

**Sec. 2.** RCW 80.36.130 and 1989 c 101 s 11 are each amended to read as follows:

(1) Except as provided in RCW 80.04.130 and 80.36.150, no telecommunications company shall charge, demand, collect or receive different compensation for any service rendered or to be rendered than the charge applicable to such service as specified in its schedule on file and in effect at that time, nor shall any telecommunications company refund or remit, directly or indirectly, any portion of the rate or charge so specified, nor extend to any person or corporation any form of contract or agreement or any rule or regulation or any privilege or facility except such as are specified in its schedule filed and in effect at the time,

and regularly and uniformly extended to all persons and corporations under like circumstances for like or substantially similar service.

(2) No telecommunications company subject to the provisions of this title shall, directly or indirectly, give any free or reduced service or any free pass or frank for the transmission of messages by telecommunications between points within this state, except to its officers, employees, agents, pensioners, surgeons, physicians, attorneys at law, and their families, and persons and corporations exclusively engaged in charitable and eleemosynary work, and ministers of religion, Young Men's Christian Associations, Young Women's Christian Associations; to indigent and destitute persons, and to officers and employees of other telecommunications companies, railroad companies, and street railroad companies.

(3) The commission may accept a tariff that gives free or reduced rate services for a temporary period of time in order to promote the use of the services.

Passed the House February 12, 1992.

Passed the Senate March 2, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

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**CHAPTER 69**

[Engrossed Substitute House Bill 2928]

**OPEN SPACE TAXATION—ADMINISTRATION AND CLASSIFICATION REVISIONS**

**Effective Date: 1/1/93**

AN ACT Relating to open spaces; amending RCW 84.33.120, 84.33.140, 84.33.145, 84.34.020, 84.34.035, 84.34.037, 84.34.050, 84.34.060, 84.34.065, 84.34.070, 84.34.080, 84.34.108, 84.34.145, 84.34.150, 84.34.155, 84.34.160, 84.34.320, and 84.34.360; adding new sections to chapter 84.34 RCW; and providing an effective date.

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

**Sec. 1.** RCW 84.33.120 and 1986 c 238 s 1 are each amended to read as follows:

(1) In preparing the assessment rolls as of January 1, 1982, for taxes payable in 1983 and each January 1st thereafter, the assessor shall list each parcel of forest land at a value with respect to the grade and class provided in this subsection and adjusted as provided in subsection (2) of this section and shall compute the assessed value of the land by using the same assessment ratio he or she applies generally in computing the assessed value of other property in his or her county. Values for the several grades of bare forest land shall be as follows.

LAND GRADE	OPERABILITY CLASS	VALUES PER ACRE
	1	\$141

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1	2	136
	3	131
	4	95
<hr/>		
2	1	118
	2	114
	3	110
	4	80
<hr/>		
3	1	93
	2	90
	3	87
	4	66
<hr/>		
4	1	70
	2	68
	3	66
	4	52
<hr/>		
5	1	51
	2	48
	3	46
	4	31
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6	1	26
	2	25
	3	25
	4	23
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7	1	12
	2	12
	3	11
	4	11
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8		1
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(2) On or before December 31, 1981, the department shall adjust, by rule under chapter 34.05 RCW, the forest land values contained in subsection (1) of this section in accordance with this subsection, and shall certify these adjusted values to the county assessor for his or her use in preparing the assessment rolls as of January 1, 1982. For the adjustment to be made on or before December 31, 1981, for use in the 1982 assessment year, the department shall:

(a) Divide the aggregate value of all timber harvested within the state between July 1, 1976, and June 30, 1981, by the aggregate harvest volume for the same period, as determined from the harvester excise tax returns filed with the department under RCW 82.04.291 and 84.33.071; and

(b) Divide the aggregate value of all timber harvested within the state between July 1, 1975, and June 30, 1980, by the aggregate harvest volume for the same period, as determined from the harvester excise tax returns filed with the department under RCW 82.04.291 and 84.33.071; and

(c) Adjust the forest land values contained in subsection (1) of this section by a percentage equal to one-half of the percentage change in the average values of harvested timber reflected by comparing the resultant values calculated under (a) and (b) of this subsection.

For the adjustments to be made on or before December 31, 1982, and each succeeding year thereafter, the same procedure shall be followed as described in this subsection utilizing harvester excise tax returns filed under RCW 82.04.291 and this chapter except that this adjustment shall be made to the prior year's adjusted value, and the five-year periods for calculating average harvested timber values shall be successively one year more recent.

(3) In preparing the assessment roll for 1972 and each year thereafter, the assessor shall enter as the true and fair value of each parcel of forest land the appropriate grade value certified to him or her by the department of revenue, and he or she shall compute the assessed value of such land by using the same assessment ratio he or she applies generally in computing the assessed value of other property in his or her county. In preparing the assessment roll for 1975 and each year thereafter, the assessor shall assess and value as classified forest land all forest land that is not then designated pursuant to RCW 84.33.120(4) or 84.33.130 and shall make a notation of such classification upon the assessment and tax rolls. On or before January 15 of the first year in which such notation is made, the assessor shall mail notice by certified mail to the owner that such land has been classified as forest land and is subject to the compensating tax imposed by this section. If the owner desires not to have such land assessed and valued as classified forest land, he or she shall give the assessor written notice thereof on or before March 31 of such year and the assessor shall remove from the assessment and tax rolls the classification notation entered pursuant to this subsection, and shall thereafter assess and value such land in the manner provided by law other than this chapter 84.33 RCW.

(4) In any year commencing with 1972, an owner of land which is assessed and valued by the assessor other than pursuant to the procedures set forth in RCW 84.33.110 and this section, and which has, in the immediately preceding year, been assessed and valued by the assessor as forest land, may appeal to the county board of equalization by filing an application with the board in the manner prescribed in subsection (2) of RCW 84.33.130. The county board shall afford the applicant an opportunity to be heard if the application so requests and

shall act upon the application in the manner prescribed in subsection (3) of RCW 84.33.130.

(5) Land that has been assessed and valued as classified forest land as of any year commencing with 1975 assessment year or earlier shall continue to be so assessed and valued until removal of classification by the assessor only upon the occurrence of one of the following events:

(a) Receipt of notice from the owner to remove such land from classification as forest land;

(b) Sale or transfer to an ownership making such land exempt from ad valorem taxation;

(c) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that, because of actions taken by the owner, such land is no longer primarily devoted to and used for growing and harvesting timber;

(d) Determination that a higher and better use exists for such land than growing and harvesting timber after giving the owner written notice and an opportunity to be heard;

(e) Sale or transfer of all or a portion of such land to a new owner, unless the new owner has signed a notice of forest land classification continuance except transfer to an owner who is an heir or devisee of a deceased owner, shall not, by itself, result in removal of classification. The signed notice of continuance shall be attached to the real estate excise tax affidavit provided for in RCW 82.45.120, as now or hereafter amended. The notice of continuance shall be on a form prepared by the department of revenue. If the notice of continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all compensating taxes calculated pursuant to subsection (7) of this section shall become due and payable by the seller or transferor at time of sale. The county auditor shall not accept an instrument of conveyance of classified forest land for filing or recording unless the new owner has signed the notice of continuance or the compensating tax has been paid. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (7) of this section to the county board of equalization. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals.

The assessor shall remove classification pursuant to subsections (c) or (d) above prior to September 30 of the year prior to the assessment year for which termination of classification is to be effective. Removal of classification as forest land upon occurrence of subsection (a), (b), (d), or (e) above shall apply only to the land affected, and upon occurrence of subsection (c) shall apply only to the actual area of land no longer primarily devoted to and used for growing and harvesting timber: PROVIDED, That any remaining classified forest land meets necessary definitions of forest land pursuant to RCW 84.33.100 as now or hereafter amended.

(6) Within thirty days after such removal of classification as forest land, the assessor shall notify the owner in writing setting forth the reasons for such removal. The owner of such land shall thereupon have the right to apply for designation of such land as forest land pursuant to subsection (4) of this section or RCW 84.33.130. The seller, transferor, or owner may appeal such removal to the county board of equalization.

(7) Unless the owner successfully applies for designation of such land or unless the removal is reversed on appeal, notation of removal from classification shall immediately be made upon the assessment and tax rolls, and commencing on January 1 of the year following the year in which the assessor made such notation, such land shall be assessed on the same basis as real property is assessed generally in that county. Except as provided in subsections (5)(e) and (9) of this section and unless the assessor shall not have mailed notice of classification pursuant to subsection (3) of this section, a compensating tax shall be imposed which shall be due and payable to the county treasurer thirty days after the owner is notified of the amount of the compensating tax. As soon as possible, the assessor shall compute the amount of such compensating tax and mail notice to the owner of the amount thereof and the date on which payment is due. The amount of such compensating tax shall be equal to:

(a) The difference, if any, between the amount of tax last levied on such land as forest land and an amount equal to the new assessed valuation of such land multiplied by the dollar rate of the last levy extended against such land, multiplied by

(b) A number, in no event greater than ten, equal to the number of years, commencing with assessment year 1975, for which such land was assessed and valued as forest land.

(8) Compensating tax, together with applicable interest thereon, shall become a lien on such land which shall attach at the time such land is removed from classification as forest land and shall have priority to and shall be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation or responsibility to or with which such land may become charged or liable. Such lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes as provided in RCW 84.64.050. Any compensating tax unpaid on its due date shall thereupon become delinquent. From the date of delinquency until paid, interest shall be charged at the same rate applied by law to delinquent ad valorem property taxes.

(9) The compensating tax specified in subsection (7) of this section shall not be imposed if the removal of classification as forest land pursuant to subsection (5) of this section resulted solely from:

(a) Transfer to a government entity in exchange for other forest land located within the state of Washington;

(b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power;

~~(c) ((Sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in such land;~~

(d)) A donation of development rights, or the right to harvest timber, to a government agency or organization qualified under RCW 84.34.210 and 64.04.130 for the purposes enumerated in those sections or the sale or transfer of fee title to a governmental entity or nonprofit nature conservancy corporation, as defined in RCW 64.04.130, exclusively for the protection and conservation of lands recommended for state natural area preserve purposes by the natural heritage council and natural heritage plan as defined in chapter 79.70 RCW: PROVIDED, That at such time as the land is not used for the purposes enumerated, the compensating tax specified in subsection (7) of this section shall be imposed upon the current owner.

(10) With respect to any land that has been designated prior to May 6, 1974, pursuant to RCW 84.33.120(4) or 84.33.130, the assessor may, prior to January 1, 1975, on his or her own motion or pursuant to petition by the owner, change, without imposition of the compensating tax provided under RCW 84.33.140, the status of such designated land to classified forest land.

**Sec. 2.** RCW 84.33.140 and 1986 c 238 s 2 are each amended to read as follows:

(1) When land has been designated as forest land pursuant to RCW 84.33.120(4) or 84.33.130, a notation of such designation shall be made each year upon the assessment and tax rolls, a copy of the notice of approval together with the legal description or assessor's tax lot numbers for such land shall, at the expense of the applicant, be filed by the assessor in the same manner as deeds are recorded, and such land shall be graded and valued pursuant to RCW 84.33.110 and 84.33.120 until removal of such designation by the assessor upon occurrence of any of the following:

(a) Receipt of notice from the owner to remove such designation;

(b) Sale or transfer to an ownership making such land exempt from ad valorem taxation;

(c) Sale or transfer of all or a portion of such land to a new owner, unless the new owner has signed a notice of forest land designation continuance except transfer to an owner who is an heir or devisee of a deceased owner, shall not, by itself, result in removal of classification. The signed notice of continuance shall be attached to the real estate excise tax affidavit provided for in RCW 82.45.120, as now or hereafter amended. The notice of continuance shall be on a form prepared by the department of revenue. If the notice of continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all compensating taxes calculated pursuant to subsection (3) of this section shall become due and payable by the seller or transferor at time of sale. The county

auditor shall not accept an instrument of conveyance of designated forest land for filing or recording unless the new owner has signed the notice of continuance or the compensating tax has been paid. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (3) of this section to the county board of equalization. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals;

(d) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that (i) such land is no longer primarily devoted to and used for growing and harvesting timber, (ii) such owner has failed to comply with a final administrative or judicial order with respect to a violation of the restocking, forest management, fire protection, insect and disease control and forest debris provisions of Title 76 RCW or any applicable regulations thereunder, or (iii) restocking has not occurred to the extent or within the time specified in the application for designation of such land.

Removal of designation upon occurrence of any of subsections (a) through (c) above shall apply only to the land affected, and upon occurrence of subsection (d) shall apply only to the actual area of land no longer primarily devoted to and used for growing and harvesting timber, without regard to other land that may have been included in the same application and approval for designation: PROVIDED, That any remaining designated forest land meets necessary definitions of forest land pursuant to RCW 84.33.100 as now or hereafter amended.

(2) Within thirty days after such removal of designation of forest land, the assessor shall notify the owner in writing, setting forth the reasons for such removal. The seller, transferor, or owner may appeal such removal to the county board of equalization.

(3) Unless the removal is reversed on appeal a copy of the notice of removal with notation of the action, if any, upon appeal, together with the legal description or assessor's tax lot numbers for the land removed from designation shall, at the expense of the applicant, be filed by the assessor in the same manner as deeds are recorded, and commencing on January 1 of the year following the year in which the assessor mailed such notice, such land shall be assessed on the same basis as real property is assessed generally in that county. Except as provided in subsection (5) of this section, a compensating tax shall be imposed which shall be due and payable to the county treasurer thirty days after the owner is notified of the amount of the compensating tax. As soon as possible, the assessor shall compute the amount of such compensating tax and mail notice to the owner of the amount thereof and the date on which payment is due. The amount of such compensating tax shall be equal to:

(a) The difference between the amount of tax last levied on such land as forest land and an amount equal to the new assessed valuation of such land multiplied by the dollar rate of the last levy extended against such land, multiplied by

(b) A number, in no event greater than ten, equal to the number of years for which such land was designated as forest land.

(4) Compensating tax, together with applicable interest thereon, shall become a lien on such land which shall attach at the time such land is removed from designation as forest land and shall have priority to and shall be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation or responsibility to or with which such land may become charged or liable. Such lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes as provided in RCW 84.64.050. Any compensating tax unpaid on its due date shall thereupon become delinquent. From the date of delinquency until paid, interest shall be charged at the same rate applied by law to delinquent ad valorem property taxes.

(5) The compensating tax specified in subsection (3) of this section shall not be imposed if the removal of designation pursuant to subsection (1) of this section resulted solely from:

(a) Transfer to a government entity in exchange for other forest land located within the state of Washington;

(b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power;

(c) ~~((Sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in such land;~~

(d)) A donation of development rights, or the right to harvest timber, to a government agency or organization qualified under RCW 84.34.210 and 64.04.130 for the purposes enumerated in those sections or the sale or transfer of fee title to a governmental entity or nonprofit nature conservancy corporation, as defined in RCW 64.04.130, exclusively for the protection and conservation of lands recommended for state natural area preserve purposes by the natural heritage council and natural heritage plan as defined in chapter 79.70 RCW: PROVIDED, That at such time as the land is not used for the purposes enumerated, the compensating tax specified in subsection (3) of this section shall be imposed upon the current owner.

**Sec. 3.** RCW 84.33.145 and 1986 c 315 s 3 are each amended to read as follows:

(1) If no later than thirty days after removal of classification or designation the owner applies for classification under RCW 84.34.020 (1), (2), or (3), then the classified or designated forest land shall not be considered removed from classification or designation for purposes of the compensating tax under RCW 84.33.120 or 84.33.140 until the application for current use classification under RCW 84.34.030 is denied or the property is removed from designation under RCW 84.34.108. Upon removal from designation under RCW 84.34.108, the amount of compensating tax due under this chapter shall be equal to:

(a) The difference, if any, between the amount of tax last levied on such land as forest land and an amount equal to the new assessed valuation of such land when removed from designation under RCW 84.34.108 multiplied by the dollar rate of the last levy extended against such land, multiplied by

(b) A number equal to:

(i) The number of years the land was classified or designated under this chapter, if the total number of years the land was classified or designated under this chapter and classified under chapter 84.34 RCW is less than ten; or

(ii) Ten minus the number of years the land was classified under chapter 84.34 RCW, if the total number of years the land was classified or designated under this chapter and classified under chapter 84.34 RCW is at least ten.

(2) Nothing in this section authorizes the continued classification or designation under this chapter or defers or reduces the compensating tax imposed upon forest land not transferred to classification under subsection (1) of this section which does not meet the necessary definitions of forest land under RCW 84.33.100. Nothing in this section affects the additional tax imposed under RCW 84.34.108.

**Sec. 4.** RCW 84.34.020 and 1988 c 253 s 3 are each amended to read as follows:

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

(1) "Open space land" means (a) any land area so designated by an official comprehensive land use plan adopted by any city or county and zoned accordingly or (b) any land area, the preservation of which in its present use would (i) conserve and enhance natural or scenic resources, or (ii) protect streams or water supply, or (iii) promote conservation of soils, wetlands, beaches or tidal marshes, or (iv) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space, or (v) enhance recreation opportunities, or (vi) preserve historic sites, or (vii) preserve visual quality along highway, road, and street corridors or scenic vistas, or (viii) retain in its natural state tracts of land not less than ~~((five))~~ one acre~~((s))~~ situated in an urban area and open to public use on such conditions as may be reasonably required by the legislative body granting the open space classification, or (c) any land meeting the definition of farm and agricultural conservation land under subsection (8) of this section. As a condition of granting open space classification, the legislative body may not require public access on land classified under (b)(iii) of this subsection for the purpose of promoting conservation of wetlands.

(2) "Farm and agricultural land" means either (a) any parcel of land ~~((in any))~~ that is twenty or more acres or multiple parcels of land that are contiguous ~~((ownership of))~~ and total twenty or more acres (i) devoted primarily to the production of livestock or agricultural commodities for commercial purposes, ~~((or))~~ (ii) enrolled in the federal conservation reserve program or its successor

administered by the United States department of agriculture, or (iii) other similar commercial activities as may be established by rule following consultation with the advisory committee established in section 19 of this act; (b) any parcel of land that is five acres or more but less than twenty acres devoted primarily to agricultural uses, which has produced a gross income from agricultural uses equivalent to, as of the effective date of this act, (i) one hundred dollars or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter for all parcels of land that are classified under this subsection or all parcels of land for which an application for classification under this subsection is made with the granting authority prior to January 1, 1993, and (ii) on or after January 1, 1993, two hundred dollars or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter; ~~((€))~~ (c) any parcel of land of less than five acres devoted primarily to agricultural uses which has produced a gross income as of the effective date of this act, of (i) one thousand dollars or more per year for three of the five calendar years preceding the date of application for classification under this chapter for all parcels of land that are classified under this subsection or all parcels of land for which an application for classification under this subsection is made with the granting authority prior to January 1, 1993, and (ii) on or after January 1, 1993, fifteen hundred dollars or more per year for three of the five calendar years preceding the date of application for classification under this chapter. Parcels of land described in (b)(i) and (c)(i) of this subsection shall, upon any transfer of the property excluding a transfer to a surviving spouse, be subject to the limits of (b)(ii) and (c)(ii) of this subsection. Agricultural lands shall also include ~~((farm woodlots of less than twenty and more than five acres))~~ such incidental uses as are compatible with agricultural purposes, including wetlands preservation, provided such incidental use does not exceed twenty percent of the classified land and the land on which appurtenances necessary to the production, preparation, or sale of the agricultural products exist in conjunction with the lands producing such products. Agricultural lands shall also include any parcel of land of one to five acres, which is not contiguous, but which otherwise constitutes an integral part of farming operations being conducted on land qualifying under this section as "farm and agricultural lands"; or (d) the land on which housing for employees and the principal place of residence of the farm operator or owner of land classified pursuant to (a) of this subsection is sited if: The housing or residence is on or contiguous to the classified parcel; and the use of the housing or the residence is integral to the use of the classified land for agricultural purposes.

(3) "Timber land" means any parcel of land ~~((in any))~~ that is five or more acres or multiple parcels of land that are contiguous ~~((ownership of))~~ and total five or more acres which is or are devoted primarily to the growth and harvest of forest crops ~~((and which is not classified as reforestation land pursuant to chapter 84.28 RCW))~~ for commercial purposes. A timber management plan shall

be filed with the county legislative authority at the time (a) an application is made for classification as timber land pursuant to this chapter or (b) when a sale or transfer of timber land occurs and a notice of classification continuance is signed. Timber land means the land only.

(4) "Current" or "currently" means as of the date on which property is to be listed and valued by the (~~county~~) assessor.

(5) "Owner" means the party or parties having the fee interest in land, except that where land is subject to real estate contract "owner" shall mean the contract vendee.

(6) "Contiguous" means land adjoining and touching other property held by the same ownership. Land divided by a public road, but otherwise an integral part of a farming operation, shall be considered contiguous.

(7) "Granting authority" means the appropriate agency or official who acts on an application for classification of land pursuant to this chapter.

(8) "Farm and agricultural conservation land" means either:

(a) Land that was previously classified under subsection (2) of this section, that no longer meets the criteria of subsection (2) of this section, and that is reclassified under subsection (1) of this section; or

(b) Land that is traditional farmland that is not classified under chapter 84.33 or 84.34 RCW, that has not been irrevocably devoted to a use inconsistent with agricultural uses, and that has a high potential for returning to commercial agriculture.

Sec. 5. RCW 84.34.035 and 1973 1st ex.s. c 212 s 4 are each amended to read as follows:

The assessor shall act upon the application for current use classification of farm and agricultural lands under (~~subsection (2) of~~) RCW 84.34.020(2), with due regard to all relevant evidence. The application shall be deemed to have been approved unless, prior to the first day of May of the year after such application was mailed or delivered to the assessor, (~~he~~) the assessor shall notify the applicant in writing of the extent to which the application is denied. An owner who receives notice that his or her application has been denied may appeal such denial to the (~~county legislative authority~~) board of equalization in the county where the property is located. The appeal shall be filed in accordance with RCW 84.40.038, within thirty days after the mailing of the notice of denial. Within ten days following approval of the application, the assessor shall submit notification of such approval to the county auditor for recording in the place and manner provided for the public recording of state tax liens on real property. The assessor shall retain a copy of all applications.

The assessor shall, as to any such land, make a notation each year on the assessment list and the tax roll of the assessed value of such land for the use for which it is classified in addition to the assessed value of such land were it not so classified.

~~((The assessor shall also file notice of both such values with the county treasurer, who shall record such notice in the place and manner provided for recording delinquent taxes.))~~

**Sec. 6.** RCW 84.34.037 and 1985 c 393 s 1 are each amended to read as follows:

(1) Applications for classification or reclassification under RCW 84.34.020 ((subsection)) (1) ((or (3))) shall be made to the county legislative authority. An application made for classification or reclassification of land under RCW 84.34.020 ((subsection)) (1)(b)((, or (3))) and (c) which is in an area subject to a comprehensive plan shall be acted upon in the same manner in which an amendment to the comprehensive plan is processed. Application made for classification of land which is in an area not subject to a comprehensive plan shall be acted upon after a public hearing and after notice of the hearing shall have been given by one publication in a newspaper of general circulation in the area at least ten days before the hearing: PROVIDED, That applications for classification of land in an incorporated area shall be acted upon by a ((determining)) granting authority composed of three members of the county legislative body and three members of the city legislative body in which the land is located.

(2) In determining whether an application made for classification or reclassification under RCW 84.34.020((, subsection)) (1)(b)((, or (3))) and (c) should be approved or disapproved, the granting authority may take cognizance of the benefits to the general welfare of preserving the current use of the property which is the subject of application, and ((may)) shall consider ((whether or not preservation of current use of the land when balanced against));

(a) The resulting revenue loss or tax shift ((from granting));

(b) Whether granting the application for land applying under RCW 84.34.020(1)(b) will ((+)) (i) conserve or enhance natural, cultural, or scenic resources, ((2)) (ii) protect streams, stream corridors, wetlands, natural shorelines and aquifers, ((3)) (iii) protect soil resources and unique or critical wildlife and native plant habitat, ((4)) (iv) promote conservation principles by example or by offering educational opportunities, ((5)) (v) enhance the value of abutting or neighboring parks, forests, wildlife preserves, nature reservations, sanctuaries, or other open spaces, ((6)) (vi) enhance recreation opportunities, ((7)) (vii) preserve historic and archaeological sites, ((8)) (viii) preserve visual quality along highway, road, and street corridors or scenic vistas, (ix) affect any other factors relevant in weighing benefits to the general welfare of preserving the current use of the property((: PROVIDED, That)); and

(c) Whether granting the application for land applying under RCW 84.34.020(1)(c) will (i) either preserve land previously classified under RCW 84.34.020(2) or preserve land that is traditional farmland and not classified under chapter 84.33 or 84.34 RCW, (ii) preserve land with a potential for returning to commercial agriculture, and (iii) affect any other factors relevant in weighing benefits to the general welfare of preserving the current use of property.

(3) If a public benefit rating system is adopted under RCW 84.34.055, the county legislative authority shall rate property ~~((applying))~~ for which application for classification has been made under RCW 84.34.020 (1)(b) and (c) according to the public benefit rating system in determining whether an application should be approved or disapproved, but when such a system is adopted, open space properties then classified under this chapter which do not qualify under the system shall not be removed from classification but may be rated according to the public benefit rating system~~((:—PROVIDED FURTHER, That))~~.

(4) The granting authority may approve the application with respect to only part of the land which is the subject of the application~~((:—AND PROVIDED FURTHER, That))~~. If any part of the application is denied, the applicant may withdraw the entire application~~((:—AND PROVIDED FURTHER, That))~~. The granting authority in approving in part or whole an application for land classified or reclassified pursuant to RCW 84.34.020(1) ((or (3))) may also require that certain conditions be met, including but not limited to the granting of easements~~((:—AND PROVIDED FURTHER, That))~~. As a condition of granting open space classification, the legislative body may not require public access on land classified under RCW 84.34.020 (1)(b)(iii) for the purpose of promoting conservation of wetlands.

(5) The granting or denial of the application for current use classification or reclassification is a legislative determination and shall be reviewable only for arbitrary and capricious actions. ~~((The granting authority may not require the granting of easements for land classified pursuant to RCW 84.34.020(3).))~~

Sec. 7. RCW 84.34.050 and 1973 1st ex.s. c 212 s 6 are each amended to read as follows:

(1) The granting authority shall immediately notify the ~~((county))~~ assessor and the applicant of its approval or disapproval which shall in no event be more than six months from the receipt of said application. No land other than farm and agricultural land shall be ~~((considered-qualified))~~ classified under this chapter until an application in regard thereto has been approved by the appropriate legislative authority.

(2) When the granting authority ~~((finds that))~~ classifies land ~~((qualifies))~~ under this chapter, it shall file notice of the same with the assessor within ten days. The assessor shall, as to any such land, make a notation each year on the assessment list and the tax roll of the assessed value of such land for the use for which it is classified in addition to the assessed value of such land were it not so classified.

(3) Within ten days following receipt of the notice from the granting authority ~~((that))~~ of classification of such land ~~((qualifies))~~ under this chapter, the assessor shall submit such notice to the county auditor for recording in the place and manner provided for the public recording of state tax liens on real property.

~~((4) The assessor shall also file notice of both such value with the county treasurer, who shall record such notice in the place and manner provided for recording delinquent taxes.))~~

**Sec. 8.** RCW 84.34.060 and 1985 c 393 s 2 are each amended to read as follows:

In determining the true and fair value of open space land and timber land, which has been classified as such under the provisions of this chapter, the assessor shall consider only the use to which such property and improvements is currently applied and shall not consider potential uses of such property. The ~~((assessor shall compute the assessed value of such property by using the same assessment ratio which he applies generally in computing the assessed value of other property: PROVIDED, That the))~~ assessed valuation of open space land ~~((with no current use shall not be less than that which would result if it were to be assessed for agricultural uses,))~~ shall not be less than the minimum value per acre of classified farm and agricultural land except that the assessed valuation of open space land ~~((with no current use))~~ may be valued based on the public benefit rating system adopted under RCW 84.34.055: PROVIDED FURTHER, That timber land shall be valued according to chapter 84.33 RCW.

**Sec. 9.** RCW 84.34.065 and 1989 c 378 s 11 are each amended to read as follows:

The true and fair value of farm and agricultural land shall be determined by consideration of the earning or productive capacity of comparable lands from crops grown most typically in the area averaged over not less than five years, capitalized at indicative rates. The earning or productive capacity of farm and agricultural lands shall be the "net cash rental", capitalized at a "rate of interest" charged on long term loans secured by a mortgage on farm or agricultural land plus a component for property taxes. The current use value of land under RCW 84.34.020(2)(d) shall be established as: The prior year's average value of open space farm and agricultural land used in the county plus the value of land improvements such as septic, water, and power used to serve the residence. This shall not be interpreted to require the assessor to list improvements to the land with the value of the land.

For the purposes of the above computation:

(1) The term "net cash rental" shall mean the average rental paid on an annual basis, in cash ~~((or its equivalent))~~, for the land being appraised and other farm and agricultural land of similar quality and similarly situated that is available for lease for a period of at least three years to any reliable person without unreasonable restrictions on its use for production of agricultural crops. There shall be allowed as a deduction from the rental received or computed any costs of crop production charged against the landlord if the costs are such as are customarily paid by a landlord. If "net cash rental" data is not available, the earning or productive capacity of farm and agricultural lands shall be determined by the cash value of typical or usual crops grown on land of similar quality and

similarly situated averaged over not less than five years. Standard costs of production shall be allowed as a deduction from the cash value of the crops.

The current "net cash rental" or "earning capacity" shall be determined by the assessor with the advice of the advisory committee as provided in RCW 84.34.145, and through a continuing ~~((study within his office))~~ internal study, assisted by studies of the department of revenue. This net cash rental figure as it applies to any farm and agricultural land may be challenged before the same boards or authorities as would be the case with regard to assessed values on general property.

(2) The term "rate of interest" shall mean the rate of interest charged by the farm credit administration and other large financial institutions regularly making loans secured by farm and agricultural lands through mortgages or similar legal instruments, averaged over the immediate past five years.

The "rate of interest" shall be determined annually by ~~((adoption of))~~ a rule adopted by the ~~((revenue))~~ department of ~~((the state of Washington,))~~ revenue and such rule shall be published in the state register not later than January 1 of each year for use in that assessment year. The ~~((determination of the revenue))~~ department of revenue determination may be appealed to the state board of tax appeals within thirty days after the date of publication by any owner of farm or agricultural land or the assessor of any county containing farm and agricultural land.

(3) The "component for property taxes" shall be a ~~((percentage equal to the estimated mileage rate times the legal assessment ratio))~~ figure obtained by dividing the assessed value of all property in the county into the property taxes levied within the county in the year preceding the assessment and multiplying the quotient obtained by one hundred.

**Sec. 10.** RCW 84.34.070 and 1984 c 111 s 2 are each amended to read as follows:

(1) When land has once been classified under this chapter, it shall remain under such classification and shall not be applied to other use except ~~((a transfer between classifications under RCW 84.34.020 (2) and (3)))~~ as provided by subsection (2) of this section for at least ten years from the date of classification and shall continue under such classification until and unless withdrawn from classification after notice of request for withdrawal shall be made by the owner. During any year after eight years of the initial ten-year classification period have elapsed, notice of request for withdrawal of all or a portion of the land ~~((which shall be irrevocable,))~~ may be given by the owner to the ~~((county))~~ assessor or assessors of the county or counties in which such land is situated. In the event that a portion of a parcel is removed from classification, the remaining portion must meet the same requirements as did the entire parcel when such land was originally granted classification pursuant to this chapter unless the remaining parcel has different income criteria. Within seven days the ~~((county))~~ assessor shall transmit one copy of such notice to the legislative body which originally

approved the application. The ((county)) assessor or assessors, as the case may be, shall, when two assessment years have elapsed following the date of receipt of such notice, withdraw such land from such classification and the land shall be subject to the additional tax and applicable interest due under RCW 84.34.108(~~(: PROVIDED, That)~~). Agreement to tax according to use shall not be considered to be a contract and can be abrogated at any time by the legislature in which event no additional tax or penalty shall be imposed.

(2) The following reclassifications are not considered withdrawals or removals and are not subject to additional tax under RCW 84.34.108:

(a) Reclassification between lands under RCW 84.34.020 (2) and (3);

(b) Reclassification of land classified under RCW 84.34.020 (2) or (3) or chapter 84.33 RCW to open space land under RCW 84.34.020(1);

(c) Reclassification of land classified under RCW 84.34.020 (2) or (3) to forest land classified under chapter 84.33 RCW; and

(d) Reclassification of land classified as open space land under RCW 84.34.020(1)(c) and reclassified to farm and agricultural land under RCW 84.34.020(2) if the land had been previously classified as farm and agricultural land under RCW 84.34.020(2).

(3) Applications for reclassification shall be subject to applicable provisions of RCW 84.34.037, 84.34.035, section 20 of this act, and chapter 84.33 RCW.

(4) The income criteria for land classified under RCW 84.34.020(2) (b) and (c) may be deferred for land being reclassified from land classified under RCW 84.34.020 (1)(c) or (3), or chapter 84.33 RCW into RCW 84.34.020(2) (b) or (c) for a period of up to five years from the date of reclassification.

**Sec. 11.** RCW 84.34.080 and 1973 1st ex.s. c 212 s 9 are each amended to read as follows:

When land which has been classified under this chapter as open space land, farm and agricultural land, or timber land is applied to some other use, except through compliance with RCW 84.34.070, or except as a result solely from any one of the conditions listed in RCW 84.34.108(5), the owner shall within sixty days notify the county assessor of such change in use and additional real property tax shall be imposed upon such land in an amount equal to the sum of the following:

(1) The total amount of the additional tax and applicable interest due under RCW 84.34.108; plus

(2) A penalty amounting to twenty percent of the amount determined in subsection (1) of this section.

**Sec. 12.** RCW 84.34.108 and 1989 c 378 s 35 are each amended to read as follows:

(1) When land has once been classified under this chapter, a notation of such ((designation)) classification shall be made each year upon the assessment and tax rolls and such land shall be valued pursuant to RCW 84.34.060 or

84.34.065 until removal of all or a portion of such ~~((designation))~~ classification by the assessor upon occurrence of any of the following:

(a) Receipt of notice from the owner to remove all or a portion of such ~~((designation))~~ classification;

(b) Sale or transfer to an ownership, except a transfer that resulted from a default in loan payments made to or secured by a governmental agency that intends to or is required by law or regulation to resell the property for the same use as before, making all or a portion of such land exempt from ad valorem taxation;

(c) Sale or transfer of all or a portion of such land to a new owner, unless the new owner has signed a notice of classification continuance, except transfer to an owner who is an heir or devisee of a deceased owner shall not, by itself, result in removal of classification. The signed notice of continuance shall be attached to the real estate excise tax affidavit provided for in RCW 82.45.120, as now or hereafter amended. The notice of continuance shall be on a form prepared by the department of revenue. If the notice of continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all additional taxes calculated pursuant to subsection (3) of this section shall become due and payable by the seller or transferor at time of sale. The county auditor shall not accept an instrument of conveyance of classified land for filing or recording unless the new owner has signed the notice of continuance or the additional tax has been paid. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (3) of this section to the county board of equalization. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals;

(d) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that all or a portion of such land ~~((is))~~ no longer ~~((primarily devoted to and used for the purposes under which it was granted classification))~~ meets the criteria for classification under this chapter. The criteria for classification pursuant to this chapter continue to apply after classification has been granted.

The granting authority, upon request of an assessor, shall provide reasonable assistance to the assessor in making a determination whether such land continues to meet the qualifications of RCW 84.34.020 (1) or (3). The assistance shall be provided within thirty days of receipt of the request.

(2) Within thirty days after such removal of all or a portion of such land from current use classification, the assessor shall notify the owner in writing, setting forth the reasons for such removal. The seller, transferor, or owner may appeal such removal to the county board of equalization.

(3) Unless the removal is reversed on appeal, the assessor shall revalue the affected land with reference to full market value on the date of removal from classification. Both the assessed valuation before and after the removal of classification shall be listed and taxes shall be allocated according to that part of

the year to which each assessed valuation applies. Except as provided in subsection (5) of this section, an additional tax, applicable interest, and penalty shall be imposed which shall be due and payable to the county treasurer thirty days after the owner is notified of the amount of the additional tax. As soon as possible, the assessor shall compute the amount of such an additional tax, applicable interest, and penalty and the treasurer shall mail notice to the owner of the amount thereof and the date on which payment is due. The amount of such additional tax (~~shall be equal to~~), applicable interest, and penalty shall be determined as follows:

(a) The amount of additional tax shall be equal to the difference between the property tax paid as "open space land", "farm and agricultural land", or "timber land" and the amount of property tax otherwise due and payable for the seven years last past had the land not been so classified; (~~plus~~)

(b) The amount of applicable interest shall be equal to the interest upon the amounts of such additional tax paid at the same statutory rate charged on delinquent property taxes from the dates on which such additional tax could have been paid without penalty if the land had been assessed at a value without regard to this chapter.

(c) The amount of the penalty shall be as provided in RCW 84.34.080. The penalty shall not be imposed if the removal satisfies the conditions of RCW 84.34.070.

(4) Additional tax, (~~together with~~) applicable interest (~~thereon~~), and penalty, shall become a lien on such land which shall attach at the time such land is removed from (~~current use~~) classification under this chapter and shall have priority to and shall be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation or responsibility to or with which such land may become charged or liable. Such lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes as provided in RCW 84.64.050 now or as hereafter amended. Any additional tax unpaid on its due date shall thereupon become delinquent. From the date of delinquency until paid, interest shall be charged at the same rate applied by law to delinquent ad valorem property taxes.

(5) The additional tax, applicable interest, and penalty specified in subsection (3) of this section shall not be imposed if the removal of (~~designation~~) classification pursuant to subsection (1) of this section resulted solely from:

(a) Transfer to a government entity in exchange for other land located within the state of Washington;

(b)(i) A taking through the exercise of the power of eminent domain, or (ii) sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power, said entity having manifested its intent in writing or by other official action;

~~(c) ((Sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in such land;~~

~~(d))~~ A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of the act of the landowner changing the use of such property;

~~((e))~~ (d) Official action by an agency of the state of Washington or by the county or city within which the land is located which disallows the present use of such land;

~~((f))~~ (e) Transfer of land to a church ~~((and))~~ when such land would qualify for ~~((property tax))~~ exemption pursuant to RCW 84.36.020; ~~((or~~

~~(g))~~ (f) Acquisition of property interests by state agencies or agencies or organizations qualified under RCW 84.34.210 and 64.04.130 for the purposes enumerated in those sections: PROVIDED, That at such time as these property interests are not used for the purposes enumerated in RCW 84.34.210 and 64.04.130 the additional tax specified in subsection (3) of this section shall be imposed; or

(g) Removal of land classified as farm and agricultural land under RCW 84.34.020(2)(d).

**Sec. 13.** RCW 84.34.145 and 1973 1st ex.s. c 212 s 11 are each amended to read as follows:

The county legislative authority shall appoint a five member committee representing the active farming community within the county to serve in an advisory capacity to the ~~((county))~~ assessor in implementing assessment guidelines as established by the department of revenue for the assessment of open space, farms and agricultural lands, and timber lands classified pursuant to this 1973 amendatory act.

**Sec. 14.** RCW 84.34.150 and 1973 1st ex.s. c 212 s 15 are each amended to read as follows:

Land classified under the provisions of chapter 84.34 RCW prior to July 16, 1973 which meets the ~~((definition of farm and agricultural land))~~ criteria for classification under the provisions of this 1973 amendatory act, ~~((upon request for such change made by the owner to the county assessor, shall be))~~ is hereby reclassified ~~((by the county assessor))~~ under the provisions of this 1973 amendatory act. This change in classification shall be made without additional tax, applicable interest, penalty, or other requirements: PROVIDED, That subsequent to such reclassification, the land shall be fully subject to the provisions of chapter 84.34 RCW~~((, as now or hereafter amended))~~. A condition imposed by a granting authority prior to July 16, 1973, upon land classified pursuant to RCW 84.34.020 (1) or (3) shall remain in effect during the period of classification.

**Sec. 15.** RCW 84.34.155 and 1973 1st ex.s. c 212 s 19 are each amended to read as follows:

Land classified under the provisions of (~~chapter 84.34 RCW as timber land~~) RCW 84.34.020 (2) or (3) which meets the definition of forest land under the provisions of chapter 84.33 RCW, upon request for such change made by the owner to the (~~county assessor~~) granting authority, shall be reclassified by the (~~county~~) assessor under the provisions of chapter 84.33 RCW. This change in classification shall be made without additional tax, applicable interest, penalty, or other requirements set forth in chapter 84.34 RCW: PROVIDED, That subsequent to such reclassification, the land shall be fully subject to the provisions of chapter 84.33 RCW, as now or hereafter amended.

**Sec. 16.** RCW 84.34.160 and 1973 1st ex.s. c 212 s 18 are each amended to read as follows:

The department of revenue and each (~~local assessor~~) granting authority is hereby directed to publicize the qualifications and manner of making applications for (~~current use~~) classification. (~~Whenever possible~~) Notice of the qualifications, method of making applications, and availability of further information on current use classification shall be included (~~with the second half property tax statements for 1973, and thereafter, shall be included~~) with every notice of change in valuation (~~of unplatted lands~~).

**Sec. 17.** RCW 84.34.320 and 1979 c 84 s 3 are each amended to read as follows:

Any land classified as farm and agricultural land (~~which is designated for current use classification~~) pursuant to chapter 84.34 RCW at the earlier of the times the legislative authority of a local government adopts a resolution, ordinance, or legislative act (1) to create a local improvement district, in which such land is included or would have been included but for such classification (~~designation~~), or (2) to approve or confirm a final special benefit assessment roll relating to a sanitary and/or storm sewerage system, domestic water supply and/or distribution system, or road construction and/or improvement, which roll would have included such land but for such classification (~~designation~~), shall be exempt from special benefit assessments or charges in lieu of assessment for such purposes as long as that land remains in such classification, except as otherwise provided in RCW 84.34.360.

Whenever a local government creates a local improvement district, the levying, collection and enforcement of assessments shall be in the manner and subject to the same procedures and limitations as are provided pursuant to the law concerning the initiation and formation of local improvement districts for the particular local government. Notice of the creation of a local improvement district that includes farm and agricultural land shall be filed with the county assessor and the legislative authority of the county in which such land is located. The (~~county~~) assessor, upon receiving notice of the creation of such a local improvement district, shall send a notice to the owner of the farm and agricultural lands listed on the tax rolls of the applicable county treasurer of: (1) The creation of the local improvement district; (2) the exemption of that land

from special benefit assessments; (3) the fact that the farm and agricultural land may become subject to the special benefit assessments if the owner waives the exemption by filing a notarized document with the governing body of the local government creating the local improvement district before the confirmation of the final special benefit assessment roll; and (4) the potential liability, pursuant to RCW 84.34.330, if the exemption is not waived and the land is subsequently removed from the farm and agricultural land status. When a local government approves and confirms a special benefit assessment roll, from which farm and agricultural land has been exempted pursuant to this section, it shall file a notice of such action with the ((~~county~~)) assessor and the legislative authority of the county in which such land is located and with the treasurer of that local government, which notice shall describe the action taken, the type of improvement involved, the land exempted, and the amount of the special benefit assessment which would have been levied against the land if it had not been exempted. The filing of such notice with the ((~~county~~)) assessor and the treasurer of that local government shall constitute constructive notice to a purchaser or encumbrancer of the affected land, and every person whose conveyance or encumbrance is subsequently executed or subsequently recorded, that such exempt land is subject to the charges provided in RCW 84.34.330 and 84.34.340 if such land is withdrawn or removed from its current use classification as farm and agricultural land.

The owner of the land exempted from special benefit assessments pursuant to this section may waive that exemption by filing a notarized document to that effect with the legislative authority of the local government upon receiving notice from said local government concerning the assessment roll hearing and before the local government confirms the final special benefit assessment roll. A copy of that waiver shall be filed by the local government with the ((~~county~~)) assessor, but the failure of such filing shall not affect the waiver.

Except to the extent provided in RCW 84.34.360, the local government shall have no duty to furnish service from the improvement financed by the special benefit assessment to such exempted land.

**Sec. 18.** RCW 84.34.360 and 1979 c 84 s 7 are each amended to read as follows:

~~((Within ninety days after June 7, 1979,))~~ The department of revenue shall adopt rules it shall deem necessary to implement RCW 84.34.300 through 84.34.380 which shall include, but not be limited to, procedures to determine the extent to which a portion of the land otherwise exempt may be subject to a special benefit assessment for the actual connection to the domestic water system or sewerage facilities, and further to determine the extent to which all or a portion of such land may be subject to a special benefit assessment for access to the road improvement in relation to its value as farm and agricultural land as distinguished from its value under more intensive uses. The provision for limited special benefit assessments shall not relieve such land from liability for the

amounts provided in RCW 84.34.330 and 84.34.340 when such land is withdrawn or removed from its current use classification as farm and agricultural land.

**\*NEW SECTION.** *Sec. 19. A new section is added to chapter 84.34 RCW to read as follows:*

*There is created an advisory committee to assist the department of revenue in recommending changes to the rules implementing this chapter. The committee shall have twelve members. Four shall be assessors, selected by assessors. Two assessors shall reside east of the crest of the Cascade mountains. The remaining members shall be appointed by the department. Two shall represent natural resource protection organizations. Two shall represent the public. Four shall represent a cross-section of the agricultural and forestry community. Two community members shall reside east of the crest of the Cascade mountains. The term of appointment for the community members, the natural resource protection organization members, and the public members shall be four years.*

*The committee shall meet at least annually, and at such other times as it deems necessary, to recommend adoption of new or amended administrative rules and other changes as it finds appropriate.*

*\*Sec. 19 was vetoed, see message at end of chapter.*

**NEW SECTION.** *Sec. 20. A new section is added to chapter 84.34 RCW to read as follows:*

*An application for current use classification under RCW 84.34.020(3) shall be made to the county legislative authority.*

*(1) The application shall be made upon forms prepared by the department of revenue and supplied by the granting authority and shall include the following:*

*(a) A legal description of, or assessor's parcel numbers for, all land the applicant desires to be classified as timber land;*

*(b) The date or dates of acquisition of the land;*

*(c) A brief description of the timber on the land, or if the timber has been harvested, the owner's plan for restocking;*

*(d) Whether there is a forest management plan for the land;*

*(e) If so, the nature and extent of implementation of the plan;*

*(f) Whether the land is used for grazing;*

*(g) Whether the land has been subdivided or a plat filed with respect to the land;*

*(h) Whether the land and the applicant are in compliance with the restocking, forest management, fire protection, insect and disease control, weed control, and forest debris provisions of Title 76 RCW or applicable rules under Title 76 RCW;*

*(i) Whether the land is subject to forest fire protection assessments pursuant to RCW 76.04.610;*

(j) Whether the land is subject to a lease, option, or other right that permits it to be used for a purpose other than growing and harvesting timber;

(k) A summary of the past experience and activity of the applicant in growing and harvesting timber;

(l) A summary of current and continuing activity of the applicant in growing and harvesting timber;

(m) A statement that the applicant is aware of the potential tax liability involved when the land ceases to be classified as timber land.

(2) An application made for classification of land under RCW 84.34.020(3) shall be acted upon after a public hearing and after notice of the hearing is given by one publication in a newspaper of general circulation in the area at least ten days before the hearing. Application for classification of land in an incorporated area shall be acted upon by a granting authority composed of three members of the county legislative body and three members of the city legislative body in which the land is located.

(3) The granting authority shall act upon the application with due regard to all relevant evidence and without any one or more items of evidence necessarily being determinative, except that the application may be denied for one of the following reasons, without regard to other items:

(a) The land does not contain a stand of timber as defined in chapter 76.09 RCW and applicable rules, except this reason shall not alone be sufficient to deny the application (i) if the land has been recently harvested or supports a growth of brush or noncommercial type timber, and the application includes a plan for restocking within three years or the longer period necessitated by unavailability of seed or seedlings, or (ii) if only isolated areas within the land do not meet minimum standards due to rock outcroppings, swamps, unproductive soil, or other natural conditions;

(b) The applicant, with respect to the land, has failed to comply with a final administrative or judicial order with respect to a violation of the restocking, forest management, fire protection, insect and disease control, weed control, and forest debris provisions of Title 76 RCW or applicable rules under Title 76 RCW;

(c) The land abuts a body of salt water and lies between the line of ordinary high tide and a line paralleling the ordinary high tide line and two hundred feet horizontally landward from the high tide line.

The granting authority may approve the application with respect to only part of the land that is described in the application, and if any part of the application is denied, the applicant may withdraw the entire application. The granting authority, in approving in part or whole an application for land classified pursuant to RCW 84.34.020(3), may also require that certain conditions be met.

Granting or denial of an application for current use classification is a legislative determination and shall be reviewable only for arbitrary and capricious

actions. The granting authority may not require the granting of easements for land classified pursuant to RCW 84.34.020(3).

The granting authority shall approve or disapprove an application made under this section within six months following the date the application is received.

**NEW SECTION. Sec. 21.** A new section is added to chapter 84.34 RCW to read as follows:

If approval of an application for classification or reclassification under RCW 84.34.020 (1), (2), or (3) results in the incorrect classification of a parcel of land the assessor may place the property in the correct classification. Such a correction shall not be considered a withdrawal or removal and is not subject to additional tax under RCW 84.34.108. The assessor will notify the landowner of any correction of classification.

This section expires on December 31, 1995.

**NEW SECTION. Sec. 22.** This act shall take effect January 1, 1993.

Passed the House March 7, 1992.

Passed the Senate March 5, 1992.

Approved by the Governor March 26, 1992, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State March 26, 1992.

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

"I am returning herewith, without my approval as to section 19, Engrossed Substitute House Bill No. 2928 entitled:

"AN ACT Relating to open spaces."

Engrossed Substitute House Bill No. 2928 modifies and improves the administration of open space taxation programs. Section 19 requires the creation of an advisory committee to recommend changes to rules implementing open space taxation laws, including an expansion of land uses consistent with classification as farm and agricultural land open space. The committee is to be composed of county assessors, agricultural and forestry interests, natural resource protection interests, and members of the public. Although I concur with the need to involve affected parties in the implementation of state and local programs, I do not support such advisory committees being established by statute. I encourage the Director of the Department of Revenue to use existing authority to establish a broad based open space advisory committee composed not only of the members identified in section 19, but additional members representing conservation interests.

For this reason, I have vetoed section 19 of Engrossed Substitute House Bill No. 2928.

With the exception of section 19, Engrossed Substitute House Bill No. 2928 is approved."

## CHAPTER 70

[House Bill 2371]

## CONSERVATION DISTRICT SPECIAL ASSESSMENTS—REVISIONS

Effective Date: 6/11/92

AN ACT Relating to conservation districts; and amending RCW 89.08.400.

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

**Sec. 1.** RCW 89.08.400 and 1989 c 18 s 1 are each amended to read as follows:

(1) Special assessments are authorized to be imposed for conservation districts as provided in this section. Activities and programs to conserve natural resources, including soil and water, are declared to be of special benefit to lands and may be used as the basis upon which special assessments are imposed.

(2) Special assessments to finance the activities of a conservation district may be imposed by the county legislative authority of the county in which the conservation district is located for a period or periods each not to exceed ten years in duration.

The supervisors of a conservation district shall hold a public hearing on a proposed system of assessments prior to the first day of August in the year prior to which it is proposed that the initial special assessments be collected. At that public hearing, the supervisors shall gather information and shall alter the proposed system of assessments when appropriate, including the number of years during which it is proposed that the special assessments be imposed.

On or before the first day of August in that year, the supervisors of a conservation district (~~who are proposing to have special assessments imposed for the district in the following year~~) shall file the proposed system of assessments, indicating the years during which it is proposed that the special assessments shall be imposed, and a proposed budget for the succeeding year with the county legislative authority of the county within which the conservation district is located. The county legislative authority shall hold a public hearing on the proposed system of assessments. After the hearing, the county legislative authority may accept, or modify and accept, the proposed system of assessments, including the number of years during which the special assessments shall be imposed, if it finds that both the public interest will be served by the imposition of the special assessments and that the special assessments to be imposed on any land will not exceed the special benefit that the land receives or will receive from the activities of the conservation district. The findings of the county legislative authority shall be final and conclusive. Special assessments may be altered during this period on individual parcels in accordance with the system of assessments if land is divided or land uses or other factors change.

Notice of the public hearings held by the supervisors and the county legislative authority shall be posted conspicuously in at least five places throughout the conservation district, and published once a week for two consecutive weeks in a newspaper in general circulation throughout the

conservation district, with the date of the last publication at least five days prior to the public hearing.

(3) A system of assessments shall classify lands in the conservation district into suitable classifications according to benefits conferred or to be conferred by the activities of the conservation district, determine an annual per acre rate of assessment for each classification of land, and indicate the total amount of special assessments proposed to be obtained from each classification of lands. Lands deemed not to receive benefit from the activities of the conservation district shall be placed into a separate classification and shall not be subject to the special assessments. An annual assessment rate shall be stated as either uniform annual per acre amount, or an annual flat rate per parcel plus a uniform annual rate per acre amount, for each classification of land. The maximum annual per acre special assessment rate shall not exceed ten cents per acre. The maximum annual per parcel rate shall not exceed five dollars.

Public land, including lands owned or held by the state, shall be subject to special assessments to the same extent as privately owned lands. The procedures provided in chapter 79.44 RCW shall be followed if lands owned or held by the state are subject to the special assessments of a conservation district.

Forest lands used solely for the planting, growing, or harvesting of trees may be subject to special assessments if such lands benefit from the activities of the conservation district, but the per acre rate of special assessment on benefited forest lands shall not exceed one-tenth of the weighted average per acre assessment on all other lands within the conservation district that are subject to its special assessments. The calculation of the weighted average per acre special assessment shall be a ratio calculated as follows: (a) The numerator shall be the total amount of money estimated to be derived from the imposition of per acre special assessments on the nonforest lands in the conservation district; and (b) the denominator shall be the total number of nonforest land acres in the conservation district that receive benefit from the activities of the conservation district and which are subject to the special assessments of the conservation district. No more than ten thousand acres of such forest lands that is both owned by the same person or entity and is located in the same conservation district may be subject to the special assessments that are imposed for that conservation district in any year. Per parcel charges shall not be imposed on forest land parcels. However, in lieu of a per parcel charge, a charge of up to three dollars per forest landowner may be imposed on each owner of forest lands whose forest lands are subject to a per acre rate of assessment.

(4) A conservation district shall prepare an assessment roll that implements the system of assessments approved by the county legislative authority. The special assessments from the assessment roll shall be spread by the county assessor as a separate item on the tax rolls and shall be collected and accounted for with property taxes by the county treasurer. The amount of a special assessment shall constitute a lien against the land that shall be subject to the

same conditions as a tax lien, collected by the treasurer in the same manner as delinquent real property taxes, and subject to the same interest rate and penalty as for delinquent property taxes. The county treasurer shall deduct an amount from the collected special assessments, as established by the county legislative authority, to cover the costs incurred by the county assessor and county treasurer in spreading and collecting the special assessments, but not to exceed the actual costs of such work.

(5) The special assessments for a conservation district shall not be spread on the tax rolls and shall not be collected with property tax collections in the following year if, after the system of assessments has been approved by the county legislative authority but prior to the fifteenth day of December in that year, a petition has been filed with the county legislative authority objecting to the imposition of such special assessments, which petition has been signed by at least twenty percent of the owners of land that would be subject to the special assessments to be imposed for a conservation district.

Passed the House February 12, 1992.

Passed the Senate March 3, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

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## CHAPTER 71

[Substitute House Bill 2502]

### ORGANIC AGRICULTURAL PRODUCTS—STANDARDS

Effective Date: 6/11/92

AN ACT Relating to organic products; amending RCW 15.86.010, 15.86.020, 15.86.030, 15.86.031, 15.86.050, 15.86.060, and 15.86.070; reenacting and amending RCW 42.17.310; and adding new sections to chapter 15.86 RCW.

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

**Sec. 1.** RCW 15.86.010 and 1985 c 247 s 1 are each amended to read as follows:

The legislature recognizes a public benefit in establishing standards for ~~((food))~~ agricultural products marketed and labeled using the term "organic" or a derivative of the term "organic." Such standards shall also facilitate the development of out-of-state markets for Washington food grown by organic methods.

**Sec. 2.** RCW 15.86.020 and 1989 c 354 s 32 are each amended to read as follows:

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

(1) "Director" means the director of the department of agriculture or the director's designee.

(2) "Organic food" means any (~~(food)~~) agricultural product, including meat, dairy, and beverage, that is marketed using the term organic or any derivative of organic, other than the phrase "transition to organic food," in its labeling or advertising.

(3) "Producer" means any person or organization who or which (~~((a))~~) grows, raises, or produces (~~((a-food))~~) an agricultural product(~~(;-and (b)-sells the food product as, or offers it for sale as, an organic food))~~).

(4) "Vendor" means anyone who sells or arranges the sale of organic food to the consumer or another vendor.

(5) "Transition to organic food" means any food product that satisfies all of the requirements of organic food except the time requirements and satisfied all of the requirements of RCW 15.86.031.

(6) "Organic certifying agent" means any third-party certification organization that is recognized by the director by rule as being one which imposes, for certification, standards consistent with this chapter.

(7) "Processor" means any person engaged in the canning, freezing, drying, dehydrating, cooking, pressing, powdering, packaging, baking, heating, mixing, grinding, churning, separating, extracting, cutting, fermenting, eviscerating, preserving, jarring, or otherwise processing organic food.

(8) "Person" means any natural person, firm, partnership, exchange, association, trustee, receiver, corporation, and any member, officer, or employee thereof or assignee for the benefit of creditors.

(9) "Department" means the state department of agriculture.

(10) "Represent" means to hold out as or to advertise.

(11) "Sale" means selling, offering for sale, holding for sale, preparing for sale, trading, bartering, offering a gift as an inducement for sale of, and advertising for sale in any media.

**Sec. 3.** RCW 15.86.030 and 1989 c 354 s 30 are each amended to read as follows:

To be labeled, sold, or represented as an organic food, a product shall be produced with only those materials and practices approved under RCW 15.86.060. A producer, processor, or a vendor shall not represent, sell, or offer for sale any food product with the representation that the product is an organic food if the producer, processor, or vendor knows, or in the case of a producer or processor has reason to know, that the food has been grown, raised, or produced with the use of any (~~(of the following substances: (1) Fertilizers but excluding manures and other natural fertilizers; (2) any of the following when manufactured by man: Pesticides, hormones, antibiotics, or growth stimulants but excluding Bacillus thuringensis and other natural pesticides; (3) arsenicals; or (4) similar substances)) prohibited materials~~ listed by the director under RCW 15.86.060. ((A)) Organic animal products shall be considered as "grown, raised, or produced" with a substance listed by the director under RCW 15.86.060 if the substance has been applied to the plants, soil, water, or animal, on or in which

the organic animal product is being produced during such time frame as specified by the director by rule. Other food products shall be considered as "grown, raised, or produced" with a substance ((specified in this section or)) listed by the director under RCW 15.86.060 if the substance is applied to the plants, soil, or water, on or in which the food product is being produced at any time ((before)) from three years before harvest to the final sale to retail purchasers.

**Sec. 4.** RCW 15.86.031 and 1989 c 354 s 31 are each amended to read as follows:

(1) ~~((Beginning January 1, 1991, it shall be unlawful to sell or offer for sale as organic food, products that have been grown, raised, or produced if harvest of the food product occurs within two years of the most recent use of any prohibited pesticide, herbicide, or fungicide and two years after the most recent use of a prohibited fertilizer.~~

(2) Beginning January 1, 1992,) Except as provided in section 9 of this act, it shall be unlawful to represent, sell, or offer for sale as organic food, products that have been grown, raised, or produced if harvest of the food product occurs within three years of the most recent use of any prohibited ((pesticide, herbicide, or fungicide and two years after the most recent use of a prohibited fertilizer)) substance as listed by the director under RCW 15.86.060.

~~((3) Beginning January 1, 1990,) (2) Food products may be sold as "transition to organic food" if they have had no applications of prohibited substances within one year before harvest of the food crop. ((The products must specify first or second year transition on their labels.~~

~~(4)) (3) No out-of-state products shall be labeled or sold as organic without having first received an organic certification ((in the state of origin)) from an organic certifying agent meeting all requirements established under this chapter.~~

**Sec. 5.** RCW 15.86.050 and 1985 c 247 s 5 are each amended to read as follows:

A producer shall not sell to a vendor or processor any food product which the producer represents as an organic food unless before the sale the producer provides the vendor or processor with an organic food certificate or a sworn statement that the producer has grown, raised, or produced the product in conformance with ~~((RCW 15.86.030))~~ this chapter.

**NEW SECTION. Sec. 6. LABELING OF ORGANIC FOOD PRODUCTS.** Organic food products handled, processed, sold, offered for sale, advertised, or represented shall be labeled as organic on all invoices, boxes, bins, and other packaging and documentation associated with the product. All organic food products sold or processed in the state shall have recordkeeping sufficient to track the product to the farm where the food was grown, raised, or produced.

**Sec. 7.** RCW 15.86.060 and 1985 c 247 s 6 are each amended to read as follows:

(1) The director shall adopt such rules and regulations, in conformity with chapter 34.05 RCW, as the director believes are appropriate for the proper administration of this chapter.

(2) ~~((Whenever the director believes it appropriate to protect the interest of consumers of organic foods, the director shall add to the list of substances that may not be included in organic foods under this chapter.))~~ The director shall establish a list of approved substances that may be used in the production, processing, and handling of organic food. This list shall:

(a) Approve the use of natural substances except for specific natural substances that may not be used in the production and handling of agricultural products labeled as organic because these substances would be harmful to human health or the environment and are inconsistent with organic farming principles;

(b) Prohibit the use of synthetic substances except for specific synthetic substances that may be used in the production and handling of agricultural products labeled as organic because these substances:

(i) Would not be harmful to human health or the environment;

(ii) Are necessary to the production or handling of the agricultural products;

(iii) Are consistent with organic farming principles; and

(iv) Are used in the production of agricultural products and contain active synthetic ingredients in the following categories: Copper and sulfur compounds; toxins derived from bacteria; pheromones; soaps; horticultural oils; vitamins and minerals; livestock parasiticides and medicines; and production aids including netting, tree wraps and seals, insect traps, sticky barriers, row covers, and equipment cleansers; or

(v) Are used in production and contain synthetic inert ingredients.

(3) The director shall issue orders to producers, processors, or vendors whom ~~((it))~~ he or she finds are violating any provision of this chapter, or rules or regulations adopted under this chapter, to cease their violations and desist from future violations. Whenever the director finds that a producer, processor, or vendor has committed a violation, the director shall impose on and collect from the violator a civil fine not exceeding the total of the following amounts:

(a) The state's estimated costs of investigating and taking appropriate administrative and enforcement actions in respect to the violation; and (b) one thousand dollars.

(4) The director may deny, suspend, or revoke a certification provided for in this chapter if he or she determines that an applicant or certified person has violated this chapter or rules adopted under it.

**NEW SECTION. Sec. 8. MANDATORY CERTIFICATION AND REGISTRATION.** (1) It is unlawful for any person to sell, offer for sale, or process any agricultural product within this state with an organic label unless that person is certified under this chapter by the department or an official organic certifying agent.

(2) Subsection (1) of this section shall not apply to (a) final retailers of organic food that do not process organic food products or (b) producers who sell no more than five thousand dollars annually in value of agricultural products directly to consumers.

**NEW SECTION. Sec. 9. TOLERANCE LEVELS FOR ORGANIC FOOD.** (1) An agricultural product that is being grown, raised, or produced under the provisions of this chapter may not be labeled, sold, or represented as organic if during the course of the crop year it is subjected to drift of materials not on the approved substances list as established by the director under RCW 15.86.060.

An agricultural product that is being grown, raised, or produced under the provisions of this chapter and is subjected to drift of prohibited materials may be labeled or sold as organic in the subsequent crop year as long as the tolerance levels of prohibited materials do not exceed the levels stated in subsection (2) of this section.

(2) An agricultural product that is being grown, raised, or produced under the provisions of this chapter and contains residues of materials not on the approved substances list established by the director under RCW 15.86.060 in excess of five percent of the United States environmental protection agency tolerance level or, where there is no tolerance level, five percent of the United States food and drug administration action level may not be labeled, sold, or represented as organic.

**Sec. 10.** RCW 15.86.070 and 1989 c 354 s 34 are each amended to read as follows:

The director may adopt rules establishing a certification program for producers (~~and~~), processors, and vendors of organic or transition to organic food. The rules may govern, but are not limited to governing: The number and scheduling of on-site visits, both announced and unannounced, by certification personnel; recordkeeping requirements; and the submission of product samples for chemical analysis. The rules shall include a fee schedule that will provide for the recovery of the full cost of the (~~inspection~~) organic food program. Fees collected under this section shall be deposited in an account within the agricultural local fund and the revenue from such fees shall be used solely for carrying out the provisions of this section, and no appropriation is required for disbursement from the fund. The director may employ such personnel as are necessary to carry out the provisions of this section.

**NEW SECTION. Sec. 11.** (1) Except as provided in subsection (2) of this section, the department shall keep confidential any business related information obtained under this chapter concerning an entity certified under this chapter or an applicant for such certification and such information shall be exempt from public inspection and copying under chapter 42.17 RCW.

(2) Applications for certification under this chapter and laboratory analyses pertaining to that certification shall be available for public inspection and copying.

**Sec. 12.** RCW 42.17.310 and 1991 c 301 s 13, 1991 c 87 s 13, and 1991 c 23 s 10 are each reenacted and amended to read as follows:

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

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

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

(c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (i) be prohibited to such persons by RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.

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

(e) Information revealing the identity of persons who file complaints with investigative, law enforcement, or penology agencies, other than the public disclosure commission, if disclosure would endanger any person's life, physical safety, or property. If at the time the complaint is filed the complainant indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

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

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

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

(i) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended

except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

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

(k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(l) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(m) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) [(i)] a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) [(ii)] highway construction or improvement as required by RCW 47.28.070.

(n) Railroad company contracts filed with the utilities and transportation commission under RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter.

(o) Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to chapter 43.163 RCW and chapter 53.31 RCW.

(p) Financial disclosures filed by private vocational schools under chapter 28C.10 RCW.

(q) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095.

(r) Financial and commercial information and records supplied by businesses during application for loans or program services provided by chapter 43.163 RCW and chapters 43.31, 43.63A, and 43.168 RCW.

(s) Membership lists or lists of members or owners of interests of units in timeshare projects, subdivisions, camping resorts, condominiums, land developments, or common-interest communities affiliated with such projects, regulated by the department of licensing, in the files or possession of the department.

(t) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

(u) The residential addresses and residential telephone numbers of employees or volunteers of a public agency which are held by the agency in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers.

(v) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers.

(w) Information obtained by the board of pharmacy as provided in RCW 69.45.090.

(x) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420.

(y) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW.

(z) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information.

(aa) Financial and valuable trade information under RCW 51.36.120.

(bb) Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or a rape crisis center as defined in RCW 70.125.030.

(cc) Business related information protected from public inspection and copying under section 11 of this act.

(2) Except for information described in subsection (1)(c)(i) of this section and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the exemptions of this section are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.

NEW SECTION. Sec. 13. CAPTIONS NOT LAW. Captions as used in sections 6, 8, 9, and 13 of this act do not constitute part of the law.

NEW SECTION. Sec. 14. Sections 6, 8, 9, 11, and 13 of this act are each added to chapter 15.86 RCW.

Passed the House March 9, 1992.  
 Passed the Senate March 5, 1992.  
 Approved by the Governor March 26, 1992.  
 Filed in Office of Secretary of State March 26, 1992.

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## CHAPTER 72

[Engrossed House Bill 2260]

### STATE RETIREMENT SYSTEMS—

#### TECHNICAL AMENDMENTS TO RECODIFICATION OF PROVISIONS RELATING TO

Effective Date: 6/1/92

AN ACT Relating to making technical corrections to chapter 35, Laws of 1991; amending RCW 41.26.005, 41.26.075, 41.32.005, 41.32.215, 41.32.755, 41.40.005, 41.40.145, and 41.50.210; reenacting RCW 41.32.310; adding a new section to chapter 41.26 RCW; creating a new section; recodifying RCW 41.26.058, 41.26.052, and 41.26.054; and repealing RCW 41.26.405, 41.32.610, 41.32.620, 41.32.630, 41.32.700, and 41.40.605.

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

**NEW SECTION. Sec. 1.** (1) The recodification of retirement provisions adopted by the code reviser pursuant to the directives of chapter 35, Laws of 1991, is hereby ratified.

(2) The code reviser shall correct all statutory references to sections recodified pursuant to chapter 35, Laws of 1991.

**Sec. 2.** RCW 41.26.005 and 1991 c 35 s 12 are each amended to read as follows:

~~((The provisions of the following sections of this chapter))~~ RCW 41.26.010 through 41.26.062 shall apply to members of plan I and plan II(~~RCW 41.26.010; 41.26.020; 41.26.030; 41.26.035; 41.26.040; 41.26.043; 41.26.045; 41.26.046; 41.26.047; 41.26.210; 41.26.220; 41.26.230; 41.26.280; and 41.26.300~~)).

**Sec. 3.** RCW 41.26.075 and 1991 c 35 s 101 are each amended to read as follows:

~~((The provisions of the following sections of this subchapter))~~ RCW 41.26.080 through 41.26.3903 shall apply only to members of plan I(~~RCW 41.26.080; 41.26.090; 41.26.100; 41.26.110; 41.26.115; 41.26.120; 41.26.125; 41.26.130; 41.26.135; 41.26.140; 41.26.150; 41.26.160; 41.26.170; 41.26.180; 41.26.190; 41.26.200; 41.26.240; 41.26.250; 41.26.260; 41.26.270; 41.26.900; 41.26.910; and 41.26.920~~)).

**Sec. 4.** RCW 41.32.005 and 1991 c 35 s 30 are each amended to read as follows:

~~((1) The provisions of the following sections of this chapter))~~ RCW 41.32.010 through 41.32.067 shall apply to members of plan I and plan II(~~RCW 41.32.010; 41.32.011; 41.32.020; 41.32.160; 41.32.242; 41.32.460; 41.32.580; 41.32.670; 41.32.850; and 41.32.013~~)).

**Sec. 5.** RCW 41.32.215 and 1991 c 35 s 103 are each amended to read as follows:

~~((The provisions of the following sections of this subchapter))~~ RCW 41.32.240 through 41.32.575 shall apply only to members of plan I(~~(= RCW 41.32.240; 41.32.260; 41.32.270; 41.32.300; 41.32.330; 41.32.340; 41.32.350; 41.32.360; 41.32.366; 41.32.380; 41.32.390; 41.32.470; 41.32.480; 41.32.485; 41.32.487; 41.32.488; 41.32.4931; 41.32.4945; 41.32.497; 41.32.498; 41.32.499; 41.32.500; 41.32.510; 41.32.520; 41.32.522; 41.32.523; 41.32.530; 41.32.540; 41.32.550; 41.32.570; and 41.32.575))~~).

**Sec. 6.** RCW 41.32.310 and 1991 c 35 s 43 are each reenacted to read as follows:

(1) Any member desiring to establish credit for services previously rendered, must present proof and make the necessary payments on or before June 30 of the fifth school year of membership. Payments covering all types of membership service credit must be made in a lump sum when due, or in annual installments. The first annual installment of at least twenty percent of the amount due must be paid before the above deadline date, and the final payment must be made by June 30th of the fourth school year following that in which the first installment was made. The amount of payment and the interest thereon, whether lump sum or installments, shall be made by a method and in an amount established by the department.

(2) A member who had the opportunity under chapter 41.32 RCW prior to July 1, 1969, to establish credit for active United States military service or credit for professional preparation and failed to do so shall be permitted to establish additional credit within the provisions of RCW 41.32.260 and 41.32.330. A member who was not permitted to establish credit pursuant to section 2, chapter 32, Laws of 1973 2nd ex. sess., for Washington teaching service previously rendered, must present proof and make the necessary payment to establish such credit as membership service credit. Payment for such credit must be made in a lump sum on or before June 30, 1974. Any member desiring to establish credit under the provisions of this 1969 amendment must present proof and make the necessary payment before June 30, 1974; or, if not employed on the effective date of this amendment, before June 30th of the fifth school year upon returning to public school employment in this state.

**Sec. 7.** RCW 41.32.755 and 1977 ex.s. c 293 s 2 are each amended to read as follows:

RCW 41.32.760 through 41.32.825 shall apply only to ~~((those persons who are initially employed by an employer on or after October 1, 1977))~~ plan II members.

**Sec. 8.** RCW 41.40.005 and 1991 c 35 s 69 are each amended to read as follows:

~~((The provisions of the following sections of this chapter))~~ RCW 41.40.010 through 41.40.112 shall apply to members of plan I and plan II(~~(= RCW~~

41.40.010; 41.40.020; 41.40.123; 41.40.130; 41.40.165; 41.40.223; 41.40.340; 41.40.361; 41.40.370; 41.40.380; 41.40.400; 41.40.403; 41.40.410; 41.40.412; 41.40.414; 41.40.420; 41.40.440; 41.40.450; 41.40.530; 41.40.540; 41.40.542; 41.40.800; and 41.40.810)).

**Sec. 9.** RCW 41.40.145 and 1991 c 35 s 105 are each amended to read as follows:

((~~The provisions of the following sections of this subchapter~~) RCW 41.40.150 through 41.40.363 shall apply only to members of plan I(~~(= RCW 41.40.150; 41.40.160; 41.40.170; 41.40.180; 41.40.185; 41.40.188; 41.40.190; 41.40.193; 41.40.195; 41.40.198; 41.40.1981; 41.40.200; 41.40.210; 41.40.220; 41.40.230; 41.40.235; 41.40.250; 41.40.260; 41.40.270; 41.40.280; 41.40.300; 41.40.310; 41.40.320; 41.40.325; 41.40.330; and 41.40.363)~~)).

**Sec. 10.** RCW 41.50.210 and 1991 c 35 s 34 are each amended to read as follows:

The director shall designate a medical director. If required, other physicians may be employed to report on special cases. The medical director shall arrange for and pass upon all medical examinations required under the provisions of ((~~this~~)) chapter 41.32 RCW, investigate all essential statements and certificates by or on behalf of a member in connection with an application for a disability allowance, and report in writing to the board of trustees the conclusions and recommendations upon all matters under referral.

NEW SECTION. **Sec. 11.** The code reviser shall recodify RCW 41.26.058, 41.26.052, and 41.26.054 in chapter 41.26 RCW under the subchapter heading "Plan I."

NEW SECTION. **Sec. 12.** The following acts or parts of acts are each repealed:

- (1) RCW 41.26.405 and 1991 c 35 s 102;
- (2) RCW 41.32.610 and 1991 c 35 s 64 & 1947 c 80 s 61;
- (3) RCW 41.32.620 and 1991 c 35 s 65 & 1947 c 80 s 62;
- (4) RCW 41.32.630 and 1991 c 35 s 66 & 1947 c 80 s 63;
- (5) RCW 41.32.700 and 1991 c 35 s 104; and
- (6) RCW 41.40.605 and 1991 c 35 s 106.

Passed the House February 11, 1992.

Passed the Senate March 6, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

## CHAPTER 73

[Engrossed Substitute House Bill 2389]

## OIL SPILL PREVENTION AND CLEAN-UP STATUTES—REVISIONS

**Effective Date:** 3/26/92 - Except Sections 6, 7, 9, & 10 which become effective on 10/1/92.

AN ACT Relating to revisions in existing oil spill prevention and clean-up statutes; amending RCW 43.21B.110, 43.21B.300, 43.21B.310, 43.211.010, 43.211.020, 82.23B.010, 82.23B.020, 82.23B.030, 82.23B.040, 43.211.030, 88.40.011, 88.40.020, 88.40.040, 88.44.010, 88.44.100, 88.44.110, 88.46.010, 88.46.050, 88.46.060, 88.46.070, 88.46.080, 88.46.090, 88.46.110, 90.48.120, 90.48.140, 90.48.144, 90.48.366, 90.48.368, 90.48.400, 90.56.010, 90.56.100, 90.56.210, 90.56.300, 90.56.310, 90.56.330, 90.56.380, 90.56.390, 90.56.400, 90.56.450, 90.56.510, and 90.56.520; adding a new section to chapter 82.23B RCW; creating new sections; prescribing penalties; providing an effective date; and declaring an emergency.

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

**Sec. 1.** RCW 43.21B.110 and 1989 c 175 s 102 are each amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, the administrator of the office of marine safety, and the air pollution control boards or authorities as established pursuant to chapter 70.94 RCW, or local health departments:

(a) Civil penalties imposed pursuant to RCW 70.94.431, 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and ~~((90.48.350))~~ 90.56.330.

(b) Orders issued pursuant to RCW 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070, 90.14.130, and 90.48.120.

(c) The issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, or the modification of the conditions or the terms of a waste disposal permit.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW.

(e) Any other decision by the department, the administrator of the office of marine safety, or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(2) The following hearings shall not be conducted by the hearings board:

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

(c) Proceedings by the department relating to general adjudications of water rights pursuant to chapter 90.03 or 90.44 RCW.

(d) Hearings conducted by the department to adopt, modify, or repeal rules.

(3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

**Sec. 2.** RCW 43.21B.300 and 1987 c 109 s 5 are each amended to read as follows:

(1) Any civil penalty provided in RCW 70.94.431, 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and ~~((90.48.350))~~ 90.56.330 shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the department, the administrator of the office of marine safety, or the local air authority, describing the violation with reasonable particularity. Within fifteen days after the notice is received, the person incurring the penalty may apply in writing to the department, the administrator, or the authority for the remission or mitigation of the penalty. Upon receipt of the application, the department, the administrator, or authority may remit or mitigate the penalty upon whatever terms the department, the administrator, or the authority in its discretion deems proper. The department or the authority may ascertain the facts regarding all such applications in such reasonable manner and under such rules as it may deem proper and shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(2) Any penalty imposed under this section may be appealed to the pollution control hearings board in accordance with this chapter if the appeal is filed with the hearings board and served on the department, the administrator, or authority thirty days after receipt by the person penalized of the notice imposing the penalty or thirty days after receipt of the notice of disposition of the application for relief from penalty.

(3) A penalty shall become due and payable on the later of:

- (a) Thirty days after receipt of the notice imposing the penalty;
- (b) Thirty days after receipt of the notice of disposition on application for relief from penalty, if such an application is made; or
- (c) Thirty days after receipt of the notice of decision of the hearings board if the penalty is appealed.

(4) If the amount of any penalty is not paid to the department or the administrator within thirty days after it becomes due and payable, the attorney general, upon request of the department or the administrator, shall bring an action in the name of the state of Washington in the superior court of Thurston county, or of any county in which the violator does business, to recover the penalty. If the amount of the penalty is not paid to the authority within thirty days after it becomes due and payable, the authority may bring an action to recover the penalty in the superior court of the county of the authority's main office or of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(5) All penalties recovered shall be paid into the state treasury and credited to the general fund except those penalties imposed pursuant to RCW 70.94.431, the disposition of which shall be governed by that provision, RCW 70.105.080, which shall be credited to the hazardous waste control and elimination account, created by RCW 70.105.180, and RCW (~~90.48.350~~) 90.56.330, which shall be credited to the coastal protection fund created by RCW 90.48.390.

**Sec. 3.** RCW 43.21B.310 and 1989 c 2 s 14 are each amended to read as follows:

(1) Any order issued by the department, the administrator of the office of marine safety, or authority pursuant to RCW 70.94.211, 70.94.332, 70.105.095, 43.27A.190, 86.16.020, 88.46.070, or 90.48.120(2) or any provision enacted after July 26, 1987, or any permit, certificate, or license issued by the department may be appealed to the pollution control hearings board if the appeal is filed with the board and served on the department or authority within thirty days after receipt of the order. Except as provided under chapter 70.105D RCW, this is the exclusive means of appeal of such an order.

(2) The department, the administrator, or the authority in its discretion may stay the effectiveness of an order during the pendency of such an appeal.

(3) At any time during the pendency of an appeal of such an order to the board, the appellant may apply pursuant to RCW 43.21B.320 to the hearings board for a stay of the order or for the removal thereof.

(4) Any appeal must contain the following in accordance with the rules of the hearings board:

- (a) The appellant's name and address;
- (b) The date and docket number of the order, permit, or license appealed;
- (c) A description of the substance of the order, permit, or license that is the subject of the appeal;
- (d) A clear, separate, and concise statement of every error alleged to have been committed;
- (e) A clear and concise statement of facts upon which the requester relies to sustain his or her statements of error; and
- (f) A statement setting forth the relief sought.

(5) Upon failure to comply with any final order of the department or the administrator, the attorney general, on request of the department or the administrator, may bring an action in the superior court of the county where the violation occurred or the potential violation is about to occur to obtain such relief as necessary, including injunctive relief, to insure compliance with the order. The air authorities may bring similar actions to enforce their orders.

(6) An appealable decision or order shall be identified as such and shall contain a conspicuous notice to the recipient that it may be appealed only by filing an appeal with the hearings board and serving it on the department within thirty days of receipt.

**Sec. 4.** RCW 43.211.010 and 1991 c 200 s 402 are each amended to read as follows:

(1) There is hereby created an agency of state government to be known as the office of marine safety. The office shall be vested with all powers and duties transferred to it and such other powers and duties as may be authorized by law. The main administrative office of the office shall be located in the city of Olympia. The administrator may establish administrative facilities in other locations, if deemed necessary for the efficient operation of the office, and if consistent with the principles set forth in subsection (2) of this section.

(2) The office of marine safety shall be organized consistent with the goals of providing state government with a focus in marine transportation and serving the people of this state. The legislature recognizes that the administrator needs sufficient organizational flexibility to carry out the office's various duties. To the extent practical, the administrator shall consider the following organizational principles:

(a) Clear lines of authority which avoid functional duplication within and between subelements of the office;

(b) A clear and simplified organizational design promoting accessibility, responsiveness, and accountability to the legislature, the consumer, and the general public; and

(c) Maximum span of control without jeopardizing adequate supervision.

(3) The office shall provide leadership and coordination in identifying and resolving threats to the safety of marine transportation and the impact of marine transportation on the environment:

(a) Working with other state agencies and local governments to strengthen the state and local governmental partnership in providing public protection;

(b) Providing expert advice to the executive and legislative branches of state government;

(c) Providing active and fair enforcement of rules;

(d) Working with other federal, state, and local agencies and facilitating their involvement in planning and implementing marine safety measures;

(e) Providing information to the public; and

(f) Carrying out such other related actions as may be appropriate to this purpose.

(4) In accordance with the administrative procedure act, chapter 34.05 RCW, the office shall ensure an opportunity for consultation, review, and comment before the adoption of standards, guidelines, and rules.

(5) Consistent with the principles set forth in subsection (2) of this section, the administrator may create such administrative divisions, offices, bureaus, and programs within the office as the administrator deems necessary. The administrator shall have complete charge of and supervisory powers over the office, except where the administrator's authority is specifically limited by law.

(6) The administrator shall appoint such personnel as are necessary to carry out the duties of the office (~~(in accordance with chapter 41.06 RCW)~~). In addition to exemptions set forth in RCW 41.06.070(28), the administrator, the administrator's confidential secretary, and up to four professional staff members shall be exempt from the provisions of chapter 41.06 RCW. All other employees of the office shall be subject to the provisions of chapter 41.06 RCW.

**Sec. 5.** RCW 43.211.020 and 1991 c 200 s 403 are each amended to read as follows:

The executive head and appointing authority of the office shall be the administrator of marine safety. The administrator shall be appointed by, and serve at the pleasure of, the governor (~~(in accordance with RCW 43.17.020)~~). The administrator shall be paid a salary to be fixed by the governor in accordance with RCW 43.03.040.

**Sec. 6.** RCW 82.23B.010 and 1991 c 200 s 801 are each amended to read as follows:

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

(1) "Barrel" means a unit of measurement of volume equal to forty-two United States gallons of crude oil or petroleum product.

(2) "Crude oil" means any naturally occurring liquid hydrocarbons at atmospheric temperature and pressure coming from the earth, including condensate and natural gasoline.

(3) "Department" means the department of revenue.

(4) "Marine terminal" means a facility of any kind, other than a waterborne vessel, that is used for transferring crude oil or petroleum products to or from a waterborne vessel or barge.

(5) "Navigable waters" means those waters of the state and their adjoining shorelines that are subject to the ebb and flow of the tide, including the Columbia and Snake rivers.

(6) "Person" has the meaning provided in RCW 82.04.030.

(7) "Petroleum product" means any liquid hydrocarbons at atmospheric temperature and pressure that are the product of the fractionation, distillation, or other refining or processing of crude oil, and that are used as, useable as, or may be refined as a fuel or fuel blendstock, including but not limited to, gasoline, diesel fuel, aviation fuel, bunker fuel, and fuels containing a blend of alcohol and petroleum.

(8) "Taxpayer" means the person owning crude oil or petroleum products immediately (~~(before the same are off loaded at)~~) after receipt of the same into the storage tanks of a marine terminal in this state from a waterborne vessel or barge and who is liable for the taxes imposed by this chapter.

(9) "Waterborne vessel or barge" means any ship, barge, or other watercraft capable of travelling on the navigable waters of this state and capable of

transporting any crude oil or petroleum product in quantities of ten thousand gallons or more for purposes other than providing fuel for its motor or engine.

Sec. 7. RCW 82.23B.020 and 1991 c 200 s 802 are each amended to read as follows:

(1) An oil spill response tax is imposed on the privilege of ~~((off-loading))~~ receiving crude oil or petroleum products at a marine terminal within this state from a waterborne vessel or barge operating on the navigable waters of this state. The tax imposed in this section is levied upon the owner of the crude oil or petroleum products immediately ~~((before off-loading begins))~~ after receipt of the same into the storage tanks of a marine terminal from a waterborne vessel or barge at the rate of two cents per barrel of crude oil or petroleum product ~~((off-loaded))~~ received.

(2) In addition to the tax imposed in subsection (1) of this section, an oil spill administration tax is imposed on the privilege of ~~((off-loading))~~ receiving crude oil or petroleum products at a marine terminal within this state from a waterborne vessel or barge operating on the navigable waters of this state. The tax imposed in this section is levied upon the owner of the crude oil or petroleum products immediately ~~((before off-loading begins))~~ after receipt of the same into the storage tanks of a marine terminal from a waterborne vessel or barge at the rate of three cents per barrel of crude oil or petroleum product ~~((off-loaded))~~.

(3) The taxes imposed by this chapter shall be collected by the marine terminal operator from the ~~((owner of the crude oil or petroleum products off-loaded at the marine terminal))~~ taxpayer. If any person charged with collecting the taxes fails to bill the taxpayer for the taxes, or in the alternative has not notified the taxpayer in writing of the imposition of the taxes, or having collected the taxes, fails to pay them to the department in the manner prescribed by this chapter, whether such failure is the result of the person's own acts or the result of acts or conditions beyond the person's control, he or she shall, nevertheless, be personally liable to the state for the amount of the taxes. Payment of the taxes by the owner to a marine terminal operator shall relieve the owner from further liability for the taxes.

(4) Taxes collected under this chapter shall be held in trust until paid to the department. Any person collecting the taxes who appropriates or converts the taxes collected shall be guilty of a gross misdemeanor if the money required to be collected is not available for payment on the date payment is due. The taxes required by this chapter to be collected shall be stated separately from other charges made by the marine terminal operator in any invoice or other statement of account provided to the taxpayer.

(5) If a taxpayer fails to pay the taxes imposed by this chapter to the person charged with collection of the taxes and the person charged with collection fails to pay the taxes to the department, the department may, in its discretion, proceed directly against the taxpayer for collection of the taxes.

(6) The taxes shall be due from the marine terminal operator, along with reports and returns on forms prescribed by the department, within twenty-five days after the end of the month in which the taxable activity occurs.

(7) The amount of taxes, until paid by the taxpayer to the marine terminal operator or to the department, shall constitute a debt from the taxpayer to the marine terminal operator. Any person required to collect the taxes under this chapter who, with intent to violate the provisions of this chapter, fails or refuses to do so as required and any taxpayer who refuses to pay any taxes due under this chapter, shall be guilty of a misdemeanor as provided in chapter 9A.20 RCW.

(8) Upon prior approval of the department, the ~~((owner of crude oil or petroleum products off loaded in this state))~~ taxpayer may pay the taxes imposed by this chapter directly to the department. The department shall give its approval for direct payment under this section whenever it appears, in the department's judgment, that direct payment will enhance the administration of the taxes imposed under this chapter. The department shall provide by rule for the issuance of a direct payment certificate to any taxpayer qualifying for direct payment of the taxes. Good faith acceptance of a direct payment certificate by a terminal operator shall relieve the marine terminal operator from any liability for the collection or payment of the taxes imposed under this chapter.

(9) All receipts from the tax imposed in subsection (1) of this section shall be deposited into the state oil spill response account. All receipts from the tax imposed in subsection (2) of this section shall be deposited into the state oil spill administration account.

(10) Within forty-five days after the end of each calendar quarter, the office of financial management shall determine the balance of the oil spill response account as of the last day of that calendar quarter. Balance determinations by the office of financial management under this section are final and shall not be used to challenge the validity of any tax imposed under this chapter. The office of financial management shall promptly notify the departments of revenue and ecology of the account balance once a determination is made. For each subsequent calendar quarter, the tax imposed by subsection (1) of this section shall be imposed during the entire calendar quarter unless:

(a) Tax was imposed under subsection (1) of this section during the immediately preceding calendar quarter, and the most recent quarterly balance is more than twenty-five million dollars; or

(b) Tax was not imposed under subsection (1) of this section during the immediately preceding calendar quarter, and the most recent quarterly balance is more than fifteen million dollars.

(11) The office of marine safety, the department of revenue, and the department of trade and economic development shall study tax credits for taxpayers employing vessels with the best achievable technology and the best available protection to reduce the risk of oil spills to the navigable waters of the

state and submit the study to the appropriate standing committees of the legislature by December 1, 1992.

**NEW SECTION.** **Sec. 8.** A new section is added to chapter 82.23B RCW to read as follows:

(1) Any person having paid the tax imposed by this chapter who uses petroleum products as a consumer for a purpose other than as a fuel may claim refund or credit against the tax imposed under this chapter. For this purpose, the term consumer shall be defined as provided in RCW 82.04.190.

(2) Any person having paid the tax imposed by this chapter who uses petroleum products as a component or ingredient in the manufacture of an item which is not a fuel may claim a refund or credit against the tax imposed by this chapter.

(3) The amount of refund or credit claimed under this section may not exceed the amount of tax paid by the person making such claim on the petroleum products so consumed or used. The refund or credit allowed by this section shall be claimed on such forms and subject to such requirements as the department may prescribe by rule.

**Sec. 9.** RCW 82.23B.030 and 1991 c 200 s 803 are each amended to read as follows:

The taxes imposed under this chapter shall only apply to the first (~~(off-loading)~~) receipt of crude oil or petroleum products at a marine terminal in this state and not to the later transporting and subsequent (~~(off-loading)~~) receipt of the same oil or petroleum product, whether in the form originally (~~(off-loaded)~~) received at a marine terminal in this state or after refining or other processing.

**Sec. 10.** RCW 82.23B.040 and 1991 c 200 s 804 are each amended to read as follows:

Credit shall be allowed against the taxes imposed under this chapter for any crude oil or petroleum products (~~(off-loaded)~~) received at a marine terminal and subsequently exported from or sold for export from the state.

**Sec. 11.** RCW 43.211.030 and 1991 c 200 s 405 are each amended to read as follows:

In addition to any other powers granted the administrator, the administrator may:

(1) Adopt, in accordance with chapter 34.05 RCW, rules necessary to carry out the provisions of this chapter and chapter 88.46 RCW;

(2) Appoint such advisory committees as may be necessary to carry out the provisions of this chapter and chapter 88.46 RCW. Members of such advisory committees are authorized to receive travel expenses in accordance with RCW 43.03.050 and 43.03.060. The administrator shall review each advisory committee within the jurisdiction of the office and each statutory advisory committee on a biennial basis to determine if such advisory committee is needed.

The criteria specified in RCW 43.131.070 shall be used to determine whether or not each advisory committee shall be continued;

(3) Undertake studies, research, and analysis necessary to carry out the provisions of this chapter and chapter 88.46 RCW;

(4) Delegate powers, duties, and functions of the ((department)) office to employees of the ((department)) office as the ((secretary)) administrator deems necessary to carry out the provisions of this chapter and chapter 88.46 RCW;

(5) Enter into contracts on behalf of the ((department)) office to carry out the purposes of this chapter and chapter 88.46 RCW;

(6) Act for the state in the initiation of, or the participation in, any intergovernmental program for the purposes of this chapter and chapter 88.46 RCW; or

(7) Accept gifts, grants, or other funds.

**Sec. 12.** RCW 88.40.011 and 1991 c 200 s 702 are each amended to read as follows:

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

(1) "Administrator" means the administrator of the office of marine safety created in RCW 43.211.010.

(2) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel or a passenger vessel, of ((greater than)) three hundred or more gross tons, including but not limited to, commercial fish processing vessels and freighters.

(3) "Bulk" means material that is stored or transported in a loose, unpackaged liquid, powder, or granular form capable of being conveyed by a pipe, bucket, chute, or belt system.

(4) "Covered vessel" means a tank vessel, cargo vessel, or passenger vessel.

(5) "Department" means the department of ecology.

(6) "Director" means the director of the department of ecology.

(7)(a) "Facility" means any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or near the navigable waters of the state that transfers oil in bulk to or from a tank vessel or pipeline, that is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.

(b) A facility does not include any: (i) Railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state; (ii) retail motor vehicle motor fuel outlet; (iii) facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330; (iv) underground storage tank regulated by the department or a local government under chapter 90.76 RCW; or (v) ((a)) marine fuel outlet that does not dispense more than three thousand gallons of fuel to a ship that is not a covered vessel, in a single transaction.

(8) "Hazardous substances" means any substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under section 101(14) of the federal comprehensive environmental response, compensation, and liability act of 1980, as amended by P.L. 99-499. The following are not hazardous substances for purposes of this chapter:

(a) Wastes listed as F001 through F028 in Table 302.4; and

(b) Wastes listed as K001 through K136 in Table 302.4.

(9) "Inland barge" means any barge operating on the waters of the state and certified by the coast guard as an inland barge.

(10) "Navigable waters of the state" means those waters of the state, and their adjoining shorelines, that are subject to the ebb and flow of the tide and/or are presently used, have been used in the past, or may be susceptible for use to transport intrastate, interstate, or foreign commerce.

(11) "Office" means the office of marine safety established by RCW 43.211.010.

(12) "Oil" or "oils" means any naturally occurring liquid hydrocarbons at atmospheric temperature and pressure coming from the earth, including condensate and natural gasoline, and any fractionation thereof, including, but not limited to, crude oil, petroleum, gasoline, fuel oil, diesel oil, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under section 101(14) of the federal comprehensive environmental response, compensation, and liability act of 1980, as amended by P.L. 99-499.

(13) "Offshore facility" means any facility(~~(, as defined in subsection (7) of this section,)~~) located in, on, or under any of the navigable waters of the state, but does not include a facility any part of which is located in, on, or under any land of the state, other than submerged land.

(14) "Onshore facility" means any facility(~~(, as defined in subsection (7) of this section,)~~) any part of which is located in, on, or under any land of the state, other than submerged land, that because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters of the state or the adjoining shorelines.

(15)(a) "Owner or operator" means (i) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel; (ii) in the case of an onshore or offshore facility, any person owning or operating the facility; and (iii) in the case of an abandoned vessel or onshore or offshore facility, the person who owned or operated the vessel or facility immediately before its abandonment.

(b) "Operator" does not include any person who owns the land underlying a facility if the person is not involved in the operations of the facility.

(16) "Passenger vessel" means a ship of (~~greater than~~) three hundred or more gross tons (~~or five hundred or more international gross tons~~) with a fuel capacity of at least six thousand gallons carrying passengers for compensation.

(17) "Ship" means any boat, ship, vessel, barge, or other floating craft of any kind.

(18) "Spill" means an unauthorized discharge of oil into the waters of the state.

(19) "Tank vessel" means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that:

(a) Operates on the waters of the state; or

(b) Transfers oil in a port or place subject to the jurisdiction of this state.

(20) "Waters of the state" includes lakes, rivers, ponds, streams, inland waters, underground water, salt waters, estuaries, tidal flats, beaches and lands adjoining the seacoast of the state, sewers, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

**Sec. 13.** RCW 88.40.020 and 1991 c 200 s 703 are each amended to read as follows:

(1) Any inland barge that transports hazardous substances in bulk as cargo, using any port or place in the state of Washington or the navigable waters of the state shall establish evidence of financial responsibility in the amount of the greater of one million dollars, or one hundred fifty dollars per gross ton of such vessel.

(2)(a) Except as provided in (c) of this subsection, a tank vessel that carries oil as cargo in bulk shall demonstrate financial responsibility to pay at least five hundred million dollars.

(b) The administrator by rule may establish a lesser standard of financial responsibility for barges of three hundred gross tons or less. The standard shall set the level of financial responsibility based on the quantity of cargo the barge is capable of carrying. The administrator shall not set the standard for barges of three (~~thousand~~) hundred gross tons or less below that required under federal law.

(c) The owner or operator of a tank vessel who is a member of an international protection and indemnity mutual organization and is covered for oil pollution risks up to the amounts required under this section is not required to demonstrate financial responsibility under this chapter. The administrator may require the owner or operator of a tank vessel to prove membership in such an organization.

(3) A cargo vessel or passenger vessel that carries oil as fuel shall demonstrate financial responsibility to pay the greater of at least six hundred dollars per gross ton or five hundred thousand dollars.

(4) The documentation of financial responsibility shall demonstrate the ability of the document holder to meet state and federal financial liability requirements for the actual costs for removal of oil spills, for natural resource damages, and necessary expenses.

(5) The office may by rule set a lesser amount of financial responsibility for a tank vessel that meets standards for construction, propulsion, equipment, and

personnel established by the office. The office shall require as a minimum level of financial responsibility under this subsection the same level of financial responsibility required under federal law.

(6) This section shall not apply to a covered vessel owned or operated by the federal government or by a state or local government.

**Sec. 14.** RCW 88.40.040 and 1991 c 200 s 706 are each amended to read as follows:

(1) The office shall deny entry to the waters of the state to any vessel that does not meet the financial responsibility requirements of this chapter. Any vessel owner or operator that does not meet the financial responsibility requirements of this chapter and any rules prescribed thereunder or the federal oil pollution act of 1990 shall be reported by the office to the United States coast guard.

(2) The office shall enforce section 1016 of the federal oil pollution act of 1990 as authorized by section 1019 of the federal act.

~~((3) Any onshore or offshore facility owner or operator who does not meet the financial responsibility requirements of RCW 88.40.025 and any rules adopted by the department or office shall be reported to the secretary of state. The secretary of state shall suspend the facility's privilege of operating in this state until financial responsibility is demonstrated.))~~

**Sec. 15.** RCW 88.44.010 and 1991 c 200 s 901 are each amended to read as follows:

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

(1) "Administrator" means the administrator of the office of marine safety created by RCW 43.211.010.

(2) "Business class" means a recognized trade segment of the maritime industry.

(3) "Commission" means the Washington state maritime commission.

(4) "Fishing vessel" means a vessel (a) on which persons commercially engage in: (i) Catching, taking, or harvesting fish; (ii) preparing fish or fish products; or (b) that supplies, stores, refrigerates, or transports fish, fish products, or materials directly related to fishing or the preparation of fish.

(5) "Foreign vessel" means a vessel of foreign registry or operated under the authority of a country, except the United States.

(6) "Oil" or "oils" means oil, including gasoline, crude oil, fuel oil, diesel oil, lubricating oil, sludge, oil refuse, liquid natural gas, propane, butane, oils distilled from coal, and other liquid hydrocarbons regardless of specific gravity, or any other petroleum related products.

(7) "Oceanographic research vessel" means a vessel that is employed only in instruction in oceanography or limnology, or both, or only in oceanographic or limnological research, including those studies about the sea such as seismic,

gravity meter, and magnetic exploration and other marine geophysical or geological surveys, atmospheric research, and biological research.

(8) "Protection and indemnity club" means a mutual insurance organization formed by a group of shipowners or operators in order to secure cover for various risks of vessel operation, including oil spill costs, not covered by normal hull insurance.

(9) "Public vessel" means a vessel that is owned, or chartered and operated by the United States government, by a state of the United States, or a government of a foreign country and is not engaged in commercial service.

(10) "State" means a state of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other territory or possession of the United States.

(11) "Steamship agent or agency" means an agent or agency appointed by a vessel owner or operator to enter or clear vessels at ports within the state of Washington and to conduct onshore activities, or contract on behalf of the owner or operator for whatever is required for the efficient operation of the vessel.

(12) "Steamship liner company" means a steamship company maintaining a regular schedule of calls at designated ports of the state of Washington.

(13) "Towboat" means a commercial vessel engaged in, or intending to engage in, the service of pulling, pushing, or hauling along side, or any combination of pulling, pushing, or hauling along side.

(14) "United States flag vessel" means a vessel documented under the laws of the United States or registered under the laws of any state of the United States.

(15) "Vessel" means every description of watercraft, other than a seaplane on water, used or capable of being used as a means of transportation on water, carrying oil as fuel or cargo, ~~((and over))~~ of three hundred or more gross registered tons, except oceanographic research vessels, public vessels, passenger vessels with a maximum fuel capacity of less than six thousand gallons, vessels being employed exclusively for pleasure, or vessels which, prior to entering Washington waters, have a contingency plan approved pursuant to RCW 88.46.060, or have ~~((formerly))~~ arranged for immediate oil spill response with an officially recognized cleanup cooperative or with a private cleanup contractor ~~((for immediate oil spill response)).~~

(16) "Vessel owner or operator" means the legal owner of a vessel and/or the charterer or other person in charge of the day-to-day operation.

(17) "Waters of this state" or "waters of the state of Washington" has the meaning in RCW 90.56.010.

**Sec. 16.** RCW 88.44.100 and 1990 c 117 s 11 are each amended to read as follows:

There is levied on and after October 1, 1990, an assessment upon all vessels, or the owners or operators thereof, which transit upon waters of this state, except as exempted herein and not including vessels which transit upon the portion of

the Columbia river that runs between the states of Washington and Oregon, an assessment to be set by the commission on each vessel transit, plus annual increases as are imposed pursuant to the provisions of RCW 88.44.110. (~~Vessels which show proof to the commission or the department of ecology that they have previously and individually arranged with an officially recognized cleanup cooperative or with a private cleanup contractor to provide immediate response capabilities in the event of an oil spill or threatened release, are exempt from assessment under this chapter.~~) Of those vessels assessed, the commission may set the rate. When the fund reaches one million five hundred thousand dollars, the commission shall discontinue the assessment until the fund declines to one million dollars, at which time the assessment must be reinstated. The assessment, at a minimum, must be able to generate the maximum fund level within four years. All moneys collected hereunder shall be expended to effectuate the purpose and objects of this chapter.

If the commission establishes an oil spill first response system for the Columbia river, there may be levied on and after ((January)) July 1, 1992, an assessment upon all vessels, or the owners or operators thereof, which transit upon the portion of the Columbia river that runs between the states of Washington and Oregon.

**Sec. 17.** RCW 88.44.110 and 1991 c 200 s 906 are each amended to read as follows:

If it appears from investigation by the commission that the revenue from the assessment levied on vessels under this chapter is inadequate to accomplish the purposes of this chapter, the commission by rule shall increase the assessment to a sum determined by the commission to be necessary for those purposes. The rule adopting the increase shall be filed with the administrator (~~An increase shall not take effect earlier than ninety days after the rule is adopted and filed with the administrator, unless~~) at least thirty days prior to the date set by the commission for final adoption of the rule. If the administrator determines that the increase is not justified, not later than the date set by the commission for adoption of the final rule, the administrator shall notify the commission that the rule has been disapproved.

**Sec. 18.** RCW 88.46.010 and 1991 c 200 s 414 are each amended to read as follows:

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

(1) "Administrator" means the administrator of the office of marine safety created in RCW 43.211.010.

(2) "Best achievable protection" means the highest level of protection that can be achieved through the use of the best achievable technology and those staffing levels, training procedures, and operational methods that provide the greatest degree of protection achievable. The administrator's determination of best achievable protection shall be guided by the critical need to protect the

state's natural resources and waters, while considering (a) the additional protection provided by the measures; (b) the technological achievability of the measures; and (c) the cost of the measures.

(3) "Best achievable technology" means the technology that provides the greatest degree of protection taking into consideration (a) processes that are being developed, or could feasibly be developed, given overall reasonable expenditures on research and development, and (b) processes that are currently in use. In determining what is best achievable technology, the administrator shall consider the effectiveness, engineering feasibility, and commercial availability of the technology.

(4) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel or a passenger vessel, of (~~greater than~~) three hundred or more gross tons, including but not limited to, commercial fish processing vessels and freighters.

(5) "Bulk" means material that is stored or transported in a loose, unpackaged liquid, powder, or granular form capable of being conveyed by a pipe, bucket, chute, or belt system.

(6) "Covered vessel" means a tank vessel, cargo vessel, or passenger vessel.

(7) "Department" means the department of ecology.

(8) "Director" means the director of the department of ecology.

(9) "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

(10)(a) "Facility" means any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or near the navigable waters of the state that transfers oil in bulk to or from a tank vessel or pipeline, that is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.

(b) A facility does not include any: (i) Railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state; (ii) retail motor vehicle motor fuel outlet; (iii) facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330; (iv) underground storage tank regulated by the department or a local government under chapter 90.76 RCW; or (v) (~~a~~) marine fuel outlet that does not dispense more than three thousand gallons of fuel to a ship that is not a covered vessel, in a single transaction.

(11) "Marine facility" means any facility used for tank vessel wharfage or anchorage, including any equipment used for the purpose of handling or transferring oil in bulk to or from a tank vessel.

(12) "Navigable waters of the state" means those waters of the state, and their adjoining shorelines, that are subject to the ebb and flow of the tide and/or are presently used, have been used in the past, or may be susceptible for use to transport intrastate, interstate, or foreign commerce.

(13) "Office" means the office of marine safety established by RCW 43.211.010.

(14) "Oil" or "oils" means any naturally occurring liquid hydrocarbons at atmospheric temperature and pressure coming from the earth, including condensate and natural gasoline, and any fractionation thereof, including, but not limited to, crude oil, petroleum, gasoline, fuel oil, diesel oil, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under section 101(14) of the federal comprehensive environmental response, compensation, and liability act of 1980, as amended by P.L. 99-499.

(15) "Offshore facility" means any facility(~~(, as defined in subsection (10) of this section,)~~) located in, on, or under any of the navigable waters of the state, but does not include a facility any part of which is located in, on, or under any land of the state, other than submerged land. "Offshore facility" does not include a marine facility (~~(as defined in subsection (11) of this section)~~).

(16) "Onshore facility" means any facility(~~(, as defined in subsection (10) of this section,)~~) any part of which is located in, on, or under any land of the state, other than submerged land, that because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters of the state or the adjoining shorelines.

(17)(a) "Owner or operator" means (i) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel; (ii) in the case of an onshore or offshore facility, any person owning or operating the facility; and (iii) in the case of an abandoned vessel or onshore or offshore facility, the person who owned or operated the vessel or facility immediately before its abandonment.

(b) "Operator" does not include any person who owns the land underlying a facility if the person is not involved in the operations of the facility.

(18) "Passenger vessel" means a ship of (~~greater than~~) three hundred or more gross tons (~~or five hundred or more international gross tons~~) with a fuel capacity of at least six thousand gallons carrying passengers for compensation.

(19) "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual, or any other entity whatsoever.

(20) "Ship" means any boat, ship, vessel, barge, or other floating craft of any kind.

(21) "Spill" means an unauthorized discharge of oil into the waters of the state.

(22) "Tank vessel" means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that:

(a) Operates on the waters of the state; or

(b) Transfers oil in a port or place subject to the jurisdiction of this state.

(23) "Waters of the state" includes lakes, rivers, ponds, streams, inland waters, underground water, salt waters, estuaries, tidal flats, beaches and lands adjoining the seacoast of the state, sewers, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

(24) "Worst case spill" means: (a) In the case of a vessel, a spill of the entire cargo and fuel of the vessel complicated by adverse weather conditions; and (b) in the case of an onshore or offshore facility, the largest foreseeable spill in adverse weather conditions.

**Sec. 19.** RCW 88.46.050 and 1991 c 200 s 418 are each amended to read as follows:

(1) In order to ensure the safety of marine transportation within the navigable waters of the state and to protect the state's natural resources, the administrator shall adopt rules by July 1, 1992, for determining whether cargo vessels and passenger vessels entering the navigable waters of the state pose a substantial risk of harm to the public health and safety and the environment.

(2) The rules adopted by the administrator pursuant to this section may include, but are not limited to the following:

(a) Examining available information (~~(to examine)~~) sources for evidence that a cargo or passenger vessel may pose a substantial risk to safe marine transportation or the state's natural resources (~~(, including,)~~). Information sources may include: Vessel casualty lists, United States coast guard casualty reports, maritime insurance ratings, the index of contingency plans compiled by the department of ecology, other data gathered by the office or the maritime commission, or any other resources;

(b) (~~(A request to)~~) Requesting the United States coast guard to deny a cargo vessel or passenger vessel entry into the navigable waters of the state, if the vessel poses a substantial environmental risk;

(c) (~~(A notice to)~~) Notifying the state's spill response system that a cargo or passenger vessel entering the state's navigable waters poses a substantial environmental risk;

(d) (~~(A)~~) Inspecting a cargo or passenger vessel (~~(inspection for vessels)~~) that may pose a substantial environmental risk, to determine whether (~~(a cargo vessel or passenger)~~) the vessel complies with applicable state or federal laws. Any vessel inspection conducted pursuant to this section shall be performed during the vessel's scheduled stay in port; and

(e) Enforcement actions.

**Sec. 20.** RCW 88.46.060 and 1991 c 200 s 419 are each amended to read as follows:

(1) Each covered vessel shall have a contingency plan for the containment and cleanup of oil spills from the covered vessel into the waters of the state and for the protection of fisheries and wildlife, natural resources, and public and private property from such spills. The office shall by rule adopt and periodically

revise standards for the preparation of contingency plans. The office shall require contingency plans, at a minimum, to meet the following standards:

(a) Include full details of the method of response to spills of various sizes from any vessel which is covered by the plan;

(b) Be designed to be capable in terms of personnel, materials, and equipment, of promptly and properly, to the maximum extent practicable, as defined by the office, removing oil and minimizing any damage to the environment resulting from a worst case spill;

(c) Provide a clear, precise, and detailed description of how the plan relates to and is integrated into relevant contingency plans which have been prepared by cooperatives, ports, regional entities, the state, and the federal government;

(d) Provide procedures for early detection of spills and timely notification of such spills to appropriate federal, state, and local authorities under applicable state and federal law;

(e) State the number, training preparedness, and fitness of all dedicated, prepositioned personnel assigned to direct and implement the plan;

(f) Incorporate periodic training and drill programs to evaluate whether personnel and equipment provided under the plan are in a state of operational readiness at all times;

(g) Describe important features of the surrounding environment, including fish and wildlife habitat, environmentally and archaeologically sensitive areas, and public facilities. The departments of ecology, fisheries, wildlife, and natural resources, and the office of archaeology and historic preservation, upon request, shall provide information that they have available to assist in preparing this description. If the office has adopted rules for contingency plans prior to July 1, 1992, the description of archaeologically sensitive areas shall only be required when the office revises the rules for contingency plans after July 1, 1992. The description of archaeologically sensitive areas shall not be required to be included in a contingency plan until it is reviewed and updated pursuant to subsection (9) of this section;

(h) State the means of protecting and mitigating effects on the environment, including fish, marine mammals, and other wildlife, and ensure that implementation of the plan does not pose unacceptable risks to the public or the environment;

(i) Establish guidelines for the use of equipment by the crew of a vessel to minimize vessel damage, stop or reduce any spilling from the vessel, and, only when appropriate and only when vessel safety is assured, contain and clean up the spilled oil;

(j) Provide arrangements for the prepositioning of spill containment and cleanup equipment and trained personnel at strategic locations from which they can be deployed to the spill site to promptly and properly remove the spilled oil;

(k) Provide arrangements for enlisting the use of qualified and trained cleanup personnel to implement the plan;

(l) Provide for disposal of recovered spilled oil in accordance with local, state, and federal laws;

(m) Until a spill prevention plan has been submitted pursuant to RCW 88.46.040, state the measures that have been taken to reduce the likelihood that a spill will occur, including but not limited to, design and operation of a vessel, training of personnel, number of personnel, and backup systems designed to prevent a spill;

(n) State the amount and type of equipment available to respond to a spill, where the equipment is located, and the extent to which other contingency plans rely on the same equipment; and

(o) If the department of ecology has adopted rules permitting the use of dispersants, the circumstances, if any, and the manner for the application of the dispersants in conformance with the department's rules.

(2)(a) The owner or operator of a tank vessel of three thousand gross tons or more shall submit a contingency plan to the office within six months after the office adopts rules establishing standards for contingency plans under subsection (1) of this section.

(b) Contingency plans for all other covered vessels shall be submitted to the office within eighteen months after the office has adopted rules under subsection (1) of this section. The office may adopt a schedule for submission of plans within the eighteen-month period.

(3)(a) The owner or operator of a tank vessel or of the facilities at which the vessel will be unloading its cargo, or the Washington state maritime commission under RCW 88.44.020, shall submit the contingency plan for the tank vessel. Subject to conditions imposed by the office, the owner or operator of a facility may submit a single contingency plan for tank vessels of a particular class that will be unloading cargo at the facility.

(b) The contingency plan for a cargo vessel or passenger vessel may be submitted by the owner or operator of the cargo vessel or passenger vessel, by the agent for the vessel resident in this state, or by the Washington state maritime commission pursuant to RCW 88.44.020. Subject to conditions imposed by the office, the owner, operator, or agent may submit a single contingency plan for cargo vessels or passenger vessels of a particular class.

(c) A person who has contracted with a covered vessel to provide containment and cleanup services and who meets the standards established pursuant to RCW 90.56.240, may submit the plan for any covered vessel for which the person is contractually obligated to provide services. Subject to conditions imposed by the office, the person may submit a single plan for more than one covered vessel.

(4) A contingency plan prepared for an agency of the federal government or another state that satisfies the requirements of this section and rules adopted by the office may be accepted by the office as a contingency plan under this section. The office shall assure that to the greatest extent possible, requirements

for contingency plans under this section are consistent with the requirements for contingency plans under federal law.

(5) In reviewing the contingency plans required by this section, the office shall consider at least the following factors:

(a) The adequacy of containment and cleanup equipment, personnel, communications equipment, notification procedures and call down lists, response time, and logistical arrangements for coordination and implementation of response efforts to remove oil spills promptly and properly and to protect the environment;

(b) The nature and amount of vessel traffic within the area covered by the plan;

(c) The volume and type of oil being transported within the area covered by the plan;

(d) The existence of navigational hazards within the area covered by the plan;

(e) The history and circumstances surrounding prior spills of oil within the area covered by the plan;

(f) The sensitivity of fisheries and wildlife and other natural resources within the area covered by the plan;

(g) Relevant information on previous spills contained in on-scene coordinator reports prepared by the director; and

(h) The extent to which reasonable, cost-effective measures to prevent a likelihood that a spill will occur have been incorporated into the plan.

(6) The office shall approve a contingency plan only if it determines that the plan meets the requirements of this section and that, if implemented, the plan is capable, in terms of personnel, materials, and equipment, of removing oil promptly and properly and minimizing any damage to the environment.

(7) The approval of the contingency plan shall be valid for five years. Upon approval of a contingency plan, the office shall provide to the person submitting the plan a statement indicating that the plan has been approved, the vessels covered by the plan, and other information the office determines should be included.

(8) An owner or operator of a covered vessel shall notify the office in writing immediately of any significant change of which it is aware affecting its contingency plan, including changes in any factor set forth in this section or in rules adopted by the office. The office may require the owner or operator to update a contingency plan as a result of these changes.

(9) The office by rule shall require contingency plans to be reviewed, updated, if necessary, and resubmitted to the office at least once every five years.

(10) Approval of a contingency plan by the office does not constitute an express assurance regarding the adequacy of the plan nor constitute a defense to liability imposed under this chapter or other state law.

**Sec. 21.** RCW 88.46.070 and 1991 c 200 s 420 are each amended to read as follows:

(1) The provisions of prevention plans and contingency plans approved by the office pursuant to this chapter shall be legally binding on those persons submitting them to the office and on their successors, assigns, agents, and employees. The superior court shall have jurisdiction to restrain a violation of, compel specific performance of, or otherwise to enforce such plans upon application by the office. The office may issue an order pursuant to chapter 34.05 RCW requiring compliance with a contingency plan or a prevention plan and may impose administrative penalties for failure to comply with a plan.

(2) If the administrator believes a person has violated or is violating or creates a substantial potential to violate the provisions of this chapter, the administrator shall notify the person of the administrator's determination by registered mail. The determination shall not constitute an order or directive under RCW 43.21B.310. Within thirty days from the receipt of notice of the determination, the person shall file with the administrator a full report stating what steps have been and are being taken to comply with the determination of the administrator. The administrator shall issue an order or directive, as the administrator deems appropriate under the circumstances, and shall notify the person by registered mail.

(3) If the administrator believes immediate action is necessary to accomplish the purposes of this chapter, the administrator may issue an order or directive, as appropriate under the circumstances, without first issuing a notice or determination pursuant to subsection (2) of this section. An order or directive issued pursuant to this subsection shall be served by registered mail or personally upon any person to whom it is directed.

**Sec. 22.** RCW 88.46.080 and 1991 c 200 s 421 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, it shall be unlawful for the owner or operator to knowingly and intentionally operate in this state or on the waters of this state a covered vessel without an approved contingency plan or an approved prevention plan as required by this chapter, or financial responsibility in compliance with chapter 88.40 RCW and the federal oil pollution act of 1990. The first conviction under this section shall be a gross misdemeanor under chapter 9A.20 RCW. A second or subsequent conviction shall be a class C felony under chapter 9A.20 RCW.

(2) It shall not be unlawful for the owner or operator to operate a covered vessel if:

(a) The covered vessel is not required to have a contingency plan, spill prevention plan, or financial responsibility;

(b) All required plans have been submitted to the office as required by this chapter and rules adopted by the office and the office is reviewing the plan and has not denied approval; or

(c) The covered vessel has entered state waters after the United States coast guard has determined that the vessel is in distress.

(3) A person may rely on a copy of the statement issued by the office pursuant to RCW 88.46.060 as evidence that a vessel has an approved contingency plan and the statement issued pursuant to RCW 88.46.040 that a vessel has an approved prevention plan.

(4) Any person found guilty of willfully violating any of the provisions of this chapter, or any final written orders or directive of the administrator or a court in pursuance thereof shall be deemed guilty of a gross misdemeanor, as provided in chapter 9A.20 RCW, and upon conviction thereof shall be punished by a fine of up to ten thousand dollars and costs of prosecution, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment in the discretion of the court. Each day upon which a willful violation of the provisions of this chapter occurs may be deemed a separate and additional violation.

**Sec. 23.** RCW 88.46.090 and 1991 c 200 s 422 are each amended to read as follows:

(1) Except as provided in subsection (4) of this section, it shall be unlawful for a covered vessel to enter the waters of the state without an approved contingency plan required by RCW 88.46.060, a spill prevention plan required by RCW 88.46.040, or financial responsibility in compliance with chapter 88.40 RCW and the federal oil pollution act of 1990. The office may deny entry onto the waters of the state to any covered vessel that does not have a required contingency or spill prevention plan or financial responsibility.

(2) Except as provided in subsection (4) of this section, it shall be unlawful for a covered vessel to transfer oil to or from an onshore or offshore facility that does not have an approved contingency plan required under RCW 90.56.210, a spill prevention plan required by RCW 90.56.200, or financial responsibility in compliance with chapter 88.40 RCW and the federal oil pollution act of 1990.

(3) The administrator may assess a civil penalty of up to one hundred thousand dollars against the owner or operator of a vessel who is in violation of subsection (1) or (2) of this section. Each day that the owner or operator of a covered vessel is in violation of this section shall be considered a separate violation.

(4) It shall not be unlawful for a covered vessel to operate on the waters of the state if:

(a) A contingency plan, a prevention plan, or financial responsibility is not required for the covered vessel;

(b) A contingency plan and prevention plan has been submitted to the office as required by this chapter and rules adopted by the office and the office is reviewing the plan and has not denied approval; or

(c) The covered vessel has entered state waters after the United States coast guard has determined that the vessel is in distress.

(5) Any person may rely on a copy of the statement issued by the office to RCW 88.46.060 as evidence that the vessel has an approved contingency plan and the statement issued pursuant to RCW 88.46.040 as evidence that the vessel has an approved spill prevention plan.

(6) Except for violations of subsection (1) or (2) of this section, any person who violates the provisions of this chapter or rules or orders adopted or issued pursuant thereto, shall incur, in addition to any other penalty as provided by law, a penalty in an amount of up to ten thousand dollars a day for each violation. Each violation is a separate offense, and in case of a continuing violation, every day's continuance is a separate violation. Every act of commission or omission which procures, aids, or abets in the violation shall be considered a violation under the provisions of this subsection and subject to penalty. The penalty amount shall be set in consideration of the previous history of the violator and the severity of the violation's impact on public health and the environment in addition to other relevant factors. The penalty shall be imposed pursuant to the procedures set forth in RCW 43.21B.300.

Sec. 24. RCW 88.46.110 and 1991 c 200 s 424 are each amended to read as follows:

(1) The office shall establish regional marine safety committees ((at least)) for the Strait of Juan de Fuca/Northern Puget Sound, Southern Puget Sound, and Grays Harbor/Pacific coast. It is the intent of the legislature that the office also establish a regional marine safety committee jointly with the state of Oregon for the Columbia river. The office by rule shall establish the boundaries of the committees. The office may establish additional committees that it determines will be in the public interest.

(2) The administrator shall appoint to each regional committee for a term of three years six persons representing a cross section of interests and the public with an interest in maritime transportation and environmental issues.

(3) The administrator or his or her designee shall chair each of the regional committees. Each member of the committee shall be reimbursed for actual and necessary expenses incurred in the performance of committee duties in accordance with RCW 43.03.250.

(4) Each regional committee shall be responsible for planning for the safe navigation and operation of tankers, barges, and other vessels within each region. Each committee shall prepare a regional marine safety plan, encompassing all vessel traffic within the region. The coast guard, the federal environmental protection agency, the army corps of engineers, and the navy shall be invited to attend the meetings of each marine regional safety committee.

(5) The administrator shall adopt rules and guidelines for regional marine safety plans in consultation with affected parties. The rules shall require the committees to establish subcommittees to involve all interested parties in the development of the plans and to require the committees to include a summary of public comments and any minority reports with recommendations submitted

to the administrator. The rules shall also require the plans to consider all of the following:

(a) Requirements for tug escorts of tankers and other commercial vessels, and speed limits for tankers and other vessels in addition to the requirements imposed by statute;

(b) A review and evaluation of the adequacy of and any changes needed in:

(i) Anchorage designations and sounding checks;

(ii) Communications systems;

(iii) Commercial and recreational fishing, recreational boaters, and other small vessel congestion in shipping lanes; and

(iv) Placement and effectiveness of navigational aids, channel design plans, and the traffic and routings from port construction and dredging projects;

(c) Procedures for routing vessels during emergencies that impact navigation;

(d) Management requirements for vessel control bridges;

(e) Special protection for environmentally sensitive areas;

(f) Suggested mechanisms to ensure that the provisions of the plan are fully and regularly enforced; and

(g) A recommendation as to whether establishing or expanding vessel traffic safety systems within the regions is desirable.

(6) Each regional marine safety plan shall be submitted to the office for approval within one year after the regional marine safety committee is established. The office shall review the plans for consistency with the rules and guidelines and shall approve the plans or give reasons for their disapproval. If a regional marine safety committee does not submit a regional marine safety plan to the office within one year after the committee is established, the office, after consulting with affected interests, may adopt a plan for the region that meets the requirements of subsection (5) of this section.

(7) Upon approval of a plan the office shall implement those elements of the plan over which the state has authority. If federal authority or action is required, the office shall petition the appropriate agency or congress.

(8) Not later than July 1st of each even-numbered year each regional marine safety committee shall report its findings and recommendations to the marine oversight board established in RCW 90.56.450 and the office concerning vessel traffic safety in its region and any recommendations for improving tanker, barge, and other vessel safety in the region by amending the regional marine safety plan. The regional committees shall also provide technical assistance to the marine oversight board.

(9) The regional safety committees shall recommend to the office the need for, and the structure and design of, an emergency response system for the Strait of Juan de Fuca and the Pacific coast.

**Sec. 25.** RCW 90.48.120 and 1987 c 109 s 131 are each amended to read as follows:

(1) Whenever, in the opinion of the department, any person shall violate or creates a substantial potential to violate the provisions of this chapter or chapter 90.56 RCW, or fails to control the polluting content of waste discharged or to be discharged into any waters of the state, the department shall notify such person of its determination by registered mail. Such determination shall not constitute an order or directive under RCW 43.21B.310. Within thirty days from the receipt of notice of such determination, such person shall file with the department a full report stating what steps have been and are being taken to control such waste or pollution or to otherwise comply with the determination of the department. Whereupon the department shall issue such order or directive as it deems appropriate under the circumstances, and shall notify such person thereof by registered mail.

(2) Whenever the department deems immediate action is necessary to accomplish the purposes of this chapter ((90.48)) or chapter 90.56 RCW, it may issue such order or directive, as appropriate under the circumstances, without first issuing a notice or determination pursuant to subsection (1) of this section. An order or directive issued pursuant to this subsection shall be served by registered mail or personally upon any person to whom it is directed.

**Sec. 26.** RCW 90.48.140 and 1973 c 155 s 8 are each amended to read as follows:

Any person found guilty of willfully violating any of the provisions of this chapter or chapter 90.56 RCW, or any final written orders or directive of the department or a court in pursuance thereof shall be deemed guilty of a crime, and upon conviction thereof shall be punished by a fine of up to ten thousand dollars and costs of prosecution, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment in the discretion of the court. Each day upon which a willful violation of the provisions of this chapter or chapter 90.56 RCW occurs may be deemed a separate and additional violation.

**Sec. 27.** RCW 90.48.144 and 1987 c 109 s 17 are each amended to read as follows:

Every person who:

(1) Violates the terms or conditions of a waste discharge permit issued pursuant to RCW 90.48.180 or 90.48.260 through 90.48.262, or

(2) Conducts a commercial or industrial operation or other point source discharge operation without a waste discharge permit as required by RCW 90.48.160 or 90.48.260 through 90.48.262, or

(3) Violates the provisions of RCW 90.48.080, or other sections of this chapter or chapter 90.56 RCW or ~~((regulations))~~ rules or orders adopted or issued pursuant to ~~((thereof))~~ to either of those chapters, shall incur, in addition to any other penalty as provided by law, a penalty in an amount of up to ten thousand dollars a day for every such violation. Each and every such violation shall be a separate and distinct offense, and in case of a continuing violation, every day's

continuance shall be and be deemed to be a separate and distinct violation. Every act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the penalty herein provided for. The penalty amount shall be set in consideration of the previous history of the violator and the severity of the violation's impact on public health and/or the environment in addition to other relevant factors. The penalty herein provided for shall be imposed pursuant to the procedures set forth in RCW 43.21B.300.

**Sec. 28.** RCW 90.48.366 and 1991 c 200 s 812 are each amended to read as follows:

By July 1, 1991, the department, in consultation with the departments of fisheries, wildlife, and natural resources, and the parks and recreation commission, shall adopt rules establishing a compensation schedule for the discharge of oil in violation of this chapter and chapter 90.56 RCW. The department shall establish a scientific advisory board to assist in establishing the compensation schedule. The amount of compensation assessed under this schedule shall be no less than one dollar per gallon of oil spilled and no greater than fifty dollars per gallon of oil spilled. The compensation schedule shall reflect adequate compensation for unquantifiable damages or for damages not quantifiable at reasonable cost for any adverse environmental, recreational, aesthetic, or other effects caused by the spill and shall take into account:

(1) Characteristics of any oil spilled, such as toxicity, dispersibility, solubility, and persistence, that may affect the severity of the effects on the receiving environment, living organisms, and recreational and aesthetic resources;

(2) The sensitivity of the affected area as determined by such factors as: (a) The location of the spill; (b) habitat and living resource sensitivity; (c) seasonal distribution or sensitivity of living resources; (d) areas of recreational use or aesthetic importance; (e) the proximity of the spill to important habitats for birds, aquatic mammals, fish, or to species listed as threatened or endangered under state or federal law; (f) significant archaeological resources as determined by the office of archaeology and historic preservation; and ~~((f))~~ (g) other areas of special ecological or recreational importance, as determined by the department. If the department has adopted rules for a compensation table prior to July 1, 1992, the sensitivity of significant archaeological resources shall only be included among factors to be used in the compensation table when the department revises the rules for the compensation table after July 1, 1992; and

(3) Actions taken by the party who spilled oil or any party liable for the spill that: (a) Demonstrate a recognition and affirmative acceptance of responsibility for the spill, such as the immediate removal of oil and the amount of oil removed from the environment; or (b) enhance or impede the detection of the spill, the determination of the quantity of oil spilled, or the extent of damage, including the unauthorized removal of evidence such as injured fish or wildlife.

**Sec. 29.** RCW 90.48.368 and 1991 c 200 s 814 are each amended to read as follows:

(1) The department shall adopt rules establishing a formal process for preassessment screening of damages resulting from spills to the waters of the state causing the death of, or injury to, fish, animals, vegetation, or other resources of the state. The rules shall specify the conditions under which the department shall convene a preassessment screening committee. The preassessment screening process shall occur concurrently with reconnaissance activities. The committee shall use information obtained from reconnaissance activities as well as any other relevant resource and resource use information. For each incident, the committee shall determine whether a damage assessment investigation should be conducted, or, whether the compensation schedule authorized under RCW 90.48.366 and 90.48.367 should be used to assess damages. The committee may accept restoration or enhancement projects or studies proposed by the liable parties in lieu of some or all of: (a) The compensation schedule authorized under RCW 90.48.366 and 90.48.367; or (b) the claims from damage assessment studies authorized under RCW 90.48.142.

(2) A preassessment screening committee may consist of representatives of the departments of ecology, fisheries, wildlife, natural resources, social and health services, and emergency management, the parks and recreation commission, the office of archaeology and historic preservation, as well as other federal, state, and local agencies, and tribal and local governments whose presence would enhance the reconnaissance or damage assessment aspects of spill response. The department shall chair the committee and determine which representatives will be needed on a spill-by-spill basis.

(3) The committee shall consider the following factors when determining whether a damage assessment study authorized under RCW 90.48.367 should be conducted: (a) Whether evidence from reconnaissance investigations suggests that injury has occurred or is likely to occur to publicly owned resources; (b) the potential loss in services provided by resources injured or likely to be injured and the expected value of the potential loss; (c) whether a restoration project to return lost services is technically feasible; (d) the accuracy of damage quantification methods that could be used and the anticipated cost-effectiveness of applying each method; (e) the extent to which likely injury to resources can be verified with available quantification methods; and (f) whether the injury, once quantified, can be translated into monetary values with sufficient precision or accuracy.

(4) When a resource damage assessment is required for an oil spill in the navigable waters of the state, as defined in RCW 90.56.010, the state trustee agency responsible for the resource and habitat damaged shall conduct the damage assessment and pursue all appropriate remedies with the responsible party.

(5) Oil spill damage assessment studies authorized under RCW 90.48.367 may only be conducted if the committee, after considering the factors enumerated

in subsection (3) of this section, determines that the damages to be investigated are quantifiable at a reasonable cost and that proposed assessment studies are clearly linked to quantification of the damages incurred.

(6) As new information becomes available, the committee may reevaluate the scope of damage assessment using the factors listed in subsection (3) of this section and may reduce or expand the scope of damage assessment as appropriate.

(7) The preassessment screening process shall provide for the ongoing involvement of persons who may be liable for damages resulting from an oil spill. The department may negotiate with a potentially liable party to perform restoration and enhancement projects or studies which may substitute for all or part of the compensation authorized under RCW 90.48.366 and 90.48.367 or the damage assessment studies authorized under RCW 90.48.367.

(8) For the purposes of this section and RCW 90.48.367, the cost of a damage assessment shall be considered "reasonable" when the anticipated cost of the damage assessment is expected to be less than the anticipated damage that may have occurred or may occur.

**Sec. 30.** RCW 90.48.400 and 1991 c 200 s 816 are each amended to read as follows:

(1) Moneys in the coastal protection fund shall be disbursed for the following purposes and no others:

(a) Environmental restoration and enhancement projects intended to restore or enhance environmental, recreational, archaeological, or aesthetic resources for the benefit of Washington's citizens;

(b) Investigations of the long-term effects of oil spills; and

(c) Development and implementation of an aquatic land geographic information system.

(2) The director may allocate a portion of the fund to be devoted to research and development in the causes, effects, and removal of pollution caused by the discharge of oil or other hazardous substances.

(3) A steering committee consisting of representatives of the department of ecology, fisheries, wildlife, and natural resources, and the parks and recreation commission shall authorize the expenditure of the moneys collected under RCW 90.48.366 through 90.48.368, after consulting impacted local agencies and local and tribal governments.

(4) Agencies may not be reimbursed from the coastal protection fund for the salaries and benefits of permanent employees for routine operational support. Agencies may only be reimbursed under this section if money for reconnaissance and damage assessment activities is unavailable from other sources.

**Sec. 31.** RCW 90.56.010 and 1991 c 200 s 102 are each amended to read as follows:

For purposes of this chapter, the following definitions shall apply unless the context indicates otherwise:

(1) "Administrator" means the administrator of the office of marine safety created in RCW 43.211.010.

(2) "Best achievable protection" means the highest level of protection that can be achieved through the use of the best achievable technology and those staffing levels, training procedures, and operational methods that provide the greatest degree of protection achievable. The director's determination of best achievable protection shall be guided by the critical need to protect the state's natural resources and waters, while considering (a) the additional protection provided by the measures; (b) the technological achievability of the measures; and (c) the cost of the measures.

(3) "Best achievable technology" means the technology that provides the greatest degree of protection taking into consideration (a) processes that are being developed, or could feasibly be developed, given overall reasonable expenditures on research and development, and (b) processes that are currently in use. In determining what is best achievable technology, the director shall consider the effectiveness, engineering feasibility, and commercial availability of the technology.

(4) "Board" means the pollution control hearings board.

(5) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel or a passenger vessel, (~~greater than~~) three hundred or more gross tons, including but not limited to, commercial fish processing vessels and freighters.

(6) "Bulk" means material that is stored or transported in a loose, unpackaged liquid, powder, or granular form capable of being conveyed by a pipe, bucket, chute, or belt system.

(7) "Committee" means the preassessment screening committee established under RCW 90.48.368.

(8) "Covered vessel" means a tank vessel, cargo vessel, or passenger vessel.

(9) "Department" means the department of ecology.

(10) "Director" means the director of the department of ecology.

(11) "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

(12)(a) "Facility" means any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or near the navigable waters of the state that transfers oil in bulk to or from a tank vessel or pipeline, that is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.

(b) A facility does not include any: (i) Railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state; (ii) underground storage tank regulated by the department or a local government under chapter 90.76 RCW; (iii) ((a)) motor vehicle motor fuel outlet; (iv) ((a)) facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330; or (v) ((a)) marine fuel outlet that does not dispense more than

three thousand gallons of fuel to a ship that is not a covered vessel, in a single transaction.

(13) "Fund" means the state coastal protection fund as provided in RCW 90.48.390 and 90.48.400.

(14) "Having control over oil" shall include but not be limited to any person using, storing, or transporting oil immediately prior to entry of such oil into the waters of the state, and shall specifically include carriers and bailees of such oil.

(15) "Marine facility" means any facility used for tank vessel wharfage or anchorage, including any equipment used for the purpose of handling or transferring oil in bulk to or from a tank vessel.

(16) "Navigable waters of the state" means those waters of the state, and their adjoining shorelines, that are subject to the ebb and flow of the tide and/or are presently used, have been used in the past, or may be susceptible for use to transport intrastate, interstate, or foreign commerce.

(17) "Necessary expenses" means the expenses incurred by the department and assisting state agencies for (a) investigating the source of the discharge; (b) investigating the extent of the environmental damage caused by the discharge; (c) conducting actions necessary to clean up the discharge; (d) conducting predamage and damage assessment studies; and (e) enforcing the provisions of this chapter and collecting for damages caused by a discharge.

(18) "Oil" or "oils" means naturally occurring liquid hydrocarbons at atmospheric temperature and pressure coming from the earth, including condensate and natural gasoline, and any fractionation thereof, including, but not limited to, crude oil, petroleum, gasoline, fuel oil, diesel oil, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under section 101(14) of the federal comprehensive environmental response, compensation, and liability act of 1980, as amended by P.L. 99-499.

(19) "Offshore facility" means any facility(~~(, as defined in subsection (12) of this section,)~~) located in, on, or under any of the navigable waters of the state, but does not include a facility any part of which is located in, on, or under any land of the state, other than submerged land.

(20) "Onshore facility" means any facility(~~(, as defined in subsection (12) of this section,)~~) any part of which is located in, on, or under any land of the state, other than submerged land, that because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters of the state or the adjoining shorelines.

(21)(a) "Owner or operator" means (i) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel; (ii) in the case of an onshore or offshore facility, any person owning or operating the facility; and (iii) in the case of an abandoned vessel or onshore or offshore facility, the person

who owned or operated the vessel or facility immediately before its abandonment.

(b) "Operator" does not include any person who owns the land underlying a facility if the person is not involved in the operations of the facility.

(22) "Passenger vessel" means a ship of (~~greater than~~) three hundred or more gross tons (~~or five hundred or more international gross tons~~) with a fuel capacity of at least six thousand gallons carrying passengers for compensation.

(23) "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual, or any other entity whatsoever.

(24) "Ship" means any boat, ship, vessel, barge, or other floating craft of any kind.

(25) "Spill" means an unauthorized discharge of oil or hazardous substances into the waters of the state.

(26) "Tank vessel" means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that:

(a) Operates on the waters of the state; or

(b) Transfers oil in a port or place subject to the jurisdiction of this state.

(27) (~~"Technical feasibility" or "technically feasible" shall mean that given available technology, a restoration or enhancement project can be successfully completed at a cost that is not disproportionate to the value of the resource prior to the injury.~~)

(~~28~~)) "Waters of the state" includes lakes, rivers, ponds, streams, inland waters, underground water, salt waters, estuaries, tidal flats, beaches and lands adjoining the seacoast of the state, sewers, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

(~~(29))~~ (28) "Worst case spill" means: (a) In the case of a vessel, a spill of the entire cargo and fuel of the vessel complicated by adverse weather conditions; and (b) in the case of an onshore or offshore facility, the largest foreseeable spill in adverse weather conditions.

**Sec. 32.** RCW 90.56.100 and 1990 c 116 s 12 are each amended to read as follows:

(1) The Washington wildlife rescue coalition shall be established for the purpose of coordinating the rescue and rehabilitation of wildlife injured or endangered by oil spills or the release of other hazardous substances into the environment.

(2) The Washington wildlife rescue coalition shall be composed of:

(a) A representative of the department of wildlife designated by the director of wildlife. The department of wildlife shall be designated as lead agency in the operations of the coalition. The coalition shall be chaired by the representative from the department of wildlife;

(b) A representative of the department of ecology designated by the director;

(c) A representative of the department of community development emergency management program designated by the director of community development;

(d) A licensed veterinarian, with experience and training in wildlife rehabilitation, appointed by the veterinary board of governors;

(e) The director of the Washington conservation corps;

(f) A lay person, with training and experience in the rescue and rehabilitation of wildlife appointed by the department; and

(g) A person designated by the legislative authority of the county where oil spills or spills of other hazardous substances may occur. This member of the coalition shall serve on the coalition until wildlife rescue and rehabilitation is completed in that county. The completion of any rescue or rehabilitation project shall be determined by the director of wildlife.

(3) The duties of the Washington wildlife rescue coalition shall be to:

(a) Develop an emergency mobilization plan to rescue and rehabilitate waterfowl and other wildlife that are injured or endangered by an oil spill or the release of other hazardous substances into the environment;

(b) Develop and maintain a resource directory of persons, governmental agencies, and private organizations that may provide assistance in an emergency rescue effort;

(c) Provide advance training and instruction to volunteers in rescuing and rehabilitating waterfowl and wildlife injured or endangered by oil spills or the release of other hazardous substances into the environment. The training may be provided through grants to community colleges or to groups that conduct programs for training volunteers. The coalition representatives from the agencies described in subsection (2) of this section shall coordinate training efforts with the director of the Washington conservation corps and work to provide training opportunities for young citizens;

(d) Obtain and maintain equipment and supplies used in emergency rescue efforts;

(e) Report to the appropriate standing committees of the legislature on the progress of the coalition's efforts and detail future funding options necessary for the implementation of this section and RCW 90.56.110. The coalition shall report by January 30, 1991.

(4)(a) Expenses for the coalition may be provided by the coastal protection fund administered according to RCW 90.48.400.

(b) The ~~((commission))~~ coalition is encouraged to seek grants, gifts, or donations from private sources in order to carry out the provisions of this section and RCW 90.56.110. Any private funds donated to the commission shall be deposited into the wildlife rescue account hereby created within the wildlife fund as authorized under Title 77 RCW.

**Sec. 33.** RCW 90.56.210 and 1991 c 200 s 202 are each amended to read as follows:

(1) Each onshore and offshore facility shall have a contingency plan for the containment and cleanup of oil spills from the facility into the waters of the state and for the protection of fisheries and wildlife, natural resources, and public and private property from such spills. The department shall by rule adopt and periodically revise standards for the preparation of contingency plans. The department shall require contingency plans, at a minimum, to meet the following standards:

(a) Include full details of the method of response to spills of various sizes from any facility which is covered by the plan;

(b) Be designed to be capable in terms of personnel, materials, and equipment, of promptly and properly, to the maximum extent practicable, as defined by the department removing oil and minimizing any damage to the environment resulting from a worst case spill;

(c) Provide a clear, precise, and detailed description of how the plan relates to and is integrated into relevant contingency plans which have been prepared by cooperatives, ports, regional entities, the state, and the federal government;

(d) Provide procedures for early detection of oil spills and timely notification of such spills to appropriate federal, state, and local authorities under applicable state and federal law;

(e) State the number, training preparedness, and fitness of all dedicated, prepositioned personnel assigned to direct and implement the plan;

(f) Incorporate periodic training and drill programs to evaluate whether personnel and equipment provided under the plan are in a state of operational readiness at all times;

(g) Describe important features of the surrounding environment, including fish and wildlife habitat, environmentally and archaeologically sensitive areas, and public facilities. The departments of ecology, fisheries, wildlife, and natural resources, and the office of archaeology and historic preservation, upon request, shall provide information that they have available to assist in preparing this description. If the department has adopted rules for contingency plans prior to July 1, 1992, the description of archaeologically sensitive areas shall only be required when the department revises the rules for contingency plans after July 1, 1992. The description of archaeologically sensitive areas shall not be required to be included in a contingency plan until it is reviewed and updated pursuant to subsection (9) of this section;

(h) State the means of protecting and mitigating effects on the environment, including fish, marine mammals, and other wildlife, and ensure that implementation of the plan does not pose unacceptable risks to the public or the environment;

(i) Provide arrangements for the repositioning of oil spill containment and cleanup equipment and trained personnel at strategic locations from which they can be deployed to the spill site to promptly and properly remove the spilled oil;

(j) Provide arrangements for enlisting the use of qualified and trained cleanup personnel to implement the plan;

(k) Provide for disposal of recovered spilled oil in accordance with local, state, and federal laws;

(l) Until a spill prevention plan has been submitted pursuant to RCW 90.56.200, state the measures that have been taken to reduce the likelihood that a spill will occur, including but not limited to, design and operation of a facility, training of personnel, number of personnel, and backup systems designed to prevent a spill;

(m) State the amount and type of equipment available to respond to a spill, where the equipment is located, and the extent to which other contingency plans rely on the same equipment; and

(n) If the department has adopted rules permitting the use of dispersants, the circumstances, if any, and the manner for the application of the dispersants in conformance with the department's rules.

(2)(a) The following shall submit contingency plans to the department within six months after the department adopts rules establishing standards for contingency plans under subsection (1) of this section:

(i) Onshore facilities capable of storing one million gallons or more of oil; and

(ii) Offshore facilities.

(b) Contingency plans for all other onshore and offshore facilities shall be submitted to the department within eighteen months after the department has adopted rules under subsection (1) of this section. The department may adopt a schedule for submission of plans within the eighteen-month period.

(3)(a) The owner or operator of a facility shall submit the contingency plan for the facility.

(b) A person who has contracted with a facility to provide containment and cleanup services and who meets the standards established pursuant to RCW 90.56.240, may submit the plan for any facility for which the person is contractually obligated to provide services. Subject to conditions imposed by the department, the person may submit a single plan for more than one facility.

(4) A contingency plan prepared for an agency of the federal government or another state that satisfies the requirements of this section and rules adopted by the department may be accepted by the department as a contingency plan under this section. The department shall assure that to the greatest extent possible, requirements for contingency plans under this section are consistent with the requirements for contingency plans under federal law.

(5) In reviewing the contingency plans required by this section, the department shall consider at least the following factors:

(a) The adequacy of containment and cleanup equipment, personnel, communications equipment, notification procedures and call down lists, response time, and logistical arrangements for coordination and implementation of

response efforts to remove oil spills promptly and properly and to protect the environment;

(b) The nature and amount of vessel traffic within the area covered by the plan;

(c) The volume and type of oil being transported within the area covered by the plan;

(d) The existence of navigational hazards within the area covered by the plan;

(e) The history and circumstances surrounding prior spills of oil within the area covered by the plan;

(f) The sensitivity of fisheries and wildlife and other natural resources within the area covered by the plan;

(g) Relevant information on previous spills contained in on-scene coordinator reports prepared by the department; and

(h) The extent to which reasonable, cost-effective measures to prevent a likelihood that a spill will occur have been incorporated into the plan.

(6) The department shall approve a contingency plan only if it determines that the plan meets the requirements of this section and that, if implemented, the plan is capable, in terms of personnel, materials, and equipment, of removing oil promptly and properly and minimizing any damage to the environment.

(7) The approval of the contingency plan shall be valid for five years. Upon approval of a contingency plan, the department shall provide to the person submitting the plan a statement indicating that the plan has been approved, the facilities or vessels covered by the plan, and other information the department determines should be included.

(8) An owner or operator of a facility shall notify the department in writing immediately of any significant change of which it is aware affecting its contingency plan, including changes in any factor set forth in this section or in rules adopted by the department. The department may require the owner or operator to update a contingency plan as a result of these changes.

(9) The department by rule shall require contingency plans to be reviewed, updated, if necessary, and resubmitted to the department at least once every five years.

(10) Approval of a contingency plan by the department does not constitute an express assurance regarding the adequacy of the plan nor constitute a defense to liability imposed under this chapter or other state law.

**Sec. 34.** RCW 90.56.300 and 1991 c 200 s 301 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, it shall be unlawful for the owner or operator to knowingly and intentionally operate in this state or on the waters of this state an onshore or offshore facility without an approved contingency plan or an approved prevention plan as required by this chapter, or financial responsibility in compliance with chapter 88.40 RCW and the federal

oil pollution act of 1990. The first conviction under this section shall be a gross misdemeanor under chapter 9A.20 RCW. A second or subsequent conviction shall be a class C felony under chapter 9A.20 RCW.

(2) It shall not be unlawful for the owner or operator to operate an onshore or offshore facility if:

(a) The facility is not required to have a contingency plan, spill prevention plan, or financial responsibility; or

(b) All required plans have been submitted to the department as required by RCW 90.56.210 and rules adopted by the department and the department is reviewing the plan and has not denied approval.

(3) A person may rely on a copy of the statement issued by the department pursuant to RCW 90.56.210(7) as evidence that a facility has an approved contingency plan and the statement issued pursuant to RCW ~~((90.56.200(5)))~~ 90.56.200(4) that a facility has an approved prevention plan.

**Sec. 35.** RCW 90.56.310 and 1991 c 200 s 302 are each amended to read as follows:

(1) Except as provided in subsection (3) of this section, it shall be unlawful:

(a) For the owner or operator to operate an onshore or offshore facility without an approved contingency plan as required under RCW 90.56.210, a spill prevention plan required by RCW 90.56.200, or financial responsibility in compliance with chapter 88.40 RCW and the federal oil pollution act of 1990; or

(b) For the owner or operator of an onshore or offshore facility to ~~((accept))~~ transfer cargo or passengers to or from a covered vessel that does not have an approved contingency plan or an approved prevention plan required under chapter 88.46 RCW or financial responsibility in compliance with chapter 88.40 RCW and the federal oil pollution act of 1990.

(2) ~~((The department may notify the secretary of state to suspend the business license of any onshore or offshore facility or other person that is in violation of this section.))~~ The department may assess a civil penalty under RCW 43.21B.300 of up to one hundred thousand dollars against any person who is in violation of this section. Each day that a facility or person is in violation of this section shall be considered a separate violation.

(3) It shall not be unlawful for a facility or other person to operate or accept cargo or passengers from a covered vessel if:

(a) A contingency plan, a prevention plan, or financial responsibility is not required for the facility; or

(b) A contingency and prevention plan has been submitted to the department as required by this chapter and rules adopted by the department and the department is reviewing the plan and has not denied approval.

(4) Any person may rely on a copy of the statement issued by the department pursuant to RCW 90.56.210(7) as evidence that the facility has an approved contingency plan and the statement issued pursuant to RCW

~~((90.56.200(5)))~~ 90.56.200(4) as evidence that the facility has an approved spill prevention plan. Any person may rely on a copy of the statement issued by the office to RCW 88.46.060 as evidence that the vessel has an approved contingency plan and the statement issued pursuant to RCW 88.46.040 as evidence that the vessel has an approved prevention plan.

**Sec. 36.** RCW 90.56.330 and 1990 c 116 s 20 are each amended to read as follows:

Except as otherwise provided in RCW ~~((90.48.383))~~ 90.56.390, any person who negligently discharges oil, or causes or permits the entry of the same, shall incur, in addition to any other penalty as provided by law, a penalty in an amount of up to twenty thousand dollars for every such violation, and for each day the spill poses risks to the environment as determined by the director. Any person who intentionally or recklessly discharges or causes or permits the entry of oil into the waters of the state shall incur, in addition to any other penalty authorized by law, a penalty of up to one hundred thousand dollars for every such violation and for each day the spill poses risks to the environment as determined by the director. The amount of the penalty shall be determined by the director after taking into consideration the gravity of the violation, the previous record of the violator in complying, or failing to comply, with the provisions of chapter 90.48 RCW, the speed and thoroughness of the collection and removal of the oil, and such other considerations as the director deems appropriate. Every act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the penalty herein provided for. The penalty herein provided for shall be imposed pursuant to RCW 43.21B.300.

**Sec. 37.** RCW 90.56.380 and 1990 c 116 s 19 are each amended to read as follows:

In addition to any cause of action the state may have to recover necessary expenses for the cleanup of oil pursuant to RCW 90.56.340 and 90.56.330, and except as otherwise provided in RCW ~~((90.48.383))~~ 90.56.390, any other person causing the entry of oil shall be directly liable to the state for the necessary expenses of oil cleanup arising from such entry and the state shall have a cause of action to recover from any or all of said persons. Except as otherwise provided in RCW ~~((90.48.383))~~ 90.56.390, any person liable for cost of oil cleanup as provided in RCW 90.56.340 and 90.56.330 shall have a cause of action to recover for costs of cleanup from any other person causing the entry of oil into the waters of the state including any amount recoverable by the state as necessary expenses under RCW 90.56.330.

**Sec. 38.** RCW 90.56.390 and 1991 c 200 s 304 are each amended to read as follows:

(1)(a) ~~((Notwithstanding any other provision of law,))~~ A person is not liable for removal costs or damages that result from actions taken or omitted to be taken in the course of rendering care, assistance, or advice consistent with the

national contingency plan or as otherwise directed by the federal on-scene coordinator or by the official within the department with responsibility for oil spill response. This subsection (1)(a) does not apply:

- (i) To a responsible party;
- (ii) With respect to personal injury or wrongful death; or
- (iii) If the person is grossly negligent or engages in willful misconduct.

(b) A responsible party is liable for any removal costs and damages that another person is relieved of under (a) of this subsection.

(c) Nothing in this section affects the liability of a responsible party for oil spill response under state law.

(2) For the purposes of this section:

(a) "Damages" means damages of any kind for which liability may exist under the laws of this state resulting from, arising out of, or related to the discharge or threatened discharge of oil.

(b) (~~"Discharge" means any emission other than natural seepage, intentional or unintentional, and includes, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying, or dumping.~~

(e)) "Federal on-scene coordinator" means the federal official predesignated by the United States environmental protection agency or the United States coast guard to coordinate and direct federal responses under subpart D, or the official designated by the lead agency to coordinate and direct removal under subpart E, of the national contingency plan.

((~~d~~)) (c) "National contingency plan" means the national contingency plan prepared and published under section 311(d) of the federal water pollution control act (33 U.S.C. Sec. 1321(d)), as amended by the oil pollution act of 1990 (P.L. 101-380, 104 Stat. 484 (1990)).

((~~e~~) "Oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

(~~f~~) "Person" means an individual, corporation, partnership, association, state, municipality, commission, or political subdivision of a state, or any interstate body.

(~~g~~)) (d) "Removal costs" means the costs of removal that are incurred after a discharge of oil has occurred or, in any case in which there is a substantial threat of a discharge of oil, the costs to prevent, minimize, or mitigate oil pollution from such an incident.

((~~h~~)) (e) "Responsible party" means a person liable under RCW 90.56.370.

Sec. 39. RCW 90.56.400 and 1991 c 200 s 305 are each amended to read as follows:

The department shall investigate each activity or project conducted under RCW 90.56.350 to determine, if possible, the circumstances surrounding the entry of oil into waters of the state and the person or persons allowing said entry or responsible for the act or acts which result in said entry. Whenever it appears

to the department, after investigation, that a specific person or persons are responsible for the necessary expenses incurred by the state pertaining to a project or activity as specified in RCW 90.56.360, the department shall notify said person or persons by appropriate order. The department may not issue an order pertaining to a project or activity which was completed more than five years prior to the date of the proposed issuance of the order. The order shall state the findings of the department, the amount of necessary expenses incurred in conducting the project or activity, and a notice that said amount is due and payable immediately upon receipt of said order. The department may, upon application from the recipient of an order received within thirty days from the receipt of the order, reduce or set aside in its entirety the amount due and payable, when it appears from the application, and from any further investigation the department may desire to undertake, that a reduction or setting aside is just and fair under all the circumstances. If the amount specified in the order issued by the department notifying said person or persons is not paid within thirty days after receipt of notice imposing the same, or if an application has been made within thirty days as herein provided and the amount provided in the order issued by the department subsequent to such application is not paid within fifteen days after receipt thereof, the attorney general, upon request of the department, shall bring an action on behalf of the state in the superior court of Thurston county or any county in which the person to which the order is directed does business, or in any other court of competent jurisdiction, to recover the amount specified in the final order of the department. No order issued under this section shall be construed as an order within the meaning of RCW 43.21B.310 and shall not be appealable to the hearings board. In any action to recover necessary expenses as herein provided said person shall be relieved from liability for necessary expenses if the person can prove that the oil to which the necessary expenses relate entered the waters of the state by causes set forth in RCW ~~((90.56.320(2)))~~ 90.56.370(2).

**Sec. 40.** RCW 90.56.450 and 1991 c 200 s 501 are each amended to read as follows:

(1) The ~~((oñ))~~ marine oversight board is established to provide independent oversight of the actions of the federal government, industry, the department, the office, and other state agencies with respect to oil spill prevention and response for covered vessels and onshore and offshore facilities.

(2)(a) The board may, at its own discretion, study any aspect of oil spill prevention and response for covered vessels and onshore and offshore facilities in the state. The board shall report to the governor and make recommendations to the department and the office on activities of the federal government and industry with respect to oil spill prevention and response for covered vessels and onshore and offshore facilities, including recommendations for the state's response to those actions. The board shall specifically review the need for, and the structure and design of an emergency response system for the Strait of Juan

de Fuca and the Pacific coast. The board shall also make recommendations to the legislature and other state agencies on any provision of this chapter, other state laws, and rules, policies, and guidelines adopted by the department, the office, or other state agencies relating to the prevention and cleanup of oil spills into the waters of the state from covered vessels and onshore and offshore facilities.

(b) To minimize duplication of effort, reviews conducted by the board shall be coordinated with related activities of the federal government, the department, the office, and other appropriate state and international entities. The Puget Sound water quality authority shall ensure that studies and recommendations by the board shall not be duplicated by any recommendations prepared and adopted pursuant to chapter 90.70 RCW after May 15, 1991.

(c) The board shall evaluate and report at least annually to the governor and the appropriate standing committees of the legislature on oil spill prevention, response, and preparedness programs within the state for covered vessels and onshore and offshore facilities.

(3) There shall be five members of the board appointed by the governor for terms of five years. Members' terms shall be staggered. The members of the board shall be representative of the public and shall have demonstrable knowledge of environmental protection and the study of marine ecosystems, or have familiarity with marine transportation systems.

(4) A chair shall be selected by majority vote of the board. The board shall meet as often as required, but at least four times per year. Members shall be reimbursed for travel and expenses for attending meetings as provided in RCW 43.03.050 and 43.03.060.

(5) The chair may hire staff as necessary for the board to fulfill its responsibilities.

**Sec. 41.** RCW 90.56.510 and 1991 c 200 s 806 are each amended to read as follows:

The ~~((state))~~ oil spill administration account is created in the state treasury. All receipts from RCW 82.23B.020(2) shall be deposited in the account. Moneys from the account may be spent only after appropriation. The account is subject to allotment procedures under chapter 43.88 RCW. On July 1 of each odd-numbered year, if receipts deposited in the account from the tax imposed by RCW 82.23B.020(2) for the previous fiscal biennium exceed the amount appropriated from the account for the previous fiscal biennium, the state treasurer shall transfer the amount of receipts exceeding the appropriation to the oil spill response account. If, on the first day of any calendar month, the balance of the oil spill response account is greater than twenty-five million dollars and the balance of the oil spill administration account exceeds the unexpended appropriation for the current biennium, then the tax under RCW 82.23B.020(2) shall be suspended on the first day of the next calendar month until the beginning of the following biennium, provided that the tax shall not be

suspended during the last six months of the biennium. If the tax imposed under RCW 82.23B.020(2) is suspended during two consecutive biennia, the department shall by November 1st after the end of the second biennium, recommend to the appropriate standing committees an adjustment in the tax rate. For the period 1991-93 the state treasurer may transfer funds from the oil spill response account to the oil spill administration account in amounts necessary to support appropriations made from the oil spill administration account in the omnibus appropriations act. Expenditures from the oil spill administration account shall be used exclusively for the administrative costs related to the purposes of this chapter, and chapters 90.48, 88.40, and 88.46 RCW. Costs of administration include the costs of:

- (1) Routine responses not covered under RCW 90.56.500;
- (2) Management and staff development activities;
- (3) Development of rules and policies and the state-wide plan provided for in RCW 90.56.060;
- (4) Facility and vessel plan review and approval, drills, inspections, investigations, enforcement, and litigation;
- (5) Interagency coordination and public outreach and education;
- (6) Collection and administration of the tax provided for in chapter 82.23B RCW; and
- (7) Appropriate travel, goods and services, contracts, and equipment.

**Sec. 42.** RCW 90.56.520 and 1991 c 200 s 807 are each amended to read as follows:

The director of the department of ecology shall submit a report to the appropriate standing committees of the legislature by November 1 of each even-numbered year showing detailed information regarding expenditures authorized by the director under RCW 90.56.500. The report shall include, but not be limited to:

- (1) The total amount spent for each response for which the director has approved expenditures and the amount paid for from the oil spill (~~prevention and~~) response account;
- (2) The amount recovered from a responsible party for each spill;
- (3) The amount of time between a spill and the time a responsible party assumes responsibility for the response costs related to a spill;
- (4) The number of incidents for which the director has determined that the responsible party or another source was available to pay for the response; and
- (5) A recommendation concerning the need to continue collecting the tax under RCW 82.23B.020(1).

This section shall expire December 31, 1996.

**NEW SECTION. Sec. 43.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 44.** The amendment of RCW 82.23B.010, 82.23B.020, 82.23B.030, and 82.23B.040 by chapter —, Laws of 1992, (this act) shall not be construed as affecting any existing right acquired or liability or obligation incurred under the sections or under any rule or order adopted under the sections, nor as affecting any proceeding instituted under the sections.

**NEW SECTION. Sec. 45.** Section 15 of this act shall apply to vessels beginning May 15, 1991.

**NEW SECTION. Sec. 46.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately, except sections 6, 7, 9, and 10 of this act shall take effect October 1, 1992.

Passed the House March 9, 1992.

Passed the Senate March 6, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

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## CHAPTER 74

[Engrossed Substitute House Bill 2305]

### FIRE PROTECTION DISTRICTS— CREATION OF COMMISSIONER DISTRICTS

**Effective Date: 6/11/92**

AN ACT Relating to fire protection districts; amending RCW 52.06.085; adding a new section to chapter 52.06 RCW; and adding a new section to chapter 52.14 RCW.

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

**Sec. 1.** RCW 52.06.085 and 1985 c 7 s 118 are each amended to read as follows:

(1) Whenever two or more fire protection districts merge, the board of fire commissioners of the merged fire protection district shall consist of all of the original fire commissioners. At the next three elections for fire commissioners the number of fire commissioners for the merged district shall be reduced as follows, notwithstanding the number of fire commissioners whose terms expire:

In the first election after the merger, only one position shall be filled, whether the new fire protection district be a three member district or a five member district pursuant to RCW 52.14.020.

In each of the two subsequent elections, one position shall be filled if the new fire protection district is a three member district and two positions shall be filled if the new fire protection district is a five member district pursuant to RCW 52.14.020.

Thereafter, the fire commissioners shall be elected in the same manner as prescribed for such fire protection districts of the state.

(2) A ballot proposition to create commissioner districts may be submitted to the voters of the fire protection districts proposed to be merged at the same election the ballot proposition is submitted authorizing the merging of the fire protection districts. The procedure to create commissioner districts shall conform with section 2 of this act, except that: (a) Resolutions proposing the creation of commissioner districts must be adopted by unanimous vote of the boards of fire commissioners of each of the fire protection districts that are proposed to be merged; and (b) commissioner districts will be authorized only if the ballot propositions to authorize the merger and to create commissioner districts are both approved. A ballot proposition authorizing the creation of commissioner districts is approved if it is approved by a simple majority vote of the combined voters of all the fire protection districts proposed to be merged. The commissioner districts shall not be drawn until the number of commissioners in the fire protection district has been reduced under subsection (1) of this section to either three or five commissioners. After this reduction of fire commissioners has occurred the commissioner districts shall be drawn and used for the election of the successor fire commissioners.

**NEW SECTION.** Sec. 2. A new section is added to chapter 52.14 RCW to read as follows:

The board of fire commissioners of a fire protection district may adopt a resolution by unanimous vote causing a ballot proposition to be submitted to voters of the district authorizing the creation of commissioner districts. The board of fire commissioners shall create commissioner districts if the ballot proposition authorizing the creation of commissioner districts is approved by a simple majority vote of the voters of the fire protection district voting on the proposition. Three commissioner districts shall be created for a fire protection district with three commissioners, and five commissioner districts shall be created for a fire protection district with five commissioners. No two commissioners may reside in the same commissioner district.

The population of each commissioner district shall include approximately equal population. Commissioner districts shall be redrawn as provided in chapter 29.70 RCW. Commissioner districts shall be used as follows: (1) Only a registered voter who resides in a commissioner district may be a candidate for, or serve as, a commissioner of the commissioner district; and (2) only voters of a commissioner district may vote at a primary to nominate candidates for a commissioner of the commissioner district. Voters of the entire fire protection district may vote at a general election to elect a person as a commissioner of the commissioner district.

When a board of fire commissioners that has commissioner districts has been increased to five members under RCW 52.14.015, the board of fire commissioners shall divide the fire protection district into five commissioner districts before it appoints the two additional fire commissioners. The two

additional fire commissioners who are appointed shall reside in separate commissioner districts in which no other fire commissioner resides.

**NEW SECTION.** Sec. 3. A new section is added to chapter 52.06 RCW to read as follows:

A fire protection district resulting from the merger of two or more fire protection districts located in the same county shall be identified by the name of the county and the number of the merger fire protection district. However, the fire protection district resulting from such a merger shall be identified by the number of the merging district or one of the merging districts if a resolution providing for this number change is adopted by the board of fire commissioners of the district resulting from the merger or if resolutions providing for this number change are adopted by each of the boards of fire commissioners of the districts proposed to be merged.

Passed the House February 12, 1992.

Passed the Senate February 28, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

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## CHAPTER 75

[Engrossed Substitute House Bill 2490]

### ESCAPE FROM COMMUNITY PLACEMENT OR COMMUNITY SUPERVISION

Effective Date: 6/11/92

AN ACT Relating to escape from community placement or community supervision; amending RCW 9.94A.320, 9.94A.360, 9.94A.440, and 72.09.310; reenacting and amending RCW 9.94A.030 and 9.94A.120; and prescribing penalties.

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

**Sec. 1.** RCW 9.94A.030 and 1991 c 348 s 4, 1991 c 290 s 3, and 1991 c 181 s 1 are each reenacted and amended to read as follows:

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

(1) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department of corrections, means that the department is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(2) "Commission" means the sentencing guidelines commission.

(3) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(4) "Community custody" means that portion of an inmate's sentence of confinement in lieu of earned early release time served in the community subject to controls placed on the inmate's movement and activities by the department of corrections.

(5) "Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned early release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

(6) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(7) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed by a court pursuant to this chapter or RCW 46.61.524. For first-time offenders, the supervision may include crime-related prohibitions and other conditions imposed pursuant to RCW 9.94A.120(5). For purposes of the interstate compact for out-of-state supervision of parolees and probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.

(8) "Confinement" means total or partial confinement as defined in this section.

(9) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Court-ordered legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction.

(11) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct.

(12)(a) "Criminal history" means the list of a defendant's prior convictions, whether in this state, in federal court, or elsewhere. The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) "Criminal history" shall always include juvenile convictions for sex offenses and shall also include a defendant's other prior convictions in juvenile court if: (i) The conviction was for an offense which is a felony or a serious traffic offense and is criminal history as defined in RCW 13.40.020(6)(a); (ii) the defendant was fifteen years of age or older at the time the offense was committed; and (iii) with respect to prior juvenile class B and C felonies or serious traffic offenses, the defendant was less than twenty-three years of age at the time the offense for which he or she is being sentenced was committed.

(13) "Department" means the department of corrections.

(14) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the number of actual hours or days of community service work, or dollars or terms of a legal financial obligation. The fact that an offender through "earned early release" can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(15) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(16) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.401(d)) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(17) "Escape" means:

(a) Escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to ~~((comply with any limitations on the inmate's movements))~~ be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(18) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-and-run injury-accident (RCW 46.52.020(4)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(19) "Fines" means the requirement that the offender pay a specific sum of money over a specific period of time to the court.

(20)(a) "First-time offender" means any person who is convicted of a felony (i) not classified as a violent offense or a sex offense under this chapter, or (ii) that is not the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in schedule I or II that is a narcotic drug or the selling for profit [of] any controlled substance or counterfeit substance classified in schedule I, RCW 69.50.204, except leaves and flowering tops of marihuana, and except as provided in (b) of this subsection, who previously has never been convicted of a felony in this state, federal court, or another state, and who has never participated in a program of deferred prosecution for a felony offense.

(b) For purposes of (a) of this subsection, a juvenile adjudication for an offense committed before the age of fifteen years is not a previous felony conviction except for adjudications of sex offenses.

(21) "Nonviolent offense" means an offense which is not a violent offense.

(22) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(23) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention as defined in this section.

(24) "Postrelease supervision" is that portion of an offender's community placement that is not community custody.

(25) "Restitution" means the requirement that the offender pay a specific sum of money over a specific period of time to the court as payment of damages.

The sum may include both public and private costs. The imposition of a restitution order does not preclude civil redress.

(26) "Serious traffic offense" means:

(a) Driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(27) "Serious violent offense" is a subcategory of violent offense and means:

(a) Murder in the first degree, homicide by abuse, murder in the second degree, assault in the first degree, kidnapping in the first degree, or rape in the first degree, or an attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(28) "Sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(29) "Sex offense" means:

(a) A felony that is a violation of chapter 9A.44 RCW or RCW 9A.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;

(b) A felony with a finding of sexual motivation under RCW 9.94A.127; or

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(30) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(31) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(32) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(33) "Violent offense" means:

(a) Any of the following felonies, as now existing or hereafter amended: Any felony defined under any law as a class A felony or an attempt to commit a class A felony, criminal solicitation of or criminal conspiracy to commit a class A felony, manslaughter in the first degree, manslaughter in the second degree,

indecent liberties if committed by forcible compulsion, kidnapping in the second degree, arson in the second degree, assault in the second degree, extortion in the first degree, robbery in the second degree, vehicular assault, and vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

(34) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community of not less than thirty-five hours per week that complies with RCW 9.94A.135. The civic improvement tasks shall be performed on public property or on private property owned or operated by nonprofit entities, except that, for emergency purposes only, work crews may perform snow removal on any private property. The civic improvement tasks shall have minimal negative impact on existing private industries or the labor force in the county where the service or labor is performed. The civic improvement tasks shall not affect employment opportunities for people with developmental disabilities contracted through sheltered workshops as defined in RCW 82.04.385. Only those offenders sentenced to a facility operated or utilized under contract by a county are eligible to participate on a work crew. Offenders sentenced for a sex offense as defined in subsection (29) of this section are not eligible for the work crew program.

(35) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school. Participation in work release shall be conditioned upon the offender attending work or school at regularly defined hours and abiding by the rules of the work release facility.

(36) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance. Home detention may not be imposed for offenders convicted of a violent offense, any sex offense, any drug offense, reckless burning in the first or second degree as defined in RCW 9A.48.040 or 9A.48.050, assault in the third degree as defined in RCW 9A.36.031, unlawful imprisonment as defined in RCW 9A.40.040, or harassment as defined in RCW 9A.46.020. Home detention may be imposed for offenders convicted of possession of a controlled substance (RCW 69.50.401(d)) or forged prescription for a controlled substance (RCW 69.50.403) if the offender fulfills the participation conditions set forth in this subsection and is monitored for drug use

by treatment alternatives to street crime (TASC) or a comparable court or agency-referred program.

(a) Home detention may be imposed for offenders convicted of burglary in the second degree as defined in RCW 9A.52.030 or residential burglary conditioned upon the offender: (i) Successfully completing twenty-one days in a work release program, (ii) having no convictions for burglary in the second degree or residential burglary during the preceding two years and not more than two prior convictions for burglary or residential burglary, (iii) having no convictions for a violent felony offense during the preceding two years and not more than two prior convictions for a violent felony offense, (iv) having no prior charges of escape, and (v) fulfilling the other conditions of the home detention program.

(b) Participation in a home detention program shall be conditioned upon: (i) The offender obtaining or maintaining current employment or attending a regular course of school study at regularly defined hours, or the offender performing parental duties to offspring or minors normally in the custody of the offender, (ii) abiding by the rules of the home detention program, and (iii) compliance with court-ordered legal financial obligations. The home detention program may also be made available to offenders whose charges and convictions do not otherwise disqualify them if medical or health-related conditions, concerns or treatment would be better addressed under the home detention program, or where the health and welfare of the offender, other inmates, or staff would be jeopardized by the offender's incarceration. Participation in the home detention program for medical or health-related reasons is conditioned on the offender abiding by the rules of the home detention program and complying with court-ordered restitution.

**Sec. 2.** RCW 9.94A.120 and 1991 c 221 s 2, 1991 c 181 s 3, and 1991 c 104 s 3 are each reenacted and amended to read as follows:

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

(1) Except as authorized in subsections (2), (5), and (7) of this section, the court shall impose a sentence within the sentence range for the offense.

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

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

(4) An offender convicted of the crime of murder in the first degree shall be sentenced to a term of total confinement not less than twenty years. An offender convicted of the crime of assault in the first degree where the offender used force or means likely to result in death or intended to kill the victim shall

be sentenced to a term of total confinement not less than five years. An offender convicted of the crime of rape in the first degree shall be sentenced to a term of total confinement not less than five years, and shall not be eligible for furlough, work release or other authorized leave of absence from the correctional facility during such minimum five-year term except for the purpose of commitment to an inpatient treatment facility. The foregoing minimum terms of total confinement are mandatory and shall not be varied or modified as provided in subsection (2) of this section.

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

- (a) Devote time to a specific employment or occupation;
- (b) Undergo available outpatient treatment for up to two years, or inpatient treatment not to exceed the standard range of confinement for that offense;
- (c) Pursue a prescribed, secular course of study or vocational training;
- (d) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;
- (e) Report as directed to the court and a community corrections officer; or
- (f) Pay all court-ordered legal financial obligations as provided in RCW 9.94A.030 and/or perform community service work.

(6) If a sentence range has not been established for the defendant's crime, the court shall impose a determinate sentence which may include not more than one year of confinement, community service work, a term of community supervision not to exceed one year, and/or other legal financial obligations. The court may impose a sentence which provides more than one year of confinement if the court finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.

(7)(a)(i) When an offender is convicted of a sex offense other than a violation of RCW 9A.44.050 or a sex offense that is also a serious violent offense and has no prior convictions for a sex offense or any other felony sex offenses in this or any other state, the sentencing court, on its own motion or the motion of the state or the defendant, may order an examination to determine whether the defendant is amenable to treatment.

The report of the examination shall include at a minimum the following: The defendant's version of the facts and the official version of the facts, the defendant's offense history, an assessment of problems in addition to alleged deviant behaviors, the offender's social and employment situation, and other

evaluation measures used. The report shall set forth the sources of the evaluator's information.

The examiner shall assess and report regarding the defendant's amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

- (A) Frequency and type of contact between offender and therapist;
- (B) Specific issues to be addressed in the treatment and description of planned treatment modalities;
- (C) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others;
- (D) Anticipated length of treatment; and
- (E) Recommended crime-related prohibitions.

The court on its own motion may order, or on a motion by the state shall order, a second examination regarding the offender's amenability to treatment. The evaluator shall be selected by the party making the motion. The defendant shall pay the cost of any second examination ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost.

(ii) After receipt of the reports, the court shall consider whether the offender and the community will benefit from use of this special sexual offender sentencing alternative and consider the victim's opinion whether the offender should receive a treatment disposition under this subsection. If the court determines that this special sex offender sentencing alternative is appropriate, the court shall then impose a sentence within the sentence range. If this sentence is less than eight years of confinement, the court may suspend the execution of the sentence and impose the following conditions of suspension:

(A) The court shall place the defendant on community supervision for the length of the suspended sentence or three years, whichever is greater; and

(B) The court shall order treatment for any period up to three years in duration. The court in its discretion shall order outpatient sex offender treatment or inpatient sex offender treatment, if available. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment. The offender shall not change sex offender treatment providers or treatment conditions without first notifying the prosecutor, the community corrections officer, and the court, and shall not change providers without court approval after a hearing if the prosecutor or community corrections officer object to the change. In addition, as conditions of the suspended sentence, the court may impose other sentence conditions including up to six months of confinement, not to exceed the sentence range of confinement for that offense, crime-related prohibitions, and requirements that the offender perform any one or more of the following:

- (I) Devote time to a specific employment or occupation;

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

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

(IV) Pay all court-ordered legal financial obligations as provided in RCW 9.94A.030, perform community service work, or any combination thereof; or

(V) Make recoupment to the victim for the cost of any counseling required as a result of the offender's crime.

(iii) The sex offender therapist shall submit quarterly reports on the defendant's progress in treatment to the court and the parties. The report shall reference the treatment plan and include at a minimum the following: Dates of attendance, defendant's compliance with requirements, treatment activities, the defendant's relative progress in treatment, and any other material as specified by the court at sentencing.

(iv) At the time of sentencing, the court shall set a treatment termination hearing for three months prior to the anticipated date for completion of treatment. Prior to the treatment termination hearing, the treatment professional and community corrections officer shall submit written reports to the court and parties regarding the defendant's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment, including proposed community supervision conditions. Either party may request and the court may order another evaluation regarding the advisability of termination from treatment. The defendant shall pay the cost of any additional evaluation ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost. At the treatment termination hearing the court may: (A) Modify conditions of community supervision, and either (B) terminate treatment, or (C) extend treatment for up to the remaining period of community supervision.

(v) The court may revoke the suspended sentence at any time during the period of community supervision and order execution of the sentence if: (A) The defendant violates the conditions of the suspended sentence, or (B) the court finds that the defendant is failing to make satisfactory progress in treatment. All confinement time served during the period of community supervision shall be credited to the offender if the suspended sentence is revoked.

(vi) After July 1, 1991, examinations and treatment ordered pursuant to this subsection shall only be conducted by sex offender treatment providers certified by the department of health pursuant to chapter 18.155 RCW.

For purposes of this subsection, "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a result of the crime charged. "Victim" also means a parent or guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense.

(b) When an offender is convicted of any felony sex offense committed before July 1, 1987, and is sentenced to a term of confinement of more than one year but less than six years, the sentencing court may, on its own motion or on the motion of the offender or the state, order the offender committed for up to thirty days to the custody of the secretary of social and health services for evaluation and report to the court on the offender's amenability to treatment at these facilities. If the secretary of social and health services cannot begin the evaluation within thirty days of the court's order of commitment, the offender shall be transferred to the state for confinement pending an opportunity to be evaluated at the appropriate facility. The court shall review the reports and may order that the term of confinement imposed be served in the sexual offender treatment program at the location determined by the secretary of social and health services or the secretary's designee, only if the report indicates that the offender is amenable to the treatment program provided at these facilities. The offender shall be transferred to the state pending placement in the treatment program. Any offender who has escaped from the treatment program shall be referred back to the sentencing court.

If the offender does not comply with the conditions of the treatment program, the secretary of social and health services may refer the matter to the sentencing court. The sentencing court shall commit the offender to the department of corrections to serve the balance of the term of confinement.

If the offender successfully completes the treatment program before the expiration of the term of confinement, the court may convert the balance of confinement to community supervision and may place conditions on the offender including crime-related prohibitions and requirements that the offender perform any one or more of the following:

- (i) Devote time to a specific employment or occupation;
- (ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;
- (iii) Report as directed to the court and a community corrections officer;
- (iv) Undergo available outpatient treatment.

If the offender violates any of the terms of community supervision, the court may order the offender to serve out the balance of the community supervision term in confinement in the custody of the department of corrections.

After June 30, 1993, this subsection (b) shall cease to have effect.

(c) When an offender commits any felony sex offense on or after July 1, 1987, and is sentenced to a term of confinement of more than one year but less than six years, the sentencing court may, on its own motion or on the motion of the offender or the state, request the department of corrections to evaluate whether the offender is amenable to treatment and the department may place the offender in a treatment program within a correctional facility operated by the department.

Except for an offender who has been convicted of a violation of RCW 9A.44.040 or 9A.44.050, if the offender completes the treatment program before the expiration of his term of confinement, the department of corrections may request the court to convert the balance of confinement to community supervision and to place conditions on the offender including crime-related prohibitions and requirements that the offender perform any one or more of the following:

- (i) Devote time to a specific employment or occupation;
- (ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;
- (iii) Report as directed to the court and a community corrections officer;
- (iv) Undergo available outpatient treatment.

If the offender violates any of the terms of his community supervision, the court may order the offender to serve out the balance of his community supervision term in confinement in the custody of the department of corrections.

Nothing in (c) of this subsection shall confer eligibility for such programs for offenders convicted and sentenced for a sex offense committed prior to July 1, 1987. This subsection (c) does not apply to any crime committed after July 1, 1990.

(d) Offenders convicted and sentenced for a sex offense committed prior to July 1, 1987, may, subject to available funds, request an evaluation by the department of corrections to determine whether they are amenable to treatment. If the offender is determined to be amenable to treatment, the offender may request placement in a treatment program within a correctional facility operated by the department. Placement in such treatment program is subject to available funds.

(8)(a) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense or a serious violent offense committed after July 1, 1988, but before July 1, 1990, assault in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 1988, the court shall in addition to the other terms of the sentence, sentence the offender to a one-year term of community placement beginning either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2). When the court sentences an offender under this subsection to the statutory maximum period of confinement then the community placement portion of the sentence shall consist entirely of such community custody to which the offender may become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any period of community custody actually

served shall be credited against the community placement portion of the sentence.

(b) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense or serious violent offense committed on or after July 1, 1990, the court shall in addition to other terms of the sentence, sentence the offender to community placement for two years or up to the period of earned early release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The community placement shall begin either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2). When the court sentences an offender under this subsection to the statutory maximum period of confinement then the community placement portion of the sentence shall consist entirely of the community custody to which the offender may become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any period of community custody actually served shall be credited against the community placement portion of the sentence. Unless a condition is waived by the court, the terms of community placement for offenders sentenced pursuant to this section shall include the following conditions:

(i) The offender shall report to and be available for contact with the assigned community corrections officer as directed;

(ii) The offender shall work at department of corrections-approved education, employment, and/or community service;

(iii) The offender shall not consume controlled substances except pursuant to lawfully issued prescriptions;

(iv) An offender in community custody shall not unlawfully possess controlled substances; ~~(and)~~

(v) The offender shall pay supervision fees as determined by the department of corrections; and

(vi) The residence location and living arrangements are subject to the prior approval of the department of corrections during the period of community placement.

(c) The court may also order any of the following special conditions:

(i) The offender shall remain within, or outside of, a specified geographical boundary;

(ii) The offender shall not have direct or indirect contact with the victim of the crime or a specified class of individuals;

(iii) The offender shall participate in crime-related treatment or counseling services;

(iv) The offender shall not consume alcohol; or

~~(v) ((The residence location and living arrangements of a sex offender shall be subject to the prior approval of the department of corrections; or~~

~~(vi)))~~ The offender shall comply with any crime-related prohibitions.

(d) Prior to transfer to, or during, community placement, any conditions of community placement may be removed or modified so as not to be more restrictive by the sentencing court, upon recommendation of the department of corrections.

(9) If the court imposes a sentence requiring confinement of thirty days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than thirty days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.

(10) If a sentence imposed includes payment of a legal financial obligation, the sentence shall specify the total amount of the legal financial obligation owed, and shall require the offender to pay a specified monthly sum toward that legal financial obligation. Restitution to victims shall be paid prior to any other payments of monetary obligations. Any legal financial obligation that is imposed by the court may be collected by the department, which shall deliver the amount paid to the county clerk for credit. The offender's compliance with payment of legal financial obligations shall be supervised by the department. All monetary payments ordered shall be paid no later than ten years after the last date of release from confinement pursuant to a felony conviction or the date the sentence was entered. Independent of the department, the party or entity to whom the legal financial obligation is owed shall have the authority to utilize any other remedies available to the party or entity to collect the legal financial obligation. Nothing in this section makes the department, the state, or any of its employees, agents, or other persons acting on their behalf liable under any circumstances for the payment of these legal financial obligations. If an order includes restitution as one of the monetary assessments, the county clerk shall make disbursements to victims named in the order.

(11) Except as provided under RCW 9.94A.140(1) and 9.94A.142(1), a court may not impose a sentence providing for a term of confinement or community supervision or community placement which exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

(12) All offenders sentenced to terms involving community supervision, community service, community placement, or legal financial obligation shall be under the supervision of the secretary of the department of corrections or such person as the secretary may designate and shall follow explicitly the instructions of the secretary including reporting as directed to a community corrections officer, remaining within prescribed geographical boundaries, notifying the community corrections officer of any change in the offender's address or employment, and paying the supervision fee assessment.

(13) All offenders sentenced to terms involving community supervision, community service, or community placement under the supervision of the department of corrections shall not own, use, or possess firearms or ammunition. Offenders who own, use, or are found to be in actual or constructive possession

of firearms or ammunition shall be subject to the appropriate violation process and sanctions. "Constructive possession" as used in this subsection means the power and intent to control the firearm or ammunition. "Firearm" as used in this subsection means a weapon or device from which a projectile may be fired by an explosive such as gunpowder.

(14) The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.

(15) A departure from the standards in RCW 9.94A.400 (1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in subsections (2) and (3) of this section, and may be appealed by the defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

(16) The court shall order restitution whenever the offender is convicted of a felony that results in injury to any person or damage to or loss of property, whether the offender is sentenced to confinement or placed under community supervision, unless extraordinary circumstances exist that make restitution inappropriate in the court's judgment. The court shall set forth the extraordinary circumstances in the record if it does not order restitution.

(17) As a part of any sentence, the court may impose and enforce an order that relates directly to the circumstances of the crime for which the offender has been convicted, prohibiting the offender from having any contact with other specified individuals or a specific class of individuals for a period not to exceed the maximum allowable sentence for the crime, regardless of the expiration of the offender's term of community supervision or community placement.

(18) In any sentence of partial confinement, the court may require the defendant to serve the partial confinement in work release, in a program of home detention, on work crew, or in a combined program of work crew and home detention.

(19) All court-ordered legal financial obligations collected by the department and remitted to the county clerk shall be credited and paid where restitution is ordered. Restitution shall be paid prior to any other payments of monetary obligations.

Sec. 3. RCW 9.94A.320 and 1991 c 32 s 3 are each amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

- XV      Aggravated Murder 1 (RCW 10.95.020)
- XIV     Murder 1 (RCW 9A.32.030)

- Homicide by abuse (RCW 9A.32.055)
- XIII Murder 2 (RCW 9A.32.050)
- XII Assault 1 (RCW 9A.36.011)
- XI Rape 1 (RCW 9A.44.040)  
Rape of a Child 1 (RCW 9A.44.073)
- X Kidnapping 1 (RCW 9A.40.020)  
Rape 2 (RCW 9A.44.050)  
Rape of a Child 2 (RCW 9A.44.076)  
Child Molestation 1 (RCW 9A.44.083)  
Damaging building, etc., by explosion with threat to human being (RCW 70.74.280(1))  
Over 18 and deliver heroin or narcotic from Schedule I or II to someone under 18 (RCW 69.50.406)  
Leading Organized Crime (RCW 9A.82.060(1)(a))
- IX Robbery 1 (RCW 9A.56.200)  
Manslaughter 1 (RCW 9A.32.060)  
Explosive devices prohibited (RCW 70.74.180)  
Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))  
Endangering life and property by explosives with threat to human being (RCW 70.74.270)  
Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406)  
Controlled Substance Homicide (RCW 69.50.415)  
Sexual Exploitation (RCW 9.68A.040)  
Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
- VIII Arson 1 (RCW 9A.48.020)  
Promoting Prostitution 1 (RCW 9A.88.070)  
Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410)  
Manufacture, deliver, or possess with intent to deliver heroin or cocaine (RCW 69.50.401(a)(1)(i))  
Manufacture, deliver, or possess with intent to deliver methamphetamine (RCW 69.50.401(a)(1)(ii))  
Vehicular Homicide, by being under the influence of intoxicating liquor or any drug or by the operation of any vehicle in a reckless manner (RCW 46.61.520)

- VII Burglary 1 (RCW 9A.52.020)  
 Vehicular Homicide, by disregard for the safety of others  
 (RCW 46.61.520)  
 Introducing Contraband 1 (RCW 9A.76.140)  
 Indecent Liberties (without forcible compulsion)  
 (RCW 9A.44.100(1) (b) and (c))  
 Child Molestation 2 (RCW 9A.44.086)  
 Dealing in depictions of minor engaged in sexually  
 explicit conduct (RCW 9.68A.050)  
 Sending, bringing into state depictions of minor  
 engaged in sexually explicit conduct (RCW 9.68A.060)  
 Involving a minor in drug dealing (RCW 69.50.401(f))
- VI Bribery (RCW 9A.68.010)  
 Manslaughter 2 (RCW 9A.32.070)  
 Rape of a Child 3 (RCW 9A.44.079)  
 Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)  
 Damaging building, etc., by explosion with no threat to  
 human being (RCW 70.74.280(2))  
 Endangering life and property by explosives with no  
 threat to human being (RCW 70.74.270)  
 Incest 1 (RCW 9A.64.020(1))  
 Manufacture, deliver, or possess with intent to deliver  
 narcotics from Schedule I or II (except heroin or cocaine)  
 (RCW 69.50.401(a)(1)(i))  
 Intimidating a Judge (RCW 9A.72.160)  
 Bail Jumping with Murder 1 (RCW 9A.76.170(2)(a))
- V Criminal Mistreatment 1 (RCW 9A.42.020)  
 Rape 3 (RCW 9A.44.060)  
 Sexual Misconduct with a Minor 1 (RCW 9A.44.093)  
 Child Molestation 3 (RCW 9A.44.089)  
 Kidnapping 2 (RCW 9A.40.030)  
 Extortion 1 (RCW 9A.56.120)  
 Incest 2 (RCW 9A.64.020(2))  
 Perjury 1 (RCW 9A.72.020)  
 Extortionate Extension of Credit (RCW 9A.82.020)  
 Advancing money or property for extortionate extension of  
 credit (RCW 9A.82.030)  
 Extortionate Means to Collect Extensions of Credit (RCW  
 9A.82.040)  
 Rendering Criminal Assistance 1 (RCW 9A.76.070)  
 Bail Jumping with class A Felony (RCW 9A.76.170(2)(b))  
 Delivery of imitation controlled substance by person

eighteen or over to person under eighteen (RCW 69.52.030(2))

- IV**
- Residential Burglary (RCW 9A.52.025)
  - Theft of Livestock 1 (RCW 9A.56.080)
  - Robbery 2 (RCW 9A.56.210)
  - Assault 2 (RCW 9A.36.021)
  - Escape 1 (RCW 9A.76.110)
  - Arson 2 (RCW 9A.48.030)
  - Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
  - Malicious Harassment (RCW 9A.36.080)
  - Threats to Bomb (RCW 9.61.160)
  - Willful Failure to Return from Furlough (RCW 72.66.060)
  - Hit and Run — Injury Accident (RCW 46.52.020(4))
  - Vehicular Assault (RCW 46.61.522)
  - Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except marijuana or methamphetamines) (RCW 69.50.401(a)(1)(ii) through (iv))
  - Influencing Outcome of Sporting Event (RCW 9A.82.070)
  - Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
  - Knowingly Trafficking in Stolen Property (RCW 9A.82.050(2))
- III**
- Criminal mistreatment 2 (RCW 9A.42.030)
  - Extortion 2 (RCW 9A.56.130)
  - Unlawful Imprisonment (RCW 9A.40.040)
  - Assault 3 (RCW 9A.36.031)
  - Custodial Assault (RCW 9A.36.100)
  - Unlawful possession of firearm or pistol by felon (RCW 9.41.040)
  - Harassment (RCW 9A.46.020)
  - Promoting Prostitution 2 (RCW 9A.88.080)
  - Willful Failure to Return from Work Release (RCW 72.65.070)
  - Burglary 2 (RCW 9A.52.030)
  - Introducing Contraband 2 (RCW 9A.76.150)
  - Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
  - Patronizing a Juvenile Prostitute (RCW 9.68A.100)
  - Escape 2 (RCW 9A.76.120)
  - Perjury 2 (RCW 9A.72.030)

Bail Jumping with class B or C Felony (RCW 9A.76.170(2)(c))  
 Intimidating a Public Servant (RCW 9A.76.180)  
 Tampering with a Witness (RCW 9A.72.120)  
 Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(a)(1)(ii))  
 Delivery of a material in lieu of a controlled substance (RCW 69.50.401(c))  
 Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW 69.52.030(1))  
 Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))  
 Theft of livestock 2 (RCW 9A.56.080)  
 Securities Act violation (RCW 21.20.400)

- II Malicious Mischief 1 (RCW 9A.48.070)  
 Possession of Stolen Property 1 (RCW 9A.56.150)  
 Theft 1 (RCW 9A.56.030)  
 Possession of controlled substance that is either heroin or narcotics from Schedule I or II (RCW 69.50.401(d))  
 Possession of phencyclidine (PCP) (RCW 69.50.401(d))  
 Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))  
 Computer Trespass 1 (RCW 9A.52.110)  
 Reckless Endangerment 1 (RCW 9A.36.045)  
Escape from Community Custody  
(RCW 72.09.310)
- I Theft 2 (RCW 9A.56.040)  
 Possession of Stolen Property 2 (RCW 9A.56.160)  
 Forgery (RCW 9A.60.020)  
 Taking Motor Vehicle Without Permission (RCW 9A.56.070)  
 Vehicle Prowl 1 (RCW 9A.52.095)  
 Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)  
 Malicious Mischief 2 (RCW 9A.48.080)  
 Reckless Burning 1 (RCW 9A.48.040)  
 Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)  
 Unlawful Use of Food Stamps (RCW 9.91.140 (2) and (3))  
 False Verification for Welfare (RCW 74.08.055)  
 Forged Prescription (RCW 69.41.020)  
 Forged Prescription for a Controlled Substance (RCW 69.50.403)  
 Possess Controlled Substance that is a Narcotic from

Schedule III, IV, or V or Non-narcotic from Schedule  
I-V (except phencyclidine) (RCW 69.50.401(d))

**Sec. 4.** RCW 9.94A.360 and 1990 c 3 s 706 are each amended to read as follows:

The offender score is measured on the horizontal axis of the sentencing grid. The offender score rules are as follows:

The offender score is the sum of points accrued under this section rounded down to the nearest whole number.

(1) A prior conviction is a conviction which exists before the date of sentencing for the offense for which the offender score is being computed. Convictions entered or sentenced on the same date as the conviction for which the offender score is being computed shall be deemed "other current offenses" within the meaning of RCW 9.94A.400.

(2) Except as provided in subsection (4) of this section, class A and sex prior felony convictions shall always be included in the offender score. Class B prior felony convictions other than sex offenses shall not be included in the offender score, if since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent ten consecutive years in the community without being convicted of any felonies. Class C prior felony convictions other than sex offenses shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent five consecutive years in the community without being convicted of any felonies. Serious traffic convictions shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender spent five years in the community without being convicted of any serious traffic or felony traffic offenses. This subsection applies to both adult and juvenile prior convictions.

(3) Out-of-state convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law.

(4) Always include juvenile convictions for sex offenses. Include other class A juvenile felonies only if the offender was 15 or older at the time the juvenile offense was committed. Include other class B and C juvenile felony convictions only if the offender was 15 or older at the time the juvenile offense was committed and the offender was less than 23 at the time the offense for which he or she is being sentenced was committed.

(5) Score prior convictions for felony anticipatory offenses (attempts, criminal solicitations, and criminal conspiracies) the same as if they were convictions for completed offenses.

(6) In the case of multiple prior convictions, for the purpose of computing the offender score, count all convictions separately, except:

(a) Prior adult offenses which were found, under RCW 9.94A.400(1)(a), to encompass the same criminal conduct, shall be counted as one offense, the offense that yields the highest offender score. The current sentencing court shall determine with respect to other prior adult offenses for which sentences were served concurrently whether those offenses shall be counted as one offense or as separate offenses, and if the court finds that they shall be counted as one offense, then the offense that yields the highest offender score shall be used;

(b) Juvenile prior convictions entered or sentenced on the same date shall count as one offense, the offense that yields the highest offender score, except for juvenile prior convictions for violent offenses with separate victims, which shall count as separate offenses; and

(c) In the case of multiple prior convictions for offenses committed before July 1, 1986, for the purpose of computing the offender score, count all adult convictions served concurrently as one offense, and count all juvenile convictions entered on the same date as one offense. Use the conviction for the offense that yields the highest offender score.

(7) If the present conviction is one of the anticipatory offenses of criminal attempt, solicitation, or conspiracy, count each prior conviction as if the present conviction were for a completed offense.

(8) If the present conviction is for a nonviolent offense and not covered by subsection (12) or (13) of this section, count one point for each adult prior felony conviction and one point for each juvenile prior violent felony conviction and 1/2 point for each juvenile prior nonviolent felony conviction.

(9) If the present conviction is for a violent offense and not covered in subsection (10), (11), (12), or (13) of this section, count two points for each prior adult and juvenile violent felony conviction, one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(10) If the present conviction is for Murder 1 or 2, Assault 1, Kidnaping 1, Homicide by Abuse, or Rape 1, count three points for prior adult and juvenile convictions for crimes in these categories, two points for each prior adult and juvenile violent conviction (not already counted), one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(11) If the present conviction is for Burglary 1, count prior convictions as in subsection (9) of this section; however count two points for each prior adult Burglary 2 or residential burglary conviction, and one point for each prior juvenile Burglary 2 or residential burglary conviction.

(12) If the present conviction is for a felony traffic offense count two points for each adult or juvenile prior conviction for Vehicular Homicide or Vehicular Assault; for each felony offense or serious traffic offense, count one point for each adult and 1/2 point for each juvenile prior conviction.

(13) If the present conviction is for a drug offense count three points for each adult prior felony drug offense conviction and two points for each juvenile drug offense. All other adult and juvenile felonies are scored as in subsection (9) of this section if the current drug offense is violent, or as in subsection (8) of this section if the current drug offense is nonviolent.

(14) If the present conviction is for Willful Failure to Return from Furlough, RCW 72.66.060, ((~~or~~)) Willful Failure to Return from Work Release, RCW 72.65.070, or Escape from Community Custody, RCW 72.09.310, count only prior escape convictions in the offender score. Count adult prior escape convictions as one point and juvenile prior escape convictions as 1/2 point.

(15) If the present conviction is for Escape 1, RCW 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as one point and juvenile prior convictions as 1/2 point.

(16) If the present conviction is for Burglary 2 or residential burglary, count priors as in subsection (8) of this section; however, count two points for each adult and juvenile prior Burglary 1 conviction, two points for each adult prior Burglary 2 or residential burglary conviction, and one point for each juvenile prior Burglary 2 or residential burglary conviction.

(17) If the present conviction is for a sex offense, count priors as in subsections (8) through (16) of this section; however count three points for each adult and juvenile prior sex offense conviction.

(18) If the present conviction is for an offense committed while the offender was under community placement, add one point.

**Sec. 5.** RCW 9.94A.440 and 1989 c 332 s 2 are each amended to read as follows:

(1) Decision not to prosecute.

**STANDARD:** A prosecuting attorney may decline to prosecute, even though technically sufficient evidence to prosecute exists, in situations where prosecution would serve no public purpose, would defeat the underlying purpose of the law in question or would result in decreased respect for the law.

**GUIDELINE/COMMENTARY:**

Examples

The following are examples of reasons not to prosecute which could satisfy the standard.

(a) **Contrary to Legislative Intent** - It may be proper to decline to charge where the application of criminal sanctions would be clearly contrary to the intent of the legislature in enacting the particular statute.

(b) **Antiquated Statute** - It may be proper to decline to charge where the statute in question is antiquated in that:

- (i) It has not been enforced for many years; and
- (ii) Most members of society act as if it were no longer in existence; and
- (iii) It serves no deterrent or protective purpose in today's society; and
- (iv) The statute has not been recently reconsidered by the legislature.

This reason is not to be construed as the basis for declining cases because the law in question is unpopular or because it is difficult to enforce.

(c) *De Minimus Violation* - It may be proper to decline to charge where the violation of law is only technical or insubstantial and where no public interest or deterrent purpose would be served by prosecution.

(d) *Confinement on Other Charges* - It may be proper to decline to charge because the accused has been sentenced on another charge to a lengthy period of confinement; and

(i) Conviction of the new offense would not merit any additional direct or collateral punishment;

(ii) The new offense is either a misdemeanor or a felony which is not particularly aggravated; and

(iii) Conviction of the new offense would not serve any significant deterrent purpose.

(e) *Pending Conviction on Another Charge* - It may be proper to decline to charge because the accused is facing a pending prosecution in the same or another county; and

(i) Conviction of the new offense would not merit any additional direct or collateral punishment;

(ii) Conviction in the pending prosecution is imminent;

(iii) The new offense is either a misdemeanor or a felony which is not particularly aggravated; and

(iv) Conviction of the new offense would not serve any significant deterrent purpose.

(f) *High Disproportionate Cost of Prosecution* - It may be proper to decline to charge where the cost of locating or transporting, or the burden on, prosecution witnesses is highly disproportionate to the importance of prosecuting the offense in question. This reason should be limited to minor cases and should not be relied upon in serious cases.

(g) *Improper Motives of Complainant* - It may be proper to decline charges because the motives of the complainant are improper and prosecution would serve no public purpose, would defeat the underlying purpose of the law in question or would result in decreased respect for the law.

(h) *Immunity* - It may be proper to decline to charge where immunity is to be given to an accused in order to prosecute another where the accused's information or testimony will reasonably lead to the conviction of others who are responsible for more serious criminal conduct or who represent a greater danger to the public interest.

(i) *Victim Request* - It may be proper to decline to charge because the victim requests that no criminal charges be filed and the case involves the following crimes or situations:

(i) Assault cases where the victim has suffered little or no injury;

(ii) Crimes against property, not involving violence, where no major loss was suffered;

(iii) Where doing so would not jeopardize the safety of society.

Care should be taken to insure that the victim's request is freely made and is not the product of threats or pressure by the accused.

The presence of these factors may also justify the decision to dismiss a prosecution which has been commenced.

#### Notification

The prosecutor is encouraged to notify the victim, when practical, and the law enforcement personnel, of the decision not to prosecute.

(2) Decision to prosecute.

#### STANDARD:

Crimes against persons will be filed if sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify conviction by a reasonable and objective fact-finder. With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050, 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and 9A.64.020 the prosecutor should avoid pre-filing agreements or diversions intended to place the accused in a program of treatment or counseling, so that treatment, if determined to be beneficial, can be provided pursuant to RCW 9.94A.120(7).

Crimes against property/other crimes will be filed if the admissible evidence is of such convincing force as to make it probable that a reasonable and objective fact-finder would convict after hearing all the admissible evidence and the most plausible defense that could be raised.

See table below for the crimes within these categories.

### CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS

#### CRIMES AGAINST PERSONS

Aggravated Murder  
 1st Degree Murder  
 2nd Degree Murder  
 1st Degree Kidnaping  
 1st Degree Assault  
 1st Degree Rape  
 1st Degree Robbery  
 1st Degree Rape of a Child  
 1st Degree Arson  
 2nd Degree Kidnaping  
 2nd Degree Assault  
 2nd Degree Rape

2nd Degree Robbery  
1st Degree Burglary  
1st Degree Manslaughter  
2nd Degree Manslaughter  
1st Degree Extortion  
Indecent Liberties  
Incest  
2nd Degree Rape of a Child  
Vehicular Homicide  
Vehicular Assault  
3rd Degree Rape  
3rd Degree Rape of a Child  
1st Degree Child Molestation  
2nd Degree Child Molestation  
3rd Degree Child Molestation  
2nd Degree Extortion  
1st Degree Promoting Prostitution  
Intimidating a Juror  
Communication with a Minor  
Intimidating a Witness  
Intimidating a Public Servant  
Bomb Threat (if against person)  
3rd Degree Assault  
Unlawful Imprisonment  
Promoting a Suicide Attempt  
Riot (if against person)

#### CRIMES AGAINST PROPERTY/OTHER CRIMES

2nd Degree Arson  
1st Degree Escape  
2nd Degree Burglary  
1st Degree Theft  
1st Degree Perjury  
1st Degree Introducing Contraband  
1st Degree Possession of Stolen Property  
Bribery  
Bribing a Witness  
Bribe received by a Witness  
Bomb Threat (if against property)  
1st Degree Malicious Mischief  
2nd Degree Theft  
2nd Degree Escape

2nd Degree Introducing Contraband  
2nd Degree Possession of Stolen Property  
2nd Degree Malicious Mischief  
1st Degree Reckless Burning  
Taking a Motor Vehicle without Authorization  
Forgery  
2nd Degree Perjury  
2nd Degree Promoting Prostitution  
Tampering with a Witness  
Trading in Public Office  
Trading in Special Influence  
Receiving/Granting Unlawful Compensation  
Bigamy  
Eluding a Pursuing Police Vehicle  
Willful Failure to Return from Furlough  
Escape from Community Custody  
Riot (if against property)  
Thefts of Livestock

**ALL OTHER UNCLASSIFIED FELONIES**

**Selection of Charges/Degree of Charge**

(1) The prosecutor should file charges which adequately describe the nature of defendant's conduct. Other offenses may be charged only if they are necessary to ensure that the charges:

- (a) Will significantly enhance the strength of the state's case at trial; or
- (b) Will result in restitution to all victims.

(2) The prosecutor should not overcharge to obtain a guilty plea. Overcharging includes:

- (a) Charging a higher degree;
- (b) Charging additional counts.

This standard is intended to direct prosecutors to charge those crimes which demonstrate the nature and seriousness of a defendant's criminal conduct, but to decline to charge crimes which are not necessary to such an indication. Crimes which do not merge as a matter of law, but which arise from the same course of conduct, do not all have to be charged.

**GUIDELINES/COMMENTARY:**

**Police Investigation**

A prosecuting attorney is dependent upon law enforcement agencies to conduct the necessary factual investigation which must precede the decision to prosecute. The prosecuting attorney shall ensure that a thorough factual investigation has been conducted before a decision to prosecute is made. In ordinary circumstances the investigation should include the following:

- (1) The interviewing of all material witnesses, together with the obtaining of written statements whenever possible;
- (2) The completion of necessary laboratory tests; and
- (3) The obtaining, in accordance with constitutional requirements, of the suspect's version of the events.

If the initial investigation is incomplete, a prosecuting attorney should insist upon further investigation before a decision to prosecute is made, and specify what the investigation needs to include.

#### Exceptions

In certain situations, a prosecuting attorney may authorize filing of a criminal complaint before the investigation is complete if:

- (1) Probable cause exists to believe the suspect is guilty; and
- (2) The suspect presents a danger to the community or is likely to flee if not apprehended; or
- (3) The arrest of the suspect is necessary to complete the investigation of the crime.

In the event that the exception to the standard is applied, the prosecuting attorney shall obtain a commitment from the law enforcement agency involved to complete the investigation in a timely manner. If the subsequent investigation does not produce sufficient evidence to meet the normal charging standard, the complaint should be dismissed.

#### Investigation Techniques

The prosecutor should be fully advised of the investigatory techniques that were used in the case investigation including:

- (1) Polygraph testing;
- (2) Hypnosis;
- (3) Electronic surveillance;
- (4) Use of informants.

#### Pre-Filing Discussions with Defendant

Discussions with the defendant or his/her representative regarding the selection or disposition of charges may occur prior to the filing of charges, and potential agreements can be reached.

**Sec. 6.** RCW 72.09.310 and 1988 c 153 s 6 are each amended to read as follows:

An inmate in community custody who willfully (~~fails to comply with any one or more of the controls placed on the inmate's movements by the department of corrections~~) discontinues making himself or herself available to the department for supervision by making his or her whereabouts unknown or by failing to maintain contact with the department as directed by the community corrections officer shall be deemed an escapee and fugitive from justice, and upon conviction shall be guilty of a class C felony under chapter 9A.20 RCW.

Passed the House February 17, 1992.  
Passed the Senate March 5, 1992.  
Approved by the Governor March 26, 1992.  
Filed in Office of Secretary of State March 26, 1992.

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**CHAPTER 76**

[Senate Bill 6276]

**DISTRICT COURT JUDGES—**

**REMUNERATION FOR UNUSED LEAVE UPON VACATING OFFICE**

**Effective Date: 6/11/92**

AN ACT Relating to district judges; and amending RCW 3.34.100.

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

**Sec. 1.** RCW 3.34.100 and 1984 c 258 s 16 are each amended to read as follows:

If a district judge dies, resigns, is convicted of a felony, ceases to reside in the district, fails to serve for any reason except temporary disability, or if his or her term of office is terminated in any other manner, the office shall be deemed vacant. The county legislative authority shall fill all vacancies by appointment and the judge thus appointed shall hold office until the next general election and until a successor is elected and qualified. District judges shall be granted sick leave in the same manner as other county employees. A district judge may receive when vacating office remuneration for unused accumulated leave and sick leave at a rate equal to one day's monetary compensation for each full day of accrued leave and one day's monetary compensation for each four full days of accrued sick leave, the total remuneration for leave and sick leave not to exceed the equivalent of thirty days' monetary compensation.

Passed the Senate February 12, 1992.  
Passed the House March 3, 1992.  
Approved by the Governor March 26, 1992.  
Filed in Office of Secretary of State March 26, 1992.

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**CHAPTER 77**

[House Bill 2516]

**UNLAWFUL BUS CONDUCT PROVISIONS EXTENDED  
TO MUNICIPAL TRANSIT STATIONS**

**Effective Date: 6/11/92**

AN ACT Relating to unlawful bus conduct; amending RCW 9.91.025; and prescribing penalties.

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

**Sec. 1.** RCW 9.91.025 and 1984 c 167 s 1 are each amended to read as follows:

(1) A person is guilty of unlawful bus conduct if while on or in a municipal transit vehicle as defined by RCW 46.04.355 or in or at a municipal transit station and with knowledge that such conduct is prohibited, he or she:

(a) Except while in or at a municipal transit station, smokes or carries a lighted or smoldering pipe, cigar, or cigarette; or

(b) Discards litter other than in designated receptacles; or

(c) Plays any radio, recorder, or other sound-producing equipment except that nothing herein shall prohibit the use of such equipment when connected to earphones that limit the sound to individual listeners or the use of a communication device by an employee of the owner or operator of the municipal transit vehicle or municipal transit station; or

(d) Spits or expectorates; or

(e) Carries any flammable liquid, explosive, acid, or other article or material likely to cause harm to others except that nothing herein shall prevent a person from carrying a cigarette, cigar, or pipe lighter or carrying a firearm or ammunition in a way that is not otherwise prohibited by law; or

(f) Intentionally disturbs others by engaging in loud or unruly behavior.

(2) For the purposes of this section, "municipal transit station" means all facilities, structures, lands, interest in lands, air rights over lands, and rights of way of all kinds that are owned, leased, held, or used by a public agency for the purpose of providing public transportation services.

(3) Unlawful bus conduct is a misdemeanor.

Passed the House February 13, 1992.

Passed the Senate March 3, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

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## CHAPTER 78

[Engrossed Senate Bill 6292]

BREWERS AND WINERIES—

LICENSE TO SELL BEER AND WINE AT RETAIL ON PREMISES

Effective Date: 6/11/92

AN ACT Relating to on-premises sales by licensed brewers and domestic wineries; and amending RCW 66.28.010.

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

**Sec. 1.** RCW 66.28.010 and 1985 c 363 s 1 are each amended to read as follows:

(1) No manufacturer, importer, or wholesaler, or person financially interested, directly or indirectly, in such business, whether resident or nonresident, shall have any financial interest, direct or indirect, in any licensed retail business, nor shall any manufacturer, importer, or wholesaler own any of the property upon which such licensed persons conduct their business, nor shall any

such licensed person, under any arrangement whatsoever, conduct his business upon property in which any manufacturer, importer, or wholesaler has any interest. Except as provided in subsection (3) of this section, no manufacturer, importer, or wholesaler shall advance moneys or moneys' worth to a licensed person under an arrangement, nor shall such licensed person receive, under an arrangement, an advance of moneys or moneys' worth: PROVIDED, That "person" as used in this section only shall not include those state or federally chartered banks, state or federally chartered savings and loan associations, state or federally chartered mutual savings banks, or institutional investors which are not controlled directly or indirectly by a manufacturer, importer, or wholesaler as long as the bank, savings and loan association, or institutional investor does not influence or attempt to influence the purchasing practices of the retailer with respect to alcoholic beverages. No manufacturer, importer, or wholesaler shall be eligible to receive or hold a retail license under this title, nor shall such manufacturer, importer, or wholesaler sell at retail any liquor as herein defined: PROVIDED, That nothing in this section shall prohibit a licensed brewer (~~(of domestic winery)~~) from being licensed as a retailer pursuant to chapter 66.24 RCW for the purpose of selling beer or wine (~~(of its own production)~~) at retail on the brewery (~~(or winery)~~) premises and nothing in this section shall prohibit a domestic winery from being licensed as a retailer pursuant to chapter 66.24 RCW for the purpose of selling beer or wine at retail on the winery premises. Such beer and wine so sold at retail shall be subject to the taxes imposed by RCW 66.24.290 and 66.24.210 and to reporting and bonding requirements as prescribed by regulations adopted by the board pursuant to chapter 34.05 RCW, and beer and wine that is not produced by the brewery or winery shall be purchased from a licensed beer or wine wholesaler; PROVIDED FURTHER, That nothing in this section shall prohibit a licensed brewer or domestic winery, or a lessee of a licensed brewer or domestic winery, from being licensed as a class H restaurant pursuant to chapter 66.24 RCW for the purpose of selling liquor at a class H premises on the property on which the primary manufacturing facility of the licensed brewer or domestic winery is located or on contiguous property owned by the licensed brewer or domestic winery as prescribed by regulations adopted by the board pursuant to chapter 34.05 RCW.

(2) Financial interest, direct or indirect, as used in this section, shall include any interest, whether by stock ownership, mortgage, lien, or through interlocking directors, or otherwise. Pursuant to rules promulgated by the board in accordance with chapter 34.05 RCW manufacturers, wholesalers and importers may perform, and retailers may accept the service of building, rotating and restocking case displays and stock room inventories; rotating and rearranging can and bottle displays of their own products; provide point of sale material and brand signs; price case goods of their own brands; and perform such similar normal business services as the board may by regulation prescribe.

(3)(a) This section does not prohibit a manufacturer, importer, or wholesaler from providing services to a class G or J retail licensee for: (i) Installation of draft beer dispensing equipment or advertising, (ii) advertising, pouring or dispensing of wine at a wine tasting exhibition or judging event, or (iii) a class G or J retail licensee from receiving any such services as may be provided by a manufacturer, importer, or wholesaler: PROVIDED, That nothing in this section shall prohibit a retail licensee, or any person financially interested, directly or indirectly, in such a retail licensee from having a financial interest, direct or indirect, in a business which provides, for a compensation commensurate in value to the services provided, bottling, canning or other services to a manufacturer, so long as the retail licensee or person interested therein has no direct financial interest in or control of said manufacturer.

(b) A person holding contractual rights to payment from selling a liquor wholesaler's business and transferring the license shall not be deemed to have a financial interest under this section if the person (i) lacks any ownership in or control of the wholesaler, (ii) is not employed by the wholesaler, and (iii) does not influence or attempt to influence liquor purchases by retail liquor licensees from the wholesaler.

(c) The board shall adopt such rules as are deemed necessary to carry out the purposes and provisions of subsection (3)(a) of this section in accordance with the administrative procedure act, chapter 34.05 RCW.

(4) A license issued under RCW 66.24.395 does not constitute a retail license for the purposes of this section.

Passed the Senate March 8, 1992.

Passed the House March 4, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

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## CHAPTER 79

[Substitute House Bill 2673]

### MOVED RESIDENTIAL BUILDINGS AND STRUCTURES— EXEMPTION FROM ELECTRICAL CODE—CONDITIONS

Effective Date: 6/11/92

AN ACT Relating to building codes; amending RCW 19.27.180; and reenacting and amending RCW 19.28.010.

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

**Sec. 1.** RCW 19.27.180 and 1989 c 313 s 2 are each amended to read as follows:

(1) Residential buildings or structures moved into or within a county or city are not required to comply with all of the requirements of the codes enumerated in chapters 19.27 and 19.27A RCW, as amended and maintained by the state

building code council and chapter 19.28 RCW, if the original occupancy classification of the building or structure is not changed as a result of the move.

(2) This section shall not apply to residential structures or buildings that are substantially remodeled or rehabilitated, nor to any work performed on a new or existing foundation.

(3) For the purposes of determining whether a moved building or structure has been substantially remodeled or rebuilt, any cost relating to preparation, construction, or renovation of the foundation shall not be considered.

**Sec. 2.** RCW 19.28.010 and 1986 c 263 s 1 and 1986 c 156 s 2 are each reenacted and amended to read as follows:

(1) All wires and equipment, and installations thereof, that convey electric current and installations of equipment to be operated by electric current, in, on, or about buildings or structures, except for telephone, telegraph, radio, and television wires and equipment, and television antenna installations, signal strength amplifiers, and coaxial installations pertaining thereto shall be in strict conformity with this chapter, the statutes of the state of Washington, and the rules issued by the department, and shall be in conformity with approved methods of construction for safety to life and property. All wires and equipment that fall within section 90.2(b)(5) of the National Electrical Code, 1981 edition, are exempt from the requirements of this chapter. The regulations and articles in the National Electrical Code, as approved by the American Standards Association, and in the national electrical safety code, as approved by the American Standards Association, and other installation and safety regulations approved by the American Standards Association, as modified or supplemented by rules issued by the department in furtherance of safety to life and property under authority hereby granted, shall be prima facie evidence of the approved methods of construction. All materials, devices, appliances, and equipment used in such installations shall be of a type that conforms to applicable standards or be indicated as acceptable by the established standards of the Underwriters' Laboratories, Inc. or other electrical product testing laboratories which are accredited by the department.

(2) Residential buildings or structures moved into or within a county, city, or town are not required to comply with all of the requirements of this chapter, if the original occupancy classification of the building or structure is not changed as a result of the move. This subsection shall not apply to residential buildings or structures that are substantially remodeled or rehabilitated.

(3) This chapter shall not limit the authority or power of any city or town to enact and enforce under authority given by law, any ordinance, rule, or regulation requiring an equal, higher, or better standard of construction and an equal, higher, or better standard of materials, devices, appliances, and equipment than that required by this chapter(~~(:- PROVIDED, That such)).~~ A city or town shall require that its electrical inspectors meet the qualifications provided for state electrical inspectors in accordance with RCW 19.28.070. In a city or town

having an equal, higher, or better standard the installations, materials, devices, appliances, and equipment shall be in accordance with the ordinance, rule, or regulation of the city or town. Electrical equipment associated with spas, hot tubs, swimming pools, and hydromassage bathtubs shall not be offered for sale or exchange unless the electrical equipment is certified as being in compliance with the applicable product safety standard by bearing the certification mark of an approved electrical products testing laboratory.

~~((3))~~ (4) Nothing in this chapter may be construed as permitting the connection of any conductor of any electric circuit with a pipe that is connected with or designed to be connected with a waterworks piping system, without the consent of the person or persons legally responsible for the operation and maintenance of the waterworks piping system.

Passed the House February 14, 1992.

Passed the Senate March 3, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

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## CHAPTER 80

[Substitute House Bill 2967]

### INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED—MEDICAID TAX

Effective Date: 4/1/92

AN ACT Relating to medicaid funding of intermediate care facilities; adding a new chapter to Title 82 RCW; creating a new section; providing an expiration date; providing an effective date; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. As used in this act, "expiration date" means the earliest of:

(1) The effective date that federal medicaid matching funds for the purposes specified in section 7 of this act become unavailable or are substantially reduced, as such date is certified by the secretary of social and health services;

(2) The effective date that federal medicaid matching funds for the purposes specified in section 7 of this act become unavailable or are substantially reduced, as determined by a permanent injunction, court order, or final court decision; or

(3) The effective date of a permanent injunction, court order, or final court decision that prohibits in whole or in part the collection of taxes under section 3 of this act.

**NEW SECTION.** Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Gross income" means all income from whatever source derived, including but not limited to gross income of the business as defined in RCW 82.04.080 and moneys received from state appropriations.

(2) "Intermediate care facility for the mentally retarded" means an intermediate care facility certified by the department of social and health services and the federal department of health and human services to provide residential care under 42 U.S.C. Sec. 1396d(d).

**NEW SECTION. Sec. 3.** In addition to any other tax, a tax is imposed on every intermediate care facility for the mentally retarded for the act or privilege of engaging in business within this state. The tax is equal to the gross income attributable to services for the mentally retarded, multiplied by the rate of fifteen percent.

**NEW SECTION. Sec. 4.** Chapter 82.32 RCW applies to the tax imposed in this chapter. The tax due dates, reporting periods, and return requirements applicable to chapter 82.04 RCW apply equally to the tax imposed in this chapter, except the department may not permit returns for taxes under this chapter to cover periods longer than one month. The appropriations in section 7 of this act shall not be construed as modifying in any manner the obligation of the taxpayer to pay taxes on an accrual basis as ordinarily required under chapter 82.04 RCW.

**NEW SECTION. Sec. 5.** Sections 2 through 4 of this act shall constitute a new chapter in Title 82 RCW.

**NEW SECTION. Sec. 6.** (1) Sections 2 through 4 of this act shall expire on the expiration date determined under section 1 of this act.

(2) The expiration of sections 2 through 4 of this act shall not be construed as affecting any existing right acquired or liability or obligation incurred under those sections or under any rule or order adopted under those sections, nor as affecting any proceeding instituted under those sections.

(3) Taxes that have been paid under sections 2 through 4 of this act, but are properly attributable to taxable events occurring after the expiration of those sections, shall be credited or refunded as provided in RCW 82.32.060.

**NEW SECTION. Sec. 7.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect April 1, 1992.

Passed the House March 11, 1992.

Passed the Senate March 10, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

**CHAPTER 81**

[Senate Bill 6010]

**BUSINESS AND OCCUPATION TAX—  
EXEMPTION FOR CHURCH-OPERATED DAY CARES****Effective Date:** 6/11/92

AN ACT Relating to the exemption of church-provided day care from the business and occupation tax; and adding a new section to chapter 82.04 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 82.04 RCW to read as follows:

This chapter shall not apply to amounts derived by a church that is exempt from property tax under RCW 84.36.020 from the provision of care for children for periods of less than twenty-four hours.

Passed the Senate February 10, 1992.

Passed the House March 3, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

**CHAPTER 82**

[Substitute Senate Bill 6306]

**PUGET ISLAND FERRY—DEFICIT REIMBURSEMENT****Effective Date:** 6/11/92

AN ACT Relating to the Puget Island ferry; and amending RCW 47.56.720.

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

**Sec. 1.** RCW 47.56.720 and 1987 c 368 s 1 are each amended to read as follows:

(1) The legislature finds that the ferry operated by Wahkiakum county between Puget Island and Westport on the Columbia river provides service which is primarily local in nature with secondary benefits to the state highway system in providing a bypass for state route 4 and providing the only crossing of the Columbia river between the Astoria-Megler bridge and the Longview bridge.

(2) The department is hereby authorized to enter into a continuing agreement with Wahkiakum county pursuant to which the department shall pay to Wahkiakum county from moneys appropriated for such purpose ~~((the sum of one thousand dollars per month))~~ monthly amounts not to exceed eighty percent of the operating and maintenance deficit with a maximum not to exceed the amount appropriated for that biennium to be used in the operation and maintenance of the Puget Island ferry, commencing July 1, ~~((1971))~~ 1992.

~~((Subject to the provisions of subsection (4) of this section, the department is authorized to include in the continuing agreement a provision to reimburse Wahkiakum county for eighty percent of the deficit incurred during each previous fiscal year in the operation and maintenance of the ferry, commencing~~

~~with the fiscal year ending June 30, 1987. The state's eighty percent share of the annual operating and maintenance deficit shall include the one thousand dollars per month authorized in this subsection.))~~

(3) The annual deficit, if any, incurred in the operation and maintenance of the ferry shall be determined by Wahkiakum county subject to the approval of the department. If eighty percent of the deficit for the preceding fiscal year exceeds the total amount paid to the county for that year, the additional amount shall be paid to the county by the department upon the receipt of a properly executed voucher. The total of all payments to the county in any biennium shall not exceed the amount appropriated for that biennium. The fares established by the county shall be comparable to those used for similar runs on the state ferry system.

(4) Whenever, subsequent to June 9, 1977, state route 4 between Cathlamet and Longview is closed to traffic pursuant to chapter 47.48 RCW due to actual or potential slide conditions and there is no suitable, reasonably short alternate state route provided, Wahkiakum county is authorized to operate the Puget Island ferry on a toll-free basis during the entire period of such closure. The state's share of the ferry operations and maintenance deficit during such period shall be one hundred percent.

(5) Whenever state route 4 between Cathlamet and Longview is closed to traffic, as mentioned in subsection (4) hereof, the state of Washington shall provide temporary rest room facilities at the Washington ferry landing terminal.

Passed the Senate February 12, 1992.

Passed the House March 4, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

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## CHAPTER 83

[Engrossed Substitute Senate Bill 6326]

### EXCELLENCE IN EDUCATION AWARD—ACADEMIC GRANTS

Effective Date: 4/30/92

AN ACT Relating to the Washington award for excellence; amending RCW 28A.625.041, 28A.625.065, 28B.80.255, and 28B.80.265; repealing RCW 28A.625.071; providing an effective date; and declaring an emergency.

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

**Sec. 1.** RCW 28A.625.041 and 1991 c 255 s 3 are each amended to read as follows:

(1) All recipients of the Washington award for excellence in education shall receive a certificate presented by the governor and the superintendent of public instruction, or their designated representatives, at a public ceremony or ceremonies in appropriate locations.

(2) In addition to certificates under subsection (1) of this section, awards for teachers and principals or administrators shall include one of the following:

(a) Except as provided under RCW 28B.80.255, an academic grant which shall be used to take courses at a state institution of higher education. The academic grant shall ~~((not exceed the current academic year full-time resident graduate tuition for courses taken at one of the state's research universities and shall not exceed the current academic year full-time resident graduate tuition for courses taken at one of the state's regional universities or The Evergreen State College))~~ provide reimbursement to the recipient for actual costs incurred for tuition and fees for up to forty-five quarter credit hours or thirty semester credit hours at a rate of reimbursement per credit hour not to exceed the resident graduate, part-time cost per credit hour at the University of Washington in the year the recipient takes the credits. In addition, a stipend not to exceed one thousand dollars shall be provided for costs incurred in taking courses covered by the academic grant beginning with 1992 recipients, if funds are appropriated for the stipends in the omnibus appropriations act. This stipend shall be provided as reimbursement for actual costs incurred. The academic grant shall not be considered compensation for the purposes of RCW 28A.400.200; or

(b) A recognition stipend not to exceed one thousand dollars. The recognition stipend shall not be considered compensation for the purposes of RCW 28A.400.200; or

(c) An educational grant not to exceed one thousand dollars. The educational grant shall be awarded under RCW 28A.625.060 and shall not be considered compensation for the purposes of RCW 28A.400.200.

(3) In addition to certificates under subsection (1) of this section, the award for the superintendent shall include one of the following:

(a) A recognition stipend not to exceed one thousand dollars. The recognition stipend shall not be considered compensation for the purposes of RCW 28A.400.200; or

(b) An educational grant not to exceed one thousand dollars. The educational grant shall be awarded under RCW 28A.625.060 and shall not be considered compensation for the purposes of RCW 28A.400.200.

(4) In addition to certificates under subsection (1) of this section, the award for the school board shall include an educational grant not to exceed two thousand five hundred dollars. The educational grant shall be awarded under RCW 28A.625.060.

(5) Within one year of receiving the Washington award for excellence in education, teachers, principals or administrators, and the school district superintendent shall notify the superintendent of public instruction in writing of their decision to apply for an academic grant, a recognition stipend, or an educational grant as provided under subsections (2) and (3) of this section. The superintendent shall notify the higher education coordinating board of those recipients who select the academic grant.

**Sec. 2.** RCW 28A.625.065 and 1991 c 255 s 4 are each amended to read as follows:

~~((1) The dollar value of the academic grant under RCW 28A.625.041(2)(a) shall be the amount as provided under RCW 28A.625.041(2)(a) at the time the grant is awarded by the higher education coordinating board.~~

~~(2))~~ Courses paid for in full by the academic grant under RCW 28A.625.041(2)(a) shall be completed within four years after the academic grant is received.

**Sec. 3.** RCW 28B.80.255 and 1991 c 255 s 6 are each amended to read as follows:

(1) Teachers and principals or administrators who select an academic grant under RCW 28A.625.041(2)(a) shall use the grant to attend a state public institution of higher education located in the state of Washington, except that the academic grant may be used for courses at a private institution of higher education in the state of Washington if the conditions in subsection (3) of this section are met, and the academic grant may be used for courses at a public or a private institution of higher education in another state or country if the conditions in subsection (4) of this section are met.

(2) "Institution of higher education" means:

(a) Any public university, college, community college, or ~~((vocational-technical-institute))~~ technical college operated by the state of Washington or any political subdivision thereof; or

(b) Any other university, college, school, or institute in the state of Washington offering instruction beyond the high school level which is a member institution of an accrediting association recognized by rule of the board. Any institution, branch, extension, or facility operating within the state of Washington which is affiliated with an institution operating in another state must be a separately accredited member institution of an accrediting association recognized by the board.

(3) Teachers and principals or administrators who select an academic grant under RCW 28A.625.041(2)(a) may use the grant for courses at any private institution as defined in subsection (2)(b) of this section subject to the following conditions:

(a) ~~The academic grant shall ((not exceed the current academic year full-time resident graduate tuition and the services and activities fees in effect at the state funded research universities))~~ provide reimbursement to the recipient for actual costs incurred for tuition and fees for up to forty-five quarter credit hours or thirty semester credit hours at a rate of reimbursement per credit hour not to exceed the resident graduate, part-time cost per credit hour at the University of Washington in the year the recipient takes the credits. In addition, a stipend not to exceed one thousand dollars shall be provided for costs incurred in taking courses covered by the academic grant beginning with 1992 recipients, if funds

are appropriated for the stipends in the omnibus appropriations act. This stipend shall be provided as reimbursement for actual costs incurred;

(b) The academic grant shall be contingent on the private institution matching on at least a dollar-for-dollar basis, either with actual money or by waiver of fees, the amount of the academic grant received by the recipient from the state; and

(c) The academic grant may not be used for any courses that include any religious worship or exercise, or apply to any degree in religious, seminarian, or theological academic studies.

(4) Teachers and principals or administrators who select an academic grant under RCW 28A.625.041(2)(a) may use the grant for courses at a public or private higher education institution in another state or country subject to the following conditions:

(a) The institution has an exchange program with a public or private higher education institution in Washington and the exchange program is approved or recognized by the higher education coordinating board; or

(b) The institution is approved or recognized by the higher education coordinating board; and

(c) The recipient of the Washington award for excellence in education has submitted in writing to the higher education coordinating board an explanation of why the preferred course or courses are not available at a public or private institution in Washington; and

(d) The academic grant may not be used for any courses that include any religious worship or exercise, or apply to any degree in religious, seminarian, or theological academic studies.

**Sec. 4.** RCW 28B.80.265 and 1991 c 255 s 7 are each amended to read as follows:

(1) The higher education coordinating board shall adopt rules as necessary under chapter 34.05 RCW to administer the academic grants awarded under RCW 28A.625.041(2)(a).

(2) The rules adopted by the board shall ~~((allow recipients who have begun to use the waiver of tuition and fees under RCW 28B.15.547 prior to May 17, 1991, to take the remaining value of the waiver of tuition and fees in the form of the academic grant under RCW 28A.625.041(2)(a)))~~ reflect that the changes to RCW 28A.625.041(2)(a) in section 1, chapter ..., Laws of 1992 (section 1 of this act) shall apply to all recipients of a Washington award for excellence in education, regardless of the statutory language in effect at the time the award was granted.

**NEW SECTION. Sec. 5.** RCW 28A.625.071 and 1991 c 255 s 5 are each repealed.

**NEW SECTION. Sec. 6.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state

government and its existing public institutions, and shall take effect April 30, 1992.

Passed the Senate March 8, 1992.

Passed the House March 3, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

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**CHAPTER 84**

[Senate Bill 6032]

**EMERGENCY MEDICAL SERVICES COMMITTEE EXTENDED**

**Effective Date:** 6/11/92

AN ACT Relating to the emergency medical services committee; and repealing RCW 18.73.920 and 18.73.921.

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

**NEW SECTION. Sec. 1.** The following acts or parts of acts are each repealed:

(1) RCW 18.73.920 and 1990 c 297 s 5, 1988 c 288 s 6, 1986 c 270 s 5, & 1983 c 197 s 25; and

(2) RCW 18.73.921 and 1990 c 297 s 6, 1988 c 288 s 7, 1986 c 270 s 6, & 1983 c 197 s 51.

Passed the Senate February 5, 1992.

Passed the House March 4, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

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**CHAPTER 85**

[Substitute Senate Bill 6328]

**HIGHER EDUCATION PURCHASING—COMPETITIVE PRICE REQUIREMENTS**

**Effective Date:** 6/11/92

AN ACT Relating to higher education purchasing; and reenacting and amending RCW 43.19.1906.

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

**Sec. 1.** RCW 43.19.1906 and 1987 c 81 s 1 and 1987 c 70 s 2 are each reenacted and amended to read as follows:

Insofar as practicable, all purchases and sales shall be based on competitive bids, and a formal sealed bid procedure shall be used as standard procedure for all purchases and contracts for purchases and sales executed by the state purchasing and material control director and under the powers granted by RCW 43.19.190 through 43.19.1939, as now or hereafter amended. This requirement also applies to purchases and contracts for purchases and sales executed by agencies, including educational institutions, under delegated authority granted in

accordance with provisions of RCW 43.19.190 as now or hereafter amended. However, formal sealed bidding is not necessary for:

(1) Emergency purchases made pursuant to RCW 43.19.200 if the sealed bidding procedure would prevent or hinder the emergency from being met appropriately;

(2) Purchases not exceeding five thousand dollars, or subsequent limits as calculated by the office of financial management: PROVIDED, That the state director of general administration shall establish procedures to assure that purchases made by or on behalf of the various state agencies shall not be made so as to avoid the five thousand dollar bid limitation, or subsequent bid limitations as calculated by the office of financial management: PROVIDED FURTHER, That the state purchasing and material control director is authorized to reduce the formal sealed bid limits of five thousand dollars, or subsequent limits as calculated by the office of financial management, to a lower dollar amount for purchases by individual state agencies, including purchases of specialized equipment, instructional, and research equipment and materials by colleges and universities, if considered necessary to maintain full disclosure of competitive procurement or otherwise to achieve overall state efficiency and economy in purchasing and material control. Quotations from four hundred dollars to five thousand dollars, or subsequent limits as calculated by the office of financial management, shall be secured from enough vendors to assure establishment of a competitive price and may be obtained by telephone or written quotations, or both. Immediately after the award is made, the bid quotations obtained shall be recorded and open to public inspection and shall be available by telephone inquiry. A record of competition for all such purchases from four hundred dollars to five thousand dollars, or subsequent limits as calculated by the office of financial management, shall be documented for audit purposes on a standard state form approved by the forms management center under the provisions of RCW 43.19.510. Purchases up to four hundred dollars may be made without competitive bids based on buyer experience and knowledge of the market in achieving maximum quality at minimum cost: PROVIDED, That this four hundred dollar direct buy limit without competitive bids may be increased incrementally as required to a maximum of eight hundred dollars with the approval of at least ten of the members of the state supply management advisory board, if warranted by increases in purchasing costs due to inflationary trends;

(3) Purchases which are clearly and legitimately limited to a single source of supply and purchases involving special facilities, services, or market conditions, in which instances the purchase price may be best established by direct negotiation;

(4) Purchases of insurance and bonds by the risk management office under RCW 43.19.1935 as now or hereafter amended;

(5) Purchases and contracts for vocational rehabilitation clients of the department of social and health services: PROVIDED, That this exemption is

effective only when the state purchasing and material control director, after consultation with the director of the division of vocational rehabilitation and appropriate department of social and health services procurement personnel, declares that such purchases may be best executed through direct negotiation with one or more suppliers in order to expeditiously meet the special needs of the state's vocational rehabilitation clients;

(6) Purchases by universities for hospital operation or biomedical teaching or research purposes and by the state purchasing and material control director, as the agent for state hospitals as defined in RCW 72.23.010, and for health care programs provided in state correctional institutions as defined in RCW 72.65.010(3) and veterans' institutions as defined in RCW 72.36.010 and 72.36.070, made by participating in contracts for materials, supplies, and equipment entered into by cooperative hospital service organizations as defined in section 501(e) of the Internal Revenue Code, or its successor; (~~and~~)

(7) Purchases by institutions of higher education not exceeding fifteen thousand dollars that are funded by research grant or contract funds, or other nonstate appropriated funds: PROVIDED, That for purchases between two thousand five hundred dollars and fifteen thousand dollars quotations shall be secured from enough vendors to assure establishment of a competitive price and may be obtained by telephone or written quotations, or both. A record of competition for all such purchases made from two thousand five hundred to fifteen thousand dollars shall be documented for audit purposes on a standard state form approved by the forms management center under provisions of RCW 43.19.510; and

(8) Beginning on July 1, 1989, and on July 1 of each succeeding odd-numbered year, the five thousand dollar limit specified in subsection (2) of this section shall be adjusted as follows: The office of financial management shall calculate such limit by adjusting the previous biennium's limit by the appropriate federal inflationary index reflecting the rate of inflation for the previous biennium. Such amounts shall be rounded to the nearest one hundred dollars.

Passed the Senate February 12, 1992.

Passed the House March 6, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

## CHAPTER 86

[Engrossed Senate Bill 6103]

## ELECTRONIC MONITORING AS A CONDITION OF RELEASE OR PROBATION

Effective Date: 6/11/92

AN ACT Relating to using electronic monitoring as a condition of release or condition of probation; amending RCW 9.95.210, 10.99.040, 26.50.010, 26.50.060, and 26.50.110; and prescribing penalties.

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

**Sec. 1.** RCW 9.95.210 and 1987 c 202 s 146 are each amended to read as follows:

In granting probation, the court may suspend the imposition or the execution of the sentence and may direct that the suspension may continue upon such conditions and for such time as it shall designate, not exceeding the maximum term of sentence or two years, whichever is longer.

In the order granting probation and as a condition thereof, the court may in its discretion imprison the defendant in the county jail for a period not exceeding one year and may fine the defendant any sum not exceeding the statutory limit for the offense committed, and court costs. As a condition of probation, the court shall require the payment of the penalty assessment required by RCW 7.68.035. The court may also require the defendant to make such monetary payments, on such terms as it deems appropriate under the circumstances, as are necessary (1) to comply with any order of the court for the payment of family support, (2) to make restitution to any person or persons who may have suffered loss or damage by reason of the commission of the crime in question or when the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement, (3) to pay such fine as may be imposed and court costs, including reimbursement of the state for costs of extradition if return to this state by extradition was required, ~~(and)~~ (4) following consideration of the financial condition of the person subject to possible electronic monitoring, to pay for the costs of electronic monitoring if that monitoring was required by the court as a condition of release from custody or as a condition of probation, and (5) to contribute to a county or interlocal drug fund, and may require bonds for the faithful observance of any and all conditions imposed in the probation. The court shall order the probationer to report to the secretary of corrections or such officer as the secretary may designate and as a condition of the probation to follow implicitly the instructions of the secretary. If the probationer has been ordered to make restitution, the officer supervising the probationer shall make a reasonable effort to ascertain whether restitution has been made. If restitution has not been made as ordered, the officer shall inform the prosecutor of that violation of the terms of probation not less than three months prior to the termination of the probation period. The secretary of corrections will promulgate rules and regulations for the conduct of the person during the term of probation.

For defendants found guilty in district court, like functions as the secretary performs in regard to probation may be performed by probation officers employed for that purpose by the county legislative authority of the county wherein the court is located.

**Sec. 2.** RCW 10.99.040 and 1991 c 301 s 4 are each amended to read as follows:

(1) Because of the serious nature of domestic violence, the court in domestic violence actions:

(a) Shall not dismiss any charge or delay disposition because of concurrent dissolution or other civil proceedings;

(b) Shall not require proof that either party is seeking a dissolution of marriage prior to instigation of criminal proceedings;

(c) Shall waive any requirement that the victim's location be disclosed to any person, other than the attorney of a criminal defendant, upon a showing that there is a possibility of further violence: PROVIDED, That the court may order a criminal defense attorney not to disclose to his client the victim's location; and

(d) Shall identify by any reasonable means on docket sheets those criminal actions arising from acts of domestic violence.

(2) Because of the likelihood of repeated violence directed at those who have been victims of domestic violence in the past, when any person charged with or arrested for a crime involving domestic violence is released from custody before arraignment or trial on bail or personal recognizance, the court authorizing the release may prohibit that person from having any contact with the victim. The jurisdiction authorizing the release shall determine whether that person should be prohibited from having any contact with the victim. If there is no outstanding restraining or protective order prohibiting that person from having contact with the victim, the court authorizing release may issue, by telephone, a no-contact order prohibiting the person charged or arrested from having contact with the victim. The no-contact order shall also be issued in writing as soon as possible. If the court has probable cause to believe that the person charged or arrested is likely to use or display or threaten to use a deadly weapon as defined in RCW 9A.04.110 in any further acts of violence, the court may also require that person to surrender any deadly weapon in that person's immediate possession or control, or subject to that person's immediate possession or control, to the sheriff of the county or chief of police of the municipality in which that person resides or to the defendant's counsel for safekeeping.

(3) At the time of arraignment the court shall determine whether a no-contact order shall be issued or extended. If a no-contact order is issued or extended, the court may also include in the conditions of release a requirement that the defendant submit to electronic monitoring. If electronic monitoring is ordered, the court shall specify who shall provide the monitoring services, and the terms under which the monitoring shall be performed. Upon conviction, the

court may require as a condition of the sentence that the defendant reimburse the providing agency for the costs of the electronic monitoring.

(4)(a) Willful violation of a court order issued under subsection (2) or (3) of this section is a misdemeanor. Upon conviction and in addition to other penalties provided by law, the court may require that the defendant submit to electronic monitoring. The court shall specify who shall provide the electronic monitoring services and the terms under which the monitoring must be performed. The court also may include a requirement that the defendant pay the costs of the monitoring. The court shall consider the ability of the convicted person to pay for electronic monitoring.

(b) Any assault that is a violation of an order issued under this section and that does not amount to assault in the first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in violation of a protective order issued under this section that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony.

(c) The written order releasing the person charged or arrested shall contain the court's directives and shall bear the legend: Violation of this order is a criminal offense under chapter 10.99 RCW and will subject a violator to arrest; any assault or reckless endangerment that is a violation of this order is a felony. A certified copy of the order shall be provided to the victim. If a no-contact order has been issued prior to charging, that order shall expire at arraignment or within seventy-two hours if charges are not filed. Such orders need not be entered into the computer information system in this state which is used by law enforcement agencies to list outstanding warrants.

(5) Whenever an order prohibiting contact is issued, modified, or terminated under subsection (2) or (3) of this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order the law enforcement agency shall forthwith enter the order for one year or until the expiration date specified on the order into any computer information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state.

**Sec. 3.** RCW 26.50.010 and 1991 c 301 s 8 are each amended to read as follows:

As used in this chapter, the following terms shall have the meanings given them:

(1) "Domestic violence" means: (a) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; or (b) sexual assault of one family or household member by another.

(2) "Family or household members" means spouses, former spouses, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, and adult persons who are presently residing together or who have resided together in the past.

(3) "Court" includes the superior, district, and municipal courts of the state of Washington.

(4) "Judicial day" does not include Saturdays, Sundays, or legal holidays.

(5) "Electronic monitoring" means a program in which a person's presence at a particular location is monitored from a remote location by use of electronic equipment.

**Sec. 4.** RCW 26.50.060 and 1989 c 411 s 1 are each amended to read as follows:

(1) Upon notice and after hearing, the court may provide relief as follows:

(a) Restrain a party from committing acts of domestic violence;

(b) Exclude the respondent from the dwelling which the parties share or from the residence of the petitioner;

(c) On the same basis as is provided in chapter 26.09 RCW, the court shall make residential provision with regard to minor children of the parties. However, parenting plans as specified in chapter 26.09 RCW shall not be required under this chapter;

(d) Order the respondent to participate in treatment or counseling services;

(e) Order other relief as it deems necessary for the protection of a family or household member, including orders or directives to a peace officer, as allowed under this chapter;

(f) Require the respondent to pay the filing fee and court costs, including service fees, and to reimburse the petitioner for costs incurred in bringing the action, including a reasonable attorney's fee. If the petitioner has been granted leave to proceed in forma pauperis, the court may require the respondent to pay the filing fee and costs, including services fees, to the county or municipality incurring the expense; and

(g) Restrain any party from having any contact with the victim of domestic violence or the victim's children or members of the victim's household.

(h) Require the respondent to submit to electronic monitoring. The order shall specify who shall provide the electronic monitoring services and the terms under which the monitoring must be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the respondent to pay for electronic monitoring.

(2) Any relief granted by the order for protection, other than a judgment for costs, shall be for a fixed period not to exceed one year.

(3) In providing relief under this chapter, the court may realign the designation of the parties as "petitioner" and "respondent" where the court finds

that the original petitioner is the abuser and the original respondent is the victim of domestic violence.

**Sec. 5.** RCW 26.50.110 and 1991 c 301 s 6 are each amended to read as follows:

(1) Whenever an order for protection is granted under this chapter and the respondent or person to be restrained knows of the order, a violation of the restraint provisions or of a provision excluding the person from a residence is a misdemeanor. Upon conviction, and in addition to any other penalties provided by law, the court may require that the respondent submit to electronic monitoring. The court shall specify who shall provide the electronic monitoring services, and the terms under which the monitoring shall be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the convicted person to pay for electronic monitoring.

(2) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order issued under this chapter that restrains the person or excludes the person from a residence, if the person restrained knows of the order.

(3) A violation of an order for protection shall also constitute contempt of court, and is subject to the penalties prescribed by law.

(4) Any assault that is a violation of an order issued under this chapter and that does not amount to assault in the first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in violation of a protective order issued under this chapter that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony.

(5) Upon the filing of an affidavit by the petitioner or any peace officer alleging that the respondent has violated an order for protection granted under this chapter, the court may issue an order to the respondent, requiring the respondent to appear and show cause within fourteen days why the respondent should not be found in contempt of court and punished accordingly. The hearing may be held in the court of any county or municipality in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation.

Passed the Senate February 13, 1992.

Passed the House March 5, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

**CHAPTER 87**

[Senate Bill 6212]

**FRUIT COMMISSION ASSESSMENTS—MAXIMUM AMOUNTS**

**Effective Date:** 6/11/92

AN ACT Relating to the fruit commission; and amending RCW 15.28.180.

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

**Sec. 1.** RCW 15.28.180 and 1983 1st ex.s. c 73 s 1 are each amended to read as follows:

The same assessment shall be made for each soft tree fruit, except that if a two-thirds majority of the state commodity committee of any fruit recommends in writing the levy of an additional assessment on that fruit, or any classification thereof, for any year or years, the commission may levy such assessment for that year or years up to the maximum of ~~((twelve))~~ eighteen dollars for each two thousand pounds of any fruit except cherries or any classification thereof, as to which the assessment may be increased to a maximum of ~~((twenty))~~ thirty dollars for each two thousand pounds, and except pears covered by this chapter, as to which the assessment may be increased to a maximum of ~~((fourteen))~~ eighteen dollars for each two thousand pounds: **PROVIDED**, That no increase in the assessment on pears becomes effective unless the increase is first referred by the commission to a referendum by the Bartlett pear growers of the state and is approved by a majority of the growers voting on the referendum. The method and procedure of conducting the referendum shall be determined by the commission. Any funds so raised shall be expended solely for the purposes provided in this chapter and solely for such fruit, or classification thereof.

The commission has the authority in its discretion to exempt in whole or in part from future assessments under this chapter, during such period as the commission may prescribe, any of the soft tree fruits or any particular strain or classification of them.

Passed the Senate February 12, 1992.

Passed the House March 4, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

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## CHAPTER 88

[Engrossed Senate Bill 5675]

## SKAGIT RIVER SALMON RECOVERY PLAN

Effective Date: 6/11/92

AN ACT Relating to Skagit river salmon; and creating new sections.

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

**NEW SECTION.** **Sec. 1.** The director of fisheries shall prepare a salmon recovery plan for the Skagit river. The plan shall include strategies for employing displaced timber workers to conduct salmon restoration and other tasks identified in the plan. The plan shall incorporate the best available technology in order to achieve maximum restoration of depressed salmon stocks. The plan must encourage the restoration of natural spawning areas and natural rearing of salmon but must not preclude the development of an active hatchery program.

**\*NEW SECTION.** **Sec. 2.** *The director shall present the recovery plan to the legislature on or before December 31, 1992. The plan shall include funding requirements for salmon hatchery programs and natural spawning programs.*

\*Sec. 2 was vetoed, see message at end of chapter.

Passed the Senate March 10, 1992.

Passed the House March 5, 1992.

Approved by the Governor March 26, 1992, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State March 26, 1992.

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

"I am returning herewith, without my approval as to section 2, Engrossed Senate Bill No. 5675 entitled:

"AN ACT Relating to Skagit river salmon."

Engrossed Senate Bill No. 5675 calls for the Department of Fisheries to prepare a salmon recovery plan for the Skagit River. Section 2 directs that the plan be completed by December 31, 1992.

No funding was provided for the development of the salmon recovery plan. Therefore, the time-frame established in section 2 cannot be met. I am, however, directing the Department of Fisheries, within its budget, to complete a salmon recovery plan for the Skagit River by December 31, 1993.

For this reason, I have vetoed section 2 of Engrossed Senate Bill No. 5675.

With the exception of section 2, Engrossed Senate Bill No. 5675 is approved."

## CHAPTER 89

[Senate Bill 6226]

## FIREMEN'S PENSION FUND—AUTHORIZED INVESTMENTS

Effective Date: 6/11/92

AN ACT Relating to investment of the moneys of the firemen's pension fund; and amending RCW 41.16.040.

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

**Sec. 1.** RCW 41.16.040 and 1967 ex.s. c 91 s 1 are each amended to read as follows:

The board shall have such general powers as are vested in it by the provisions of this chapter, and in addition thereto, the power to:

(1) Generally supervise and control the administration of this chapter and the firemen's pension fund created hereby.

(2) Pass upon and allow or disallow all applications for pensions or other benefits provided by this chapter.

(3) Provide for payment from said fund of necessary expenses of maintenance and administration of said pension system and fund.

(4) Invest the moneys of the fund in ~~((such securities of the United States, state, municipal corporations and other public bodies as are designated by the laws of the state of Washington as lawful investments for funds of mutual savings banks; and in any bonds or warrants, including local improvement bonds or warrants issued under the state local improvement guaranty fund law, or in utility bonds or warrants issued by the municipality operating the fund. Subject to the limitations hereinafter in this section contained, investment of moneys of the fund may also be made in amounts not to exceed twenty five percent of the fund's total investments in the shares of certain open end investment companies: PROVIDED, That the total amount invested in any one company shall not exceed five percent of the assets of such company, and shall only be made in the shares of such companies as are registered as open end companies under the federal investment company act of 1940, as from time to time amended. The company must be at least ten years old and have net assets of at least five million dollars. It must have outstanding no bonds, debentures, notes, or other evidences of indebtedness, or any stock having priority over the shares being purchased, either as to distribution of assets or payment of dividends. It must have paid dividends from investment income in each of the ten years next preceding purchase. The maximum selling commission on its shares, furthermore, may not exceed eight and one half percent of the sum of the asset value plus such commission))~~ a manner consistent with the investment policies outlined in RCW 35.39.060. Authorized investments shall include investment grade securities issued by the United States, state, municipal corporations, other public bodies, corporate bonds, and other investments authorized by RCW 35.39.030, 35.58.510, 35.81.070, 35.82.070, 36.29.020, 39.58.020, 39.58.080, 39.58.130, 39.60.010, 39.60.020, 68.52.060, 68.52.065, and 72.19.120.

(5) Employ such agents, employees and other personnel as the board may deem necessary for the proper administration of this chapter.

(6) Compel witnesses to appear and testify before it, in the same manner as is or may be provided by law for the taking of depositions in the superior court. Any member of the board may administer oaths to witnesses who testify before the board of a nature and in a similar manner to oaths administered by superior courts of the state of Washington.

(7) Issue vouchers approved by the chairman and secretary and to cause warrants therefor to be issued and paid from said fund for the payment of claims allowed by it.

(8) Keep a record of all its proceedings, which record shall be public; and prepare and file with the city treasurer and city clerk or comptroller prior to the date when any payments are to be made from the fund, a list of all persons entitled to payment from the fund, stating the amount and purpose of such payment, said list to be certified to and signed by the chairman and secretary of the board and attested under oath.

(9) Make rules and regulations not inconsistent with this chapter for the purpose of carrying out and effecting the same.

(10) Appoint one or more duly licensed and practicing physicians who shall examine and report to the board upon all applications for relief and pension under this chapter. Such physicians shall visit and examine all sick and disabled firemen when, in their judgment, the best interests of the relief and pension fund require it or when ordered by the board. They shall perform all operations on such sick and injured firemen and render all medical aid and care necessary for the recovery of such firemen on account of sickness or disability received while in the performance of duty as defined in this chapter. Such physicians shall be paid from said fund, the amount of said fees or salary to be set and agreed upon by the board and the physicians. No physician not regularly appointed or specially appointed and employed, as hereinafter provided, shall receive or be entitled to any fees or compensation from said fund as attending physician to a sick or injured fireman. If any sick or injured fireman refuses the services of the appointed physicians, or the specially appointed and employed physician, he shall be personally liable for the fees of any other physician employed by him. No person shall have a right of action against the board or the municipality for negligence of any physician employed by it. The board shall have the power and authority to select and employ, besides the regularly appointed physician, such other physician, surgeon or specialist for consultation with, or assistance to the regularly appointed physician, or for the purpose of performing operations or rendering services and treatment in particular cases, as it shall deem advisable, and to pay fees for such services from said fund. Said board shall hear and decide all applications for such relief or pensions under this chapter, and its decisions on such applications shall be final and conclusive and not subject to revision or reversal except by the board.

Passed the Senate February 10, 1992.  
Passed the House March 4, 1992.  
Approved by the Governor March 26, 1992.  
Filed in Office of Secretary of State March 26, 1992.

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**CHAPTER 90**

[Senate Bill 6351]

**MILITARY LAND ACQUISITION PROVISIONS REPEALED**

**Effective Date: 6/11/92**

AN ACT Relating to obsolete sections in the Revised Code of Washington; and repealing RCW 37.16.020 and 37.16.130.

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

**NEW SECTION. Sec. 1.** The following acts or parts of acts are each repealed:

- (1) RCW 37.16.020 and 1971 c 10 s 1; and
- (2) RCW 37.16.130 and 1971 c 81 s 99.

Passed the Senate February 12, 1992.  
Passed the House March 5, 1992.  
Approved by the Governor March 26, 1992.  
Filed in Office of Secretary of State March 26, 1992.

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**CHAPTER 91**

[Senate Bill 6329]

**PROPERTY SALES AND LOANS—DOCUMENT PREPARATION—  
REPEAL OF OBSOLETE PROVISIONS**

**Effective Date: 6/11/92**

AN ACT Relating to obsolete sections in the Revised Code of Washington; and repealing RCW 19.62.010, 19.62.020, and 19.62.900.

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

**NEW SECTION. Sec. 1.** The following acts or parts of acts are each repealed:

- (1) RCW 19.62.010 and 1979 ex.s. c 107 s 1;
- (2) RCW 19.62.020 and 1979 ex.s. c 107 s 2; and
- (3) RCW 19.62.900 and 1979 ex.s. c 107 s 3.

Passed the Senate February 12, 1992.  
Passed the House March 4, 1992.  
Approved by the Governor March 26, 1992.  
Filed in Office of Secretary of State March 26, 1992.

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## CHAPTER 92

[Engrossed Senate Bill 6184]

## REAL ESTATE EDUCATION PROGRAM REQUIREMENTS

Effective Date: 7/1/93

AN ACT Relating to real estate brokers and salespersons; amending RCW 18.85.040, 18.85.220, and 18.85.315; adding a new section to chapter 18.85 RCW; and providing an effective date.

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

**Sec. 1.** RCW 18.85.040 and 1988 c 205 s 2 are each amended to read as follows:

(1) The director, with the advice and approval of the commission, may issue rules and regulations to govern the activities of real estate brokers, associate real estate brokers and salespersons, consistent with this chapter, fix the times and places for holding examinations of applicants for licenses and prescribe the method of conducting them.

(2) The director shall enforce all laws, rules and regulations relating to the licensing of real estate brokers, associate real estate brokers, and salespersons, grant or deny licenses to real estate brokers, associate real estate brokers, and salespersons, and hold hearings. The director may impose any one or more of the following sanctions: Suspend or revoke licenses, deny applications for licenses, fine violators, or require the completion of a course in a selected aspect of real estate practice relevant to the provision of this chapter or rule violated. The director may deny, suspend or revoke the authority of a broker to act as the designated broker of persons who commit violations of the real estate license law or of the rules and regulations.

(3) The director shall establish by rule standards for licensure of applicants licensed in other jurisdictions.

(4) The director shall institute a program of real estate education (~~for the benefit of the licensees and may institute~~) including, but not limited to, instituting a program of education at institutions of higher education in Washington. The overall program shall include establishing minimum levels of ongoing education for licensees relating to the practice of real estate by real estate brokers and salespersons under this chapter. The program may also include the development or implementation of curricula courses, educational materials, or approaches to education relating to real estate when required, approved, or certified for continuing education credit. The director may enter into contracts with other persons or entities, whether publicly or privately owned or operated, to assist in developing or implementing the real estate education program.

(5) The director shall charge a fee, as prescribed by the director by rule, for the certification of courses of instruction, instructors, and schools.

*\*Sec. 2. RCW 18.85.220 and 1991 c 277 s 1 are each amended to read as follows:*

*All fees required under this chapter shall be set by the director in accordance with RCW 43.24.086 and shall be paid to the state treasurer. All fees paid under the provisions of this chapter shall be placed in the real estate commission account in the state treasury. All money derived from fines imposed under this chapter shall ~~((also))~~ be deposited in the real estate ~~((commission account, shall be used solely for education for the benefit of licensees and shall be subject to appropriation pursuant to chapter 43.88 RCW))~~ education account created by section 4 of this act.*

*\*Sec. 2 was vetoed, see message at end of chapter.*

*\*Sec. 3. RCW 18.85.315 and 1987 c 513 s 9 are each amended to read as follows:*

*Remittances received by the treasurer pursuant to RCW 18.85.310 shall be divided between the housing trust fund created by RCW 43.185.030, which shall receive seventy-five percent and the real estate ~~((commission))~~ education account created by ((RCW 18.85.220)) section 4 of this act, which shall receive twenty-five percent.*

*\*Sec. 3 was vetoed, see message at end of chapter.*

*\*NEW SECTION. Sec. 4. A new section is added to chapter 18.85 RCW to read as follows:*

*The real estate education account is created in the custody of the state treasurer. All moneys received for credit to this account pursuant to RCW 18.85.315 and all moneys derived from fines imposed under this chapter shall be deposited into the account. Disbursements from the account shall be upon the authorization of the director or a duly authorized representative of the director, and shall be used solely for the purposes of carrying out the director's programs for education of real estate licensees and others in the real estate industry as described in section 1(4) of this act. All expenses and costs relating to implementation or administration of, or payment of contract fees or charges for, the director's real estate education programs may be paid from this account. The real estate education account shall be subject in all respects to chapter 43.88 RCW except that no appropriation shall be required to permit expenditures and payment of obligations from this fund.*

*\*Sec. 4 was vetoed, see message at end of chapter.*

NEW SECTION. Sec. 5. This act shall take effect July 1, 1993.

Passed the Senate February 17, 1992.

Passed the House March 4, 1992.

Approved by the Governor March 26, 1992, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State March 26, 1992.

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

"I am returning herewith, without my approval as to sections 2, 3, and 4, Engrossed Senate Bill No. 6184 entitled:

"AN ACT Relating to real estate brokers and salespersons."

Engrossed Senate Bill No. 6184 provides greater specificity for the use of funds for real estate education activities. Several sections would create a nonappropriated account and as such would reduce budget oversight of the real estate education program. There has been an acceleration of the trend to create special funds, dedicated accounts and other budgetary techniques that reduce the ability to adapt resources to meet changing or emerging priorities. Despite my general concern with these types of special funds, I am willing to support the specific revenues being dedicated as long as there is adequate oversight. As written, there is inadequate oversight.

I have vetoed the sections referring to the nonappropriated account. I have retained the language that clearly defines the Department of Licensing's real estate education program and the director's role. I am directing the Department of Licensing to submit proposed legislation to the 1993 legislature that would permanently dedicate for real estate education purposes the fund sources specified in the vetoed sections of Engrossed Senate Bill No. 6184. Such a dedication must, however, still be subject to legislative appropriation and budgetary oversight.

For this reason, I have vetoed sections 2, 3, and 4 of Engrossed Senate Bill No. 6184.

With the exception of sections 2, 3, and 4, Engrossed Senate Bill No. 6184 is approved."

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## CHAPTER 93

[Substitute House Bill 2394]

### JURY TERM AND JURY SERVICE—REVISIONS

Effective Date: 6/11/92

AN ACT Relating to jurors; and amending RCW 2.36.010, 2.36.080, 2.36.093, 2.36.095, 2.36.100, and 4.44.160.

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

**Sec. 1.** RCW 2.36.010 and 1988 c 188 s 2 are each amended to read as follows:

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

(1) A jury is a body of persons temporarily selected from the qualified inhabitants of a particular district, and invested with power—

- (a) To present or indict a person for a public offense.
- (b) To try a question of fact.

(2) "Court" when used without further qualification means any superior court or court of limited jurisdiction in the state of Washington.

(3) "Judge" means every judicial officer authorized to hold or preside over a court. For purposes of this chapter "judge" does not include court commissioners or referees.

(4) "Juror" means any person summoned for service on a petit jury, grand jury, or jury of inquest as defined in this chapter.

(5) "Grand jury" means those twelve persons impaneled by a superior court to hear, examine, and investigate evidence concerning criminal activity and corruption.

(6) "Petit jury" means a body of persons twelve or less in number in the superior court and six in number in courts of limited jurisdiction, drawn by lot from the jurors in attendance upon the court at a particular session, and sworn to try and determine a question of fact.

(7) "Jury of inquest" means a body of persons six or fewer in number, but not fewer than four persons, summoned before the coroner or other ministerial officer, to inquire of particular facts.

(8) "Jury source list" means the list of all registered voters for any county, as compiled by each county auditor pursuant to the provisions of chapter 29.07 RCW. The list shall specify each voter's name, residence address, and precinct as shown on the original registration card of each qualified voter. The list shall be filed with the superior court by the county auditor.

(9) "Master jury list" means the list of prospective jurors from which jurors summoned to serve will be randomly selected. The master jury list shall be either randomly selected from the jury source list or may be an exact duplicate of the jury source list.

(10) "Jury term" means ~~((the period of time a person is required to serve as a juror. A jury term shall begin on the first Monday of each month and shall end on the Saturday immediately preceding the first Monday of each month, unless changed by the court. A jury term may be extended by the court if necessary for the administration of justice))~~ a period of time of one or more days, not exceeding one month, during which summoned jurors must be available to report for juror service.

(11) "Juror service" means the period of time a juror is required to be present at the court facility. This period of time may not extend beyond the end of the jury term, and may not exceed two weeks, except to complete a trial to which the juror was assigned during the two-week period.

~~((11))~~ (12) "Jury panel" means those persons randomly selected for jury service for a particular jury term.

**Sec. 2.** RCW 2.36.080 and 1979 ex.s. c 135 s 2 are each amended to read as follows:

(1) It is the policy of this state that all persons selected for jury service be selected at random from a fair cross section of the population of the area served by the court, and that all qualified citizens have the opportunity in accordance with this 1979 act to be considered for jury service in this state and have an obligation to serve as jurors when summoned for that purpose.

(2) It is the policy of this state to maximize the availability of residents of the state for jury service. It also is the policy of this state to minimize the burden on the prospective jurors, their families, and employers resulting from jury service. The jury term and jury service should be set at as brief an interval

as is practical given the size of the jury source list for the judicial district. The optimal jury term is two weeks or less. Optimal juror service is one day or one trial, whichever is longer.

(3) A citizen shall not be excluded from jury service in this state on account of race, color, religion, sex, national origin, or economic status.

~~((3))~~ (4) This section does not affect the right to peremptory challenges under RCW 4.44.130.

**Sec. 3.** RCW 2.36.093 and 1988 c 188 s 8 are each amended to read as follows:

(1) At such time as the judge or judges of any court of any county shall deem that the public business requires a jury term to be held, the judge or judges shall direct that a jury panel be selected and summoned to serve for the ensuing jury term or terms.

(2) The court shall establish the length and number of jury terms in a consecutive twelve-month period, and shall establish the time of juror service consistent with the provisions of RCW 2.36.010.

**Sec. 4.** RCW 2.36.095 and 1990 c 140 s 1 are each amended to read as follows:

(1) Persons selected to serve on a petit jury, grand jury, or jury of inquest shall be summoned by mail or personal service. The county clerk shall issue summons and thereby notify persons selected for jury duty. The clerk may issue summons for any jury term, in any consecutive twelve-month period, at any time thirty days or more before the beginning of the jury term for which the summons are issued. However, when applicable, the provisions of RCW 2.36.130 apply.

(2) In courts of limited jurisdiction summons shall be issued by the court. Upon the agreement of the courts, the county clerk may summon jurors for any and all courts in the county or judicial district.

**Sec. 5.** RCW 2.36.100 and 1988 c 188 s 10 are each amended to read as follows:

(1) Except for a person who is not qualified for jury service under RCW 2.36.070, no person may be excused from jury service by the court except upon a showing of undue hardship, extreme inconvenience, public necessity, ~~((prior jury service once in the last two years,))~~ or any reason deemed sufficient by the court for a period of time the court deems necessary.

(2) At the discretion of the court's designee, after a request by a prospective juror to be excused, a prospective juror excused from juror service for a particular time may be assigned to another jury term within the twelve-month period. If the assignment to another jury term is made at the time a juror is excused from the jury term for which he or she was summoned, a second summons under RCW 2.36.095 need not be issued.

(3) When the jury source list has been fully summoned within a consecutive twelve-month period and additional jurors are needed, jurors who have already served during the consecutive twelve-month period may be summoned again for

service. A juror who has previously served may only be excused if he or she served at least two weeks of juror service within the preceding twelve months. An excuse for prior service shall be granted only upon the written request of the prospective juror, which request shall certify the terms of prior service. Prior jury service may include service in superior court, in a court of limited jurisdiction, in the United States District Court, or on a jury of inquest.

**Sec. 6.** RCW 4.44.160 and 1975 1st ex.s. c 203 s 2 are each amended to read as follows:

General causes of challenge are:

(1) ~~((A conviction for a felony.~~

~~(2)))~~ A want of any of the qualifications prescribed ~~((by law))~~ for a juror, as set out in RCW 2.36.070.

~~((3)))~~ (2) Unsoundness of mind, or such defect in the faculties of the mind, or organs of the body, as renders him or her incapable of performing the duties of a juror in any action.

Passed the House February 13, 1992.

Passed the Senate March 5, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

## CHAPTER 94

[Substitute House Bill 2845]

### AUTOMOBILE SALESPEOPLE—OVERTIME COMPENSATION

Effective Date: 6/11/92

AN ACT Relating to overtime work by automobile salespersons; and amending RCW 49.46.130.

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

**Sec. 1.** RCW 49.46.130 and 1989 c 104 s 1 are each amended to read as follows:

(1) Except as otherwise provided in this section, no employer shall employ any of his employees for a work week longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed ~~((, except that the provisions of this subsection (1) shall));~~

(2) This section does not apply to:

(a) Any person exempted pursuant to RCW 49.46.010(5) ((as now or hereafter amended and the provision of this subsection shall not apply to));

(b) Employees who request compensating time off in lieu of overtime pay ((not to));

(c) Any individual employed as a seaman whether or not the seaman is employed on a vessel other than an American vessel((, not to));

(d) Seasonal employees who are employed at concessions and recreational establishments at agricultural fairs, including those seasonal employees employed by agricultural fairs, within the state provided that the period of employment for any seasonal employee at any or all agricultural fairs does not exceed fourteen working days a year~~((, nor to))~~;

(e) Any individual employed as a motion picture projectionist if that employee is covered by a contract or collective bargaining agreement which regulates hours of work and overtime pay~~((, nor to))~~;

(f) An individual employed as a truck or bus driver who is subject to the provisions of the Federal Motor Carrier Act (49 U.S.C. Sec. 3101 et seq. and 49 U.S.C. Sec. 10101 et seq.), if the compensation system under which the truck or bus driver is paid includes overtime pay, reasonably equivalent to that required by this subsection, for working longer than forty hours per week~~((,~~

~~(2) No public agency shall be deemed to have violated subsection (1) of this section with respect to the employment of any employee in fire protection activities or any employee in law enforcement activities (including security personnel in correctional institutions) if: (a) In a work period of twenty eight consecutive days the employee receives for tours of duty which in the aggregate exceed two hundred and forty hours; or (b) in the case of such an employee to whom a work period of at least seven but less than twenty eight days applies, in his work period the employee receives for tours of duty which in the aggregate exceed a number of hours which bears the same ratio to the number of consecutive days in his work period as two hundred forty hours bears to twenty eight days; compensation at a rate not less than one and one half times the regular rate at which he is employed: PROVIDED, That this section shall not apply to))~~;

(g) Any individual employed (i) on a farm, in the employ of any person, in connection with the cultivation of the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife, or in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment; or (ii) in packing, packaging, grading, storing or delivering to storage, or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; or (iii) commercial canning, commercial freezing, or any other commercial processing, or with respect to services performed in connection with the cultivation, raising, harvesting, and processing of oysters or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption~~((: PROVIDED FURTHER, That in))~~;

(h) Any industry in which federal law provides for an overtime payment based on a work week other than forty hours ~~((then provisions of this section~~

~~shall not apply;)).~~ However, the provisions of the federal law regarding overtime payment based on a work week other than forty hours shall nevertheless apply to employees covered by this section without regard to the existence of actual federal jurisdiction over the industrial activity of the particular employer within this state(~~(:—PROVIDED FURTHER, That)).~~ For the purposes of this subsection, "industry" (~~as that term is used in this section shall mean~~) means a trade, business, industry, or other activity, or branch, or group thereof, in which individuals are gainfully employed (section 3(h) of the Fair Labor Standards Act of 1938, as amended (Public Law 93-259).

(3) No employer of commissioned salespeople primarily engaged in the business of selling automobiles and trucks to ultimate purchasers shall violate subsection (1) of this section with respect to such commissioned salespeople if the commissioned salespeople are paid the greater of:

(a) Compensation at the hourly rate, which may not be less than the rate required under RCW 49.46.020, for each hour worked up to forty hours per week, and compensation of one and one-half times that hourly rate for all hours worked over forty hours in one week; or

(b) A straight commission, a salary plus commission, or a salary plus bonus applied to gross salary.

(4) No public agency shall be deemed to have violated subsection (1) of this section with respect to the employment of any employee in fire protection activities or any employee in law enforcement activities (including security personnel in correctional institutions) if: (a) In a work period of twenty-eight consecutive days the employee receives for tours of duty which in the aggregate exceed two hundred forty hours; or (b) in the case of such an employee to whom a work period of at least seven but less than twenty-eight days applies, in his or her work period the employee receives for tours of duty which in the aggregate exceed a number of hours which bears the same ratio to the number of consecutive days in his or her work period as two hundred forty hours bears to twenty-eight days; compensation at a rate not less than one and one-half times the regular rate at which he or she is employed.

Passed the House February 14, 1992.

Passed the Senate February 28, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

## CHAPTER 95

[Engrossed House Bill 2316]

## INTERNATIONAL AGRICULTURAL MARKETING PROGRAM EXTENDED

Effective Date: 6/11/92

AN ACT Relating to the international marketing program for agricultural commodities and trade; amending RCW 43.131.329 and 43.131.330; and creating a new section.

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

**Sec. 1.** RCW 43.131.329 and 1988 c 288 s 11 are each amended to read as follows:

The international marketing program for agricultural commodities and trade at Washington State University shall be terminated on June 30, (~~1992~~) 1996, as provided in RCW 43.131.330.

**Sec. 2.** RCW 43.131.330 and 1988 c 288 s 12 are each amended to read as follows:

The following acts, or parts of acts, as now existing or as hereafter amended, are each repealed, effective June 30, (~~1993~~) 1997:

(1) Section 1, chapter 57, Laws of 1984, section 1, chapter 39, Laws of 1985 and RCW 28B.30.535;

(2) Section 2, chapter 57, Laws of 1984, section 2, chapter 39, Laws of 1985, section 3, chapter 195, Laws of 1987, section 14, chapter 505, Laws of 1987 and RCW 28B.30.537;

(3) Section 3, chapter 57, Laws of 1984, section 3, chapter 39, Laws of 1985 and RCW 28B.30.539;

(4) Section 6, chapter 57, Laws of 1984, section 4, chapter 39, Laws of 1985 and RCW 28B.30.541; and

(5) Section 7, chapter 57, Laws of 1984, section 5, chapter 39, Laws of 1985 and RCW 28B.30.543.

**NEW SECTION. Sec. 3.** If specific funding for the purposes of this act, referencing this act by bill number, is not provided by June 30, 1992, in the omnibus appropriations act, this act shall be null and void.

Passed the House March 7, 1992.

Passed the Senate March 4, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.

## CHAPTER 96

[Engrossed Substitute House Bill 1631]

## COMMISSION ON AFRICAN-AMERICAN AFFAIRS—MEMBERSHIP AND DUTIES

Effective Date: 6/11/92

AN ACT Relating to the commission on African-American affairs; and adding a new chapter to Title 43 RCW.

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

**NEW SECTION. Sec. 1.** The legislature declares that it is the public policy of this state to insure equal opportunity for all of its citizens. The legislature finds that, for economic, social, and historical reasons, a disproportionate number of African-Americans find themselves disadvantaged or isolated from the benefits of equal opportunity. The legislature believes that it is the duty of this state to improve the well-being of African-Americans by enabling them to participate fully in all fields of endeavor and by assisting them in obtaining governmental services. The legislature further finds that the development of public policy and the delivery of governmental services to meet the special needs of African-Americans can be improved by establishing a focal point in state government for the interests of African-American citizens. Therefore, the legislature deems it necessary to establish in statute the commission on African-American affairs to further these purposes.

**NEW SECTION. Sec. 2.** The Washington state commission on African-American affairs is created. The commission shall be administered by an executive director, who shall be appointed by, and serve at the pleasure of, the governor. The governor shall set the salary of the executive director. The executive director shall employ the staff of the commission.

**NEW SECTION. Sec. 3.** The commission shall consist of nine members, appointed by the governor. The commission shall make recommendations to the governor on appointment of the chair of the commission. The governor shall appoint the chair of the commission. To the extent practicable, appointments to the commission shall be made to achieve a balanced representation based on African-American population distribution within the state, geographic considerations, sex, age, and occupation. Members shall serve three-year terms. However, of the initial appointees, one-third shall serve three-year terms, one-third shall serve two-year terms, and one-third shall serve a one-year term. In the case of a vacancy, appointment shall be for the remainder of the unexpired term. No member shall serve more than two full consecutive terms. Members shall be reimbursed for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060. Five members shall constitute a quorum for the purposes of conducting business.

**NEW SECTION. Sec. 4.** The commission shall have the following powers and duties:

(1) Examine and define issues pertaining to the rights and needs of African-Americans, and make recommendations to the governor and state agencies for changes in programs and laws.

(2) Advise the governor and state agencies on the development and implementation of policies, plans, and programs that relate to the special needs of African-Americans.

(3) Acting in concert with the governor, advise the legislature on issues of concern to the African-American community.

(4) Establish relationships with state agencies, local governments, and private sector organizations that promote equal opportunity and benefits for African-Americans.

(5) Receive gifts, grants, and endowments from public or private sources that are made for the use or benefit of the commission and expend, without appropriation, the same or any income from the gifts, grants, or endowments according to their terms.

**NEW SECTION. Sec. 5.** Sections 1 through 4 of this act shall constitute a new chapter in Title 43 RCW.

Passed the House February 11, 1992.

Passed the Senate March 5, 1992.

Approved by the Governor March 27, 1992.

Filed in Office of Secretary of State March 27, 1992.

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## CHAPTER 97

[House Bill 2398]

### VOLUNTEER FIRE FIGHTERS' RELIEF AND PENSION FUND— ADMINISTRATIVE AND ELIGIBILITY REVISIONS

Effective Date: 7/1/92

AN ACT Relating to the volunteer fire fighters' relief and pension fund; amending RCW 41.24.030 and 41.24.170; and providing an effective date.

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

**Sec. 1.** RCW 41.24.030 and 1991 sp.s. c 13 s 98 are each amended to read as follows:

(1) There is created in the state treasury a trust fund for the benefit of the fire fighters of the state covered by this chapter, which shall be designated the volunteer fire fighters' relief and pension principal fund and shall consist of:

~~((1))~~ (a) All bequests, fees, gifts, emoluments, or donations given or paid to the fund.

~~((2))~~ (b) An annual fee for each member of its fire department to be paid by each municipal corporation for the purpose of affording the members of its fire department with protection from death or disability as ~~((herein))~~ provided in this chapter as follows:

~~((a))~~ (i) Ten dollars for each volunteer or part-paid member of its fire department;

~~((b))~~ (ii) A sum equal to one and one-half of one percent of the annual salary attached to the rank of each full-paid member of its fire department, prorated for 1970 on the basis of services prior to March 1, 1970.

~~((3))~~ (c) Where a municipal corporation has elected to make available to the members of its fire department the retirement provisions as ~~((herein))~~ provided in this chapter, an annual fee of ~~((thirty))~~ sixty dollars for each of its fire fighters electing to enroll therein, ~~((ten))~~ thirty dollars of which shall be paid by the municipality and ~~((twenty))~~ thirty dollars of which shall be paid by the fire fighter.

~~((4))~~ (d) Forty percent of all moneys received by the state from taxes on fire insurance premiums shall be paid into the state treasury and credited to the administrative fund created in subsection (2) of this section.

~~((5))~~ (e) The state investment board, upon request of the state treasurer shall have full power to invest or reinvest such portion of the amounts credited to the principal fund as is not, in the judgment of the treasurer, required to meet current withdrawals. Such investments shall be made in the manner prescribed by RCW 43.84.150 and not otherwise.

~~((6))~~ (f) All bonds or other obligations purchased according to ~~((subsection 5))~~ (e) of this ~~((section))~~ subsection shall be forthwith placed in the custody of the state treasurer, and he or she shall collect the principal thereof and interest thereon when due.

The state investment board may sell any of the bonds or obligations so acquired and the proceeds thereof shall be paid to the state treasurer.

The interest and proceeds from the sale and redemption of any bonds or other obligations held by the fund and invested by the state investment board shall be credited to and form a part of the principal fund, less the allocation to the state investment board expense account pursuant to RCW 43.33A.160.

All amounts credited to the principal fund shall be available for making the benefit payments required by this chapter.

The state treasurer shall make an annual report showing the condition of the fund.

(2) The volunteer fire fighters' relief and pension administrative fund is hereby created in the state treasury. Moneys in the account, including unanticipated revenues under RCW 43.79.270, may be spent only after appropriation, and may be used only for operating expenses of the volunteer fire fighters' relief and pension principal fund, the operating expenses of the volunteer fire fighters' relief and pension administrative fund, or for transfer from the administrative fund to the principal fund.

(a) The state board shall compute a percentage of the amounts credited to the administrative fund to be paid into the principal fund.

(b) For the purpose of providing amounts to be used to defray the cost of administration of the principal and administrative funds, the state board shall ascertain at the beginning of each biennium and request from the legislature an appropriation from the administrative fund sufficient to cover estimated expenses for the biennium.

**Sec. 2.** RCW 41.24.170 and 1989 c 91 s 4 are each amended to read as follows:

Whenever any fire fighter has been a member and served honorably for a period of ten years or more as an active member in any capacity, of any regularly organized volunteer fire department of any municipality in this state, and which municipality and fire fighter are enrolled under the retirement provisions, and the fire fighter has reached the age of sixty-five years, the board of trustees shall order and direct that he or she be retired and be paid a monthly pension as provided in this section.

Whenever a fire fighter has been a member, and served honorably for a period of twenty-five years or more as an active member in any capacity, of any regularly organized volunteer fire department of any municipality in this state, and he or she has reached the age of sixty-five years, and the annual retirement fee has been paid for a period of twenty-five years, the board of trustees shall order and direct that he or she be retired and such fire fighter be paid a monthly pension of two hundred twenty-five dollars from the fund for the balance of that fire fighter's life.

Whenever any fire fighter has been a member, and served honorably for a period of twenty-five years or more as an active member in any capacity, of any regularly organized volunteer fire department of any municipality in this state, and the fire fighter has reached the age of sixty-five years, and the annual retirement fee has been paid for a period of less than twenty-five years, the board of trustees shall order and direct that he or she be retired and that such fire fighter shall receive a minimum monthly pension of twenty-five dollars increased by the sum of ~~((seven))~~ eight dollars each month for each year the annual fee has been paid, but not to exceed the maximum monthly pension ~~((herein))~~ provided in this section, for the balance of the fire fighter's life.

No pension ~~((herein))~~ provided in this section may become payable before the sixty-fifth birthday of the fire fighter, nor for any service less than twenty-five years: PROVIDED, HOWEVER, That:

(1) Any fire fighter, upon completion of twenty-five years' service and attainment of age sixty, may irrevocably elect, in lieu of the pension to which that fire fighter would be entitled ~~((hereunder))~~ under this section at age sixty-five, to receive for the balance of his or her life a monthly pension equal to sixty percent of such pension.

(2) Any fire fighter, upon completion of twenty-five years' service and attainment of age sixty-two, may irrevocably elect, in lieu of the pension to which that fire fighter would be entitled ~~((hereunder))~~ under this section at age

sixty-five, to receive for the balance of his or her life a monthly pension equal to seventy-five percent of such pension.

(3) Any fire fighter, upon completion of less than twenty-five years of service shall receive the applicable reduced pension provided (~~(below)~~) in this subsection, according to the age at which that fire fighter elects to begin to receive the pension. If receipt of the benefits begins at age sixty-five the fire fighter shall receive one hundred percent of the reduced benefit; at age sixty-two the fire fighter shall receive seventy-five percent of the reduced benefit; and at age sixty the fire fighter shall receive sixty percent of the reduced benefit. The reduced benefit shall be computed as follows:

(a) Upon completion of ten years, but less than fifteen years of service, a monthly pension equal to fifteen percent of such pension as the fire fighter would have been entitled to receive at age sixty-five after twenty-five years of service;

(b) Upon completion of fifteen years, but less than twenty years of service, a monthly pension equal to thirty percent of such pension as the fire fighter would have been entitled to receive at age sixty-five after twenty-five years of service; and

(c) Upon completion of twenty years, but less than twenty-five years of service, a monthly pension equal to sixty percent of such pension as the fire fighter would have been entitled to receive at age sixty-five after twenty-five years of service.

NEW SECTION. Sec. 3. This act shall take effect July 1, 1992.

Passed the House February 13, 1992.

Passed the Senate March 12, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

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## CHAPTER 98

[Substitute House Bill 1481]

### NATURAL DEATH ACT REVISIONS

Effective Date: 6/1/92

AN ACT Relating to the natural death act; amending RCW 70.122.010, 70.122.020, 70.122.030, 70.122.060, 70.122.070, 70.122.080, 70.122.090, and 70.122.100; adding a new section to chapter 43.70 RCW; adding new sections to chapter 70.122 RCW; and repealing RCW 70.122.050.

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

**Sec. 1.** RCW 70.122.010 and 1979 c 112 s 2 are each amended to read as follows:

The legislature finds that adult persons have the fundamental right to control the decisions relating to the rendering of their own (~~(medical)~~) health care, including the decision to have life-sustaining (~~(procedures)~~) treatment withheld or withdrawn in instances of a terminal condition or permanent unconscious condition.

The legislature further finds that modern medical technology has made possible the artificial prolongation of human life beyond natural limits.

The legislature further finds that, in the interest of protecting individual autonomy, such prolongation of ~~((life))~~ the process of dying for persons with a terminal condition or permanent unconscious condition may cause loss of patient dignity, and unnecessary pain and suffering, while providing nothing medically necessary or beneficial to the patient. The legislature further believes that physicians and nurses should not withhold or unreasonably diminish pain medication for patients in a terminal condition where the primary intent of providing such medication is to alleviate pain and maintain or increase the patient's comfort.

The legislature further finds that there exists considerable uncertainty in the medical and legal professions as to the legality of terminating the use or application of life-sustaining ~~((procedures))~~ treatment where the patient having the capacity to make health care decisions has voluntarily ~~((and in sound mind))~~ evidenced a desire that such ~~((procedures))~~ treatment be withheld or withdrawn.

In recognition of the dignity and privacy which patients have a right to expect, the legislature hereby declares that the laws of the state of Washington shall recognize the right of an adult person to make a written directive instructing such person's physician to withhold or withdraw life-sustaining ~~((procedures))~~ treatment in the event of a terminal condition or permanent unconscious condition. The legislature also recognizes that a person's right to control his or her health care may be exercised by an authorized representative who validly holds the person's durable power of attorney for health care.

Sec. 2. RCW 70.122.020 and 1979 c 112 s 3 are each amended to read as follows:

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

(1) "Adult person" means a person who has attained the age of majority as defined in RCW 26.28.010 and 26.28.015, and who has the capacity to make health care decisions.

(2) "Attending physician" means the physician selected by, or assigned to, the patient who has primary responsibility for the treatment and care of the patient.

~~((2))~~ (3) "Directive" means a written document voluntarily executed by the declarer ~~((in accordance with the requirements))~~ generally consistent with the guidelines of RCW 70.122.030.

~~((3))~~ (4) "Health facility" means a hospital as defined in RCW ~~((70.38.020(7)))~~ 70.41.020(2) or a nursing home as defined in RCW ~~((70.38.020(8)))~~ 18.51.010, a home health agency or hospice agency as defined in RCW 70.126.010, or a boarding home as defined in RCW 18.20.020.

~~((4))~~ (5) "Life-sustaining ~~((procedure))~~ treatment" means any medical or surgical ~~((procedure or intervention which utilizes))~~ intervention that uses

mechanical or other artificial means, including artificially provided nutrition and hydration, to sustain, restore, or ~~((supplant))~~ replace a vital function, which, when applied to a qualified patient, would serve only to ~~((artificially))~~ prolong the ~~((moment of death and where, in the judgment of the attending physician, death is imminent whether or not such procedures are utilized))~~ process of dying. "Life-sustaining ~~((procedure))~~ treatment" shall not include the administration of medication or the performance of any medical ~~((procedure))~~ or surgical intervention deemed necessary solely to alleviate pain.

(6) "Permanent unconscious condition" means an incurable and irreversible condition in which the patient is medically assessed within reasonable medical judgment as having no reasonable probability of recovery from an irreversible coma or a persistent vegetative state.

~~((5))~~ (7) "Physician" means a person licensed under chapters 18.71 or 18.57 RCW.

~~((6))~~ (8) "Qualified patient" means an adult person who is a patient diagnosed ~~((and certified))~~ in writing to ~~((be afflicted with))~~ have a terminal condition by ~~((two physicians one of whom shall be))~~ the patient's attending physician, who ~~((have))~~ has personally examined the patient, or a patient who is diagnosed in writing to be in a permanent unconscious condition in accordance with accepted medical standards by two physicians, one of whom is the patient's attending physician, and both of whom have personally examined the patient.

~~((7))~~ (9) "Terminal condition" means an incurable and irreversible condition caused by injury, disease, or illness, ~~((which, regardless of the application of life-sustaining procedures, would))~~ that, within reasonable medical judgment, ~~((produce))~~ will cause death within a reasonable period of time in accordance with accepted medical standards, and where the application of life-sustaining ~~((procedures))~~ treatment serves only to ~~((postpone the moment of death of the patient))~~ prolong the process of dying.

~~((8))~~ "Adult person" means a person attaining the age of majority as defined in RCW 26.28.010 and 26.28.015.)

**Sec. 3.** RCW 70.122.030 and 1979 c 112 s 4 are each amended to read as follows:

(1) Any adult person may execute a directive directing the withholding or withdrawal of life-sustaining ~~((procedures))~~ treatment in a terminal condition or permanent unconscious condition. The directive shall be signed by the declarer in the presence of two witnesses not related to the declarer by blood or marriage and who would not be entitled to any portion of the estate of the declarer upon declarer's decease under any will of the declarer or codicil thereto then existing or, at the time of the directive, by operation of law then existing. In addition, a witness to a directive shall not be the attending physician, an employee of the attending physician or a health facility in which the declarer is a patient, or any person who has a claim against any portion of the estate of the declarer upon declarer's decease at the time of the execution of the directive. The directive,

or a copy thereof, shall be made part of the patient's medical records retained by the attending physician, a copy of which shall be forwarded by the custodian of the records to the health facility (~~upon the withdrawal of life-sustaining procedures~~) when the withholding or withdrawal of life-support treatment is contemplated. The directive (~~shall~~) may be (~~essentially~~) in the following form, but in addition may include other specific directions:

~~((DIRECTIVE TO PHYSICIANS))~~

Health Care Directive

Directive made this \_\_\_\_ day of \_\_\_\_\_ (month, year).

I \_\_\_\_\_, (~~being of sound mind~~) having the capacity to make health care decisions, willfully, and voluntarily make known my desire that my (~~life~~) dying shall not be artificially prolonged under the circumstances set forth below, and do hereby declare that:

(a) If at any time I should (~~have an incurable injury, disease, or illness certified~~) be diagnosed in writing to be in a terminal condition by (~~two physicians~~) the attending physician, or in a permanent unconscious condition by two physicians, and where the application of life-sustaining (~~procedures~~) treatment would serve only to artificially prolong the (~~moment of my death and where my physician determines that my death is imminent whether or not life-sustaining procedures are utilized~~) process of my dying, I direct that such (~~procedures~~) treatment be withheld or withdrawn, and that I be permitted to die naturally. I understand by using this form that a terminal condition means an incurable and irreversible condition caused by injury, disease, or illness, that would within reasonable medical judgment cause death within a reasonable period of time in accordance with accepted medical standards, and where the application of life-sustaining treatment would serve only to prolong the process of dying. I further understand in using this form that a permanent unconscious condition means an incurable and irreversible condition in which I am medically assessed within reasonable medical judgment as having no reasonable probability of recovery from an irreversible coma or a persistent vegetative state.

(b) In the absence of my ability to give directions regarding the use of such life-sustaining (~~procedures~~) treatment, it is my intention that this directive shall be honored by my family and physician(s) as the final expression of my legal right to refuse medical or surgical treatment and I accept the consequences (~~from~~) of such refusal. If another person is appointed to make these decisions for me, whether through a durable power of attorney or otherwise, I request that the person be guided by this directive and any other clear expressions of my desires.

(c) If I am diagnosed to be in a terminal condition or in a permanent unconscious condition (check one):

I DO want to have artificially provided nutrition and hydration.

I DO NOT want to have artificially provided nutrition and hydration.

(d) If I have been diagnosed as pregnant and that diagnosis is known to my physician, this directive shall have no force or effect during the course of my pregnancy.

~~((d))~~ (e) I understand the full import of this directive and I am emotionally and mentally ~~((competent))~~ capable to make the health care decisions contained in this directive.

(f) I understand that before I sign this directive, I can add to or delete from or otherwise change the wording of this directive and that I may add to or delete from this directive at any time and that any changes shall be consistent with Washington state law or federal constitutional law to be legally valid.

(g) It is my wish that every part of this directive be fully implemented. If for any reason any part is held invalid it is my wish that the remainder of my directive be implemented.

Signed.....

City, County, and State of Residence

The declarer has been personally known to me and I believe him or her to be ~~((of sound mind))~~ capable of making health care decisions.

Witness.....

Witness.....

(2) Prior to ~~((effectuating a directive))~~ withholding or withdrawing life-sustaining treatment, the diagnosis of a terminal condition by ~~((two physicians))~~ the attending physician or the diagnosis of a permanent unconscious state by two physicians shall be ~~((verified))~~ entered in writing~~((, attached to the directive,))~~ and made a permanent part of the patient's medical records.

(3) A directive executed in another political jurisdiction is valid to the extent permitted by Washington state law and federal constitutional law.

**NEW SECTION. Sec. 4.** If a qualified patient capable of making health care decisions indicates that he or she wishes to die at home, the patient shall be discharged as soon as reasonably possible. The health care provider or facility has an obligation to explain the medical risks of an immediate discharge to the qualified patient. If the provider or facility complies with the obligation to explain the medical risks of an immediate discharge to a qualified patient, there shall be no civil or criminal liability for claims arising from such discharge.

**NEW SECTION. Sec. 5.** Any physician, health care provider acting under the direction of a physician, or health facility and its personnel who participate in good faith in the withholding or withdrawal of life-sustaining treatment from a qualified patient in accordance with the requirements of this chapter, shall be immune from legal liability, including civil, criminal, or professional conduct sanctions, unless otherwise negligent.

**Sec. 6.** RCW 70.122.060 and 1979 c 112 s 7 are each amended to read as follows:

(1) Prior to ~~((effectuating a))~~ the withholding or withdrawal of life-sustaining ((procedures)) treatment from a qualified patient pursuant to the directive, the attending physician shall make a reasonable effort to determine that the directive complies with RCW 70.122.030 and, if the patient is ~~((mentally competent))~~ capable of making health care decisions, that the directive and all steps proposed by the attending physician to be undertaken are currently in accord with the desires of the qualified patient.

(2) The attending physician or health facility shall inform a patient or patient's authorized representative of the existence of any policy or practice that would preclude the honoring of the patient's directive at the time the physician or facility becomes aware of the existence of such a directive. If the patient, after being informed of such policy or directive, chooses to retain the physician or facility, the physician or facility with the patient or the patient's representative shall prepare a written plan to be filed with the patient's directive that sets forth the physician's or facilities' intended actions should the patient's medical status change so that the directive would become operative. The physician or facility under this subsection has no obligation to honor the patient's directive if they have complied with the requirements of this subsection, including compliance with the written plan required under this subsection.

(3) The directive shall be conclusively presumed, unless revoked, to be the directions of the patient regarding the withholding or withdrawal of life-sustaining ~~((procedures))~~ treatment. No physician, ~~((and no licensed))~~ health facility, or health personnel acting in good faith ((under the direction of a physician,)) with the directive or in accordance with the written plan in subsection (2) of this section shall be criminally or civilly liable for failing to effectuate the directive of the qualified patient pursuant to this subsection. ((If the physician refuses to effectuate the directive, such physician shall make a good faith effort to transfer the qualified patient to another physician who will effectuate the directive of the qualified patient.))

(4) No nurse, physician, or other health care practitioner may be required by law or contract in any circumstances to participate in the withholding or withdrawal of life-sustaining treatment if such person objects to so doing. No person may be discriminated against in employment or professional privileges because of the person's participation or refusal to participate in the withholding or withdrawal of life-sustaining treatment.

Sec. 7. RCW 70.122.070 and 1979 c 112 s 8 are each amended to read as follows:

(1) The withholding or withdrawal of life-sustaining ~~((procedures))~~ treatment from a qualified patient pursuant to the patient's directive in accordance with the provisions of this chapter shall not, for any purpose, constitute a suicide or a homicide.

(2) The making of a directive pursuant to RCW 70.122.030 shall not restrict, inhibit, or impair in any manner the sale, procurement, or issuance of any policy

of life insurance, nor shall it be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance shall be legally impaired or invalidated in any manner by the withholding or withdrawal of life-sustaining ~~((procedures))~~ treatment from an insured qualified patient, notwithstanding any term of the policy to the contrary.

(3) No physician, health facility, or other health provider, and no health care service plan, insurer issuing disability insurance, self-insured employee welfare benefit plan, or nonprofit hospital service plan, shall require any person to execute a directive as a condition for being insured for, or receiving, health care services.

**Sec. 8.** RCW 70.122.080 and 1979 c 112 s 10 are each amended to read as follows:

The act of withholding or withdrawing life-sustaining ~~((procedures))~~ treatment, when done pursuant to a directive described in RCW 70.122.030 and which ~~((causes))~~ results in the death of the declarer, shall not be construed to be an intervening force or to affect the chain of proximate cause between the conduct of ~~((any person))~~ anyone that placed the declarer in a terminal condition or a permanent unconscious condition and the death of the declarer.

**Sec. 9.** RCW 70.122.090 and 1979 c 112 s 9 are each amended to read as follows:

Any person who willfully conceals, cancels, defaces, obliterates, or damages the directive of another without such declarer's consent shall be guilty of a gross misdemeanor. Any person who falsifies or forges the directive of another, or willfully conceals or withholds personal knowledge of a revocation as provided in RCW 70.122.040 with the intent to cause a withholding or withdrawal of life-sustaining ~~((procedures))~~ treatment contrary to the wishes of the declarer, and thereby, because of any such act, directly causes life-sustaining ~~((procedures))~~ treatment to be withheld or withdrawn and death to thereby be hastened, shall be subject to prosecution for murder in the first degree as defined in RCW 9A.32.030.

**Sec. 10.** RCW 70.122.100 and 1979 c 112 s 11 are each amended to read as follows:

Nothing in this chapter shall be construed to condone, authorize, or approve mercy killing or physician-assisted suicide, or to permit any affirmative or deliberate act or omission to end life other than to permit the natural process of dying.

**NEW SECTION.** **Sec. 11.** This chapter shall not be construed as providing the exclusive means by which individuals may make decisions regarding their health treatment, including but not limited to, the withholding or withdrawal of life-sustaining treatment, nor limiting the means provided by case law more expansive than this act.

NEW SECTION. Sec. 12. Any person or health facility may assume that a directive complies with this chapter and is valid.

NEW SECTION. Sec. 13. A directive executed anytime before the effective date of this act which generally complies with this act is effective under this act.

NEW SECTION. Sec. 14. A new section is added to chapter 43.70 RCW to read as follows:

The department of health shall adopt guidelines and protocols for how emergency medical personnel shall respond when summoned to the site of an injury or illness for the treatment of a person who has signed a written directive or durable power of attorney requesting that he or she not receive futile emergency medical treatment.

NEW SECTION. Sec. 15. RCW 70.122.050 and 1979 c 112 s 6 are each repealed.

NEW SECTION. Sec. 16. Sections 4, 5, and 11 through 13 of this act are each added to chapter 70.122 RCW.

NEW SECTION. Sec. 17. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House March 8, 1992.

Passed the Senate March 5, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

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## CHAPTER 99

[House Bill 1732]

### WARRANT OFFICERS—APPOINTMENT AND POWERS

Effective Date: 6/1/92

AN ACT Relating to warrant servers; and amending RCW 35.20.270.

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

**Sec. 1.** RCW 35.20.270 and 1977 ex.s. c 108 s 1 are each amended to read as follows:

(1) The position of warrant ~~((server))~~ officer is hereby created ~~((within the courts created by chapter 35.20 RCW))~~ and shall be maintained by the city within the city police department. The number and qualifications of ~~((said))~~ warrant ~~((servers))~~ officers shall be fixed by ordinance, and their compensation shall be paid by the city.

(2) ~~((Said))~~ Warrant ~~((servers))~~ officers shall be vested only with the special authority to make arrests authorized by ~~((the))~~ warrants ~~((which they have been~~

~~directed to serve by courts created by chapter 35.20 RCW))~~ and other arrests as are authorized by ordinance.

(3) All criminal and civil process issuing out of courts created under this title shall be directed to the chief of police of the city served by the court and/or to the sheriff of the county in which the court is held and/or the warrant (~~(servers of the court))~~ officers and be by them executed according to law in any county of this state.

(4) No process of courts created under this title shall be executed outside the corporate limits of the city served by the court unless the person authorized by (~~(said))~~ the process (~~(shall))~~ first contacts the applicable law enforcement agency in whose jurisdiction the process is to be served.

(5) Upon a defendant being arrested in another city or county the cost of arresting or serving process thereon shall be borne by the court issuing (~~(said))~~ the process including the cost of returning the defendant from any county of the state to the city.

(6) (~~(Said))~~ Warrant (~~(servers))~~ officers shall not be entitled to death, disability, or retirement benefits pursuant to chapter 41.26 RCW on the basis of service as a warrant (~~(server))~~ officer as described in this section.

Passed the House March 7, 1992.

Passed the Senate March 3, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

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## CHAPTER 100

[Engrossed Substitute Senate Bill 6132]

### SHELLFISH BEDS PROTECTION

Effective Date: 6/11/92

AN ACT Relating to the reduction of nonpoint source pollution in counties with shellfish growing tidelands; amending RCW 90.72.030, 90.72.040, and 90.72.070; adding new sections to chapter 90.72 RCW; adding a new section to chapter 88.36 RCW; and repealing RCW 90.72.010 and 90.72.050.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 90.72 RCW to read as follows:

The legislature finds that shellfish harvesting is important to our economy and way of life. Washington state is an international leader in the cultivation and production of shellfish. However, large portions of the state's productive recreational and commercial shellfish beds are closed to harvesting, and more are threatened, because of water pollution. The legislature finds that the problem of shellfish bed closures demands a public policy solution and that the state, local governments, and individuals must each take strong and swift action or this precious resource will be lost.

It is the goal of the legislature to prevent further closures of recreational and commercial shellfish beds, to restore water quality in saltwater tidelands to allow the reopening of at least one restricted or closed shellfish bed each year, and to ensure Washington state's commanding international position in shellfish production.

The legislature finds that failing on-site sewage systems and animal waste are the two most significant causes of shellfish bed closures over the past decade. Remedial actions at the local level are required to effectively address these problems.

The legislature finds that existing entities, including conservation districts and local health departments, should be used by counties to address the water quality problems affecting the recreational and commercial shellfish harvest.

The legislature finds that local action in each watershed where shellfish are harvested is required to protect this vital resource. The legislature hereby encourages all counties having saltwater tidelands within their boundaries to establish shellfish protection districts and programs designed to prevent any further degradation and contamination and to allow for restoration and reopening of closed shellfish growing areas.

**Sec. 2.** RCW 90.72.030 and 1985 c 417 s 3 are each amended to read as follows:

The legislative authority of each county having shellfish tidelands within its boundaries is authorized to establish a shellfish protection district to include areas in which nonpoint pollution threatens the water quality upon which the continuation or restoration of shellfish farming or harvesting is dependent. The legislative authority shall constitute the governing body of the district and shall adopt a shellfish protection program to be effective within the district. The legislative authority may appoint a local advisory council to advise the legislative authority in preparation and implementation of shellfish protection programs. This program ~~((may))~~ shall include any elements deemed appropriate to deal with the nonpoint pollution ((threat)) threatening water quality, including, but not limited to, requiring the elimination or decrease of contaminants in storm water runoff, establishing monitoring ((programs)), inspection, and repair elements to ((make sure that septic drainfield)) ensure that on-site sewage systems are adequately maintained and working properly ((and)), assuring that animal grazing and manure management practices are ((appropriate)) consistent with best management practices, and establishing educational and public involvement programs to inform citizens on the causes of the threatening nonpoint pollution and what they can do to decrease the amount of such pollution. An element may be omitted where another program is effectively addressing those sources of nonpoint water pollution. Within the limits of RCW 90.72.040 and 90.72.070, the county legislative authority shall have full jurisdiction and authority to manage, regulate, and control its programs and to fix, alter, regulate, and control the fees for services provided and charges or rates as provided under those

programs. Programs established under this chapter, may, but are not required to, be part of a system of sewerage as defined in RCW 36.94.010.

Sec. 3. RCW 90.72.040 and 1985 c 417 s 4 are each amended to read as follows:

(1) The county legislative authority may create a shellfish protection district on its own motion or by submitting the question to the voters of the proposed district and obtaining the approval of a majority of those voting. The boundaries of the district shall be determined by the legislative authority. The legislative authority may create more than one district. A district may include any area or areas within the county, whether incorporated or unincorporated. Counties shall coordinate and cooperate with cities, towns, and water-related special districts within their boundaries in establishing shellfish protection districts and carrying out shellfish protection programs. Where a portion of the proposed district lies within an incorporated area, the county shall develop procedures for the participation of the city or town in the determination of the boundaries of the district and the administration of the district, including funding of the district's programs. The legislative authority of more than one county may by agreement provide for the creation of a district including areas within each of those counties. County legislative authorities are encouraged to coordinate their plans and programs to protect shellfish growing areas, especially where shellfish growing areas are located within the boundaries of more than one county. The legislative authority or authorities creating a district may abolish a shellfish protection district on its or their own motion or by submitting the question to the voters of the district and obtaining the approval of a majority of those voting.

(2) If the county legislative authority creates a shellfish protection district by its own motion, any registered voter residing within the boundaries of the shellfish protection district may file a referendum petition to repeal the ordinance that created the district. Any referendum petition to repeal the ordinance creating the shellfish protection district shall be filed with the county auditor within seven days of passage of the ordinance. Within ten days of the filing of a petition, the county auditor shall confer with the petitioner concerning form and style of the petition, issue an identification number for the petition, and write a ballot title for the measure. The ballot title shall be posed as a question so that an affirmative answer to the question and an affirmative vote on the measure results in creation of the shellfish protection district and a negative answer to the question and a negative vote on the measure results in the shellfish protection district not being created. The petitioner shall be notified of the identification number and ballot title within this ten-day period.

After this notification, the petitioner shall have thirty days in which to secure on petition forms the signatures of not less than twenty-five percent of the registered voters residing within the boundaries of the shellfish protection district and file the signed petitions with the county auditor. Each petition form shall contain the ballot title and full text of the measure to be referred. The county

auditor shall verify the sufficiency of the signatures on the petitions. If sufficient valid signatures are properly submitted, the county auditor shall submit the referendum measure to the registered voters residing in the shellfish protection district in a special election no later than one hundred twenty days after the signed petition has been filed with the county auditor. The special election may be conducted by mail ballot as provided for in chapter 29.36 RCW.

(3) The county legislative authority shall not impose fees, rates, or charges for shellfish protection district programs upon properties on which fees, rates, or charges are imposed to pay for another program to eliminate or decrease contamination in storm water runoff.

NEW SECTION. Sec. 4. A new section is added to chapter 90.72 RCW to read as follows:

The county legislative authority shall create a shellfish protection district and establish a shellfish protection program to address causes of pollution within one hundred eighty days after the department of health, because of water quality degradation due to ongoing nonpoint sources of pollution, has, after the effective date of this act, closed or downgraded the classification of a recreational or commercial shellfish growing area within the boundaries of the county.

NEW SECTION. Sec. 5. A new section is added to chapter 90.72 RCW to read as follows:

Within available funding and as specified in the shellfish protection program, counties creating shellfish protection districts shall contract with conservation districts to draft plans with landowners to control pollution effects of animal waste.

Sec. 6. RCW 90.72.070 and 1985 c 417 s 7 are each amended to read as follows:

The county legislative authority establishing a shellfish protection district may finance the protection program through (1) ~~((its))~~ county tax revenues, (2) reasonable inspection fees and similar fees ~~((€))~~ for services provided, (3) reasonable charges or rates specified in its protection program, or ~~((3))~~ (4) federal, state, or private grants. Confined animal feeding operations subject to the national pollutant discharge elimination system and implementing regulations shall not be subject to fees, rates, or charges by a shellfish protection district. Facilities permitted and assessed fees for wastewater discharge under the national pollutant discharge elimination system shall not be subject to fees, rates, or charges for wastewater discharge by a shellfish protection district. Lands classified as forest land under chapter 84.33 RCW and timber land under chapter 84.34 RCW shall not be subject to fees, rates, or charges by a shellfish protection district. Counties may collect charges or rates in the manner determined by the county legislative authority.

NEW SECTION. Sec. 7. A new section is added to chapter 90.72 RCW to read as follows:

Counties that have formed shellfish protection districts shall receive high priority for state water quality financial assistance to implement shellfish protection programs, including grants and loans provided under chapters 43.99F, 70.146, and 90.50A RCW.

**NEW SECTION. Sec. 8.** A new section is added to chapter 88.36 RCW to read as follows:

The commission shall seek to provide the most cost efficient and accessible facilities possible for reducing the amount of boat waste entering the state's waters. The commission shall consider providing funding support for portable pumpout facilities in this effort.

**NEW SECTION. Sec. 9.** The following acts or parts of acts are each repealed:

- (1) RCW 90.72.010 and 1985 c 417 s 1; and
- (2) RCW 90.72.050 and 1985 c 417 s 5.

**NEW SECTION. Sec. 10.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate February 18, 1992.  
 Passed the House March 4, 1992.  
 Approved by the Governor March 31, 1992.  
 Filed in Office of Secretary of State March 31, 1992.

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**CHAPTER 101**

[Engrossed Substitute House Bill 2610]  
**REGIONAL TRANSPORTATION AUTHORITIES**  
**Effective Date: 7/1/92**

AN ACT Relating to regional transportation; amending RCW 81.104.010, 81.104.040, 81.104.050, 81.104.100, 81.104.120, 81.104.150, 81.104.160, 81.104.170, 81.104.180, and 81.104.190; reenacting and amending RCW 81.104.030 and 81.104.140; adding a new section to chapter 81.104 RCW; adding a new section to chapter 47.80 RCW; adding a new chapter to Title 81 RCW; creating a new section; and providing an effective date.

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

**NEW SECTION. Sec. 1. LEGISLATIVE INTENT.** The legislature recognizes that existing transportation facilities in the central Puget Sound area are inadequate to address mobility needs of the area. The geography of the region, travel demand growth, and public resistance to new roadways combine to further necessitate the rapid development of alternative modes of travel.

The legislature finds that local governments have been effective in cooperatively planning a multicounty, high capacity transportation system. However, a continued multijurisdictional approach to funding, construction, and operation of a multicounty high capacity transportation system may impair the successful implementation of such a system.

The legislature finds that a single agency will be more effective than several local jurisdictions working collectively at planning, developing, operating, and funding a high capacity transportation system. The single agency's services must be carefully integrated and coordinated with public transportation services currently provided. As the single agency's services are established, any public transportation services currently provided that are duplicative should be eliminated. Further, the single agency must coordinate its activities with other agencies providing local and state roadway services, implementing comprehensive planning, and implementing transportation demand management programs and assist in developing infrastructure to support high capacity systems including but not limited to feeder systems, park and ride facilities, intermodal centers, and related roadway and operational facilities. Coordination can be best achieved through common governance, such as integrated governing boards.

It is therefore the policy of the state of Washington to empower counties in the state's most populous region to create a local agency for planning and implementing a high capacity transportation system within that region. The authorization for such an agency, except as specifically provided in this chapter, is not intended to limit the powers of existing transit agencies.

**NEW SECTION. Sec. 2. DEFINITIONS.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Authority" means a regional transit authority authorized under this chapter.

(2) "Board" means the board of a regional transit authority.

(3) "Service area" or "area" means the area included within the boundaries of a regional transit authority.

(4) "System" means a regional transit system authorized under this chapter and under the jurisdiction of a regional transit authority.

(5) "Facilities" means any lands, interest in land, air rights over lands, and improvements thereto including vessel terminals, and any equipment, vehicles, vessels, and other components necessary to support the system.

**NEW SECTION. Sec. 3. REGIONAL TRANSIT AUTHORITY.** Two or more contiguous counties each having a population of four hundred thousand persons or more may establish a regional transit authority to develop and operate a high capacity transportation system as defined in chapter 81.104 RCW.

The authority shall be formed in the following manner:

(1) The joint regional policy committee created pursuant to RCW 81.104.040 shall adopt a system and financing plan, including the definition of the service area. This action shall be completed by September 1, 1992, contingent upon satisfactory completion of the planning process defined in RCW 81.104.100. In addition to the requirements of RCW 81.104.100, the plan for the proposed system shall provide explicitly for a minimum portion of new tax revenues to be allocated to local transit agencies for interim express services. Upon adoption

the joint regional policy committee shall immediately transmit the plan to the county legislative authorities within the adopted service area.

(2) The legislative authorities of the counties within the service area shall decide by resolution whether to participate in the authority. This action shall be completed within forty-five days following receipt of the adopted plan.

(3) If any of the counties does not opt to participate in the authority, the joint regional policy committee shall, within forty-five days, redefine the system and financing plan and resubmit the adopted redefined plan to the remaining county legislative authorities for their decision as to whether to participate. This action shall be completed within forty-five days following receipt of the redefined plan.

(4) Each county that chooses to participate in the authority shall appoint its board members as set forth in section 4 of this act and shall submit its list of members to the secretary of the Washington state department of transportation. These actions must be completed within thirty days following each county's decision to participate in the authority.

(5) The secretary shall call the first meeting of the authority, to be held within thirty days following receipt of the appointments. At its first meeting, the authority shall elect officers and provide for the adoption of rules and other operating procedures.

(6) The authority is formally constituted at its first meeting and the board shall begin taking steps toward implementation of the system and financing plan adopted by the joint regional policy committee. Upon formation of the authority, the joint regional policy committee shall cease to exist. The authority may make minor modifications to the plan as deemed necessary and shall at a minimum review local transit agencies' plans to ensure feeder service/high capacity transit service integration, ensure fare integration, and ensure avoidance of parallel competitive services.

(7) The authority shall place on the ballot within two years of the authority's formation, a single ballot proposition to ratify formation of the authority, approve the system and finance plan, and authorize the imposition of the taxes to support the plan within its service area. In addition to the system plan requirements contained in RCW 81.104.100(2)(d), the system plan submitted to voters shall contain an equity element which:

(a) Identifies revenues anticipated to be generated by corridor and by county within the authority's boundaries;

(b) Identifies the phasing of construction and operation of high capacity system facilities, services, and benefits in each corridor. Phasing decisions should give priority to jurisdictions which have adopted transit-supportive land use plans; and

(c) Identifies the degree to which revenues generated within each county will benefit the residents of that county, and identifies when such benefits will accrue.

A simple majority of those voting within the boundaries of the authority is required for approval. If the vote is affirmative, the authority shall begin implementation of the plan. However, the authority may not submit any authorizing proposition for voter-approved taxes prior to July 1, 1993; nor may the authority issue bonds or form any local improvement district prior to July 1, 1993.

(8) If the vote fails, the board may redefine the system and financing plan, make changes to the authority boundaries, and make corresponding changes to the composition of the board. If the composition of the board is changed, the participating counties shall revise the membership of the board accordingly. The board may then submit the revised plan to voters. No single system and financing plan may be submitted to the voters more than twice.

If the authority is unable to achieve a positive vote within two years from the date of the first election on a system plan, the board may, by resolution, reconstitute the authority as a single-county body. With a two-thirds vote of the entire membership of the voting members, the board may also dissolve the authority.

**NEW SECTION. Sec. 4. GOVERNANCE.** (1) The regional transit authority shall be governed by a board consisting of representatives appointed by the county executive and confirmed by the council or other legislative authority of each member county. Membership shall be based on population from that portion of each county which lies within the service area. Board members shall be appointed initially on the basis of one for each one hundred forty-five thousand population within the county. Such appointments shall be made following consultation with city and town jurisdictions within the service area. In addition, the secretary of transportation or the secretary's designee shall serve as a member of the board and may have voting status with approval of a majority of the other members of the board.

Each member of the board except the secretary of transportation or the secretary's designee shall be an elected official who serves on the legislative authority of or as mayor of a city within the boundaries of the authority, or on the legislative authority of the county and fifty percent of the population of whose district is within the authority boundaries. When making appointments, each county executive shall ensure that representation on the board includes an elected city official representing the largest city in each county and assures proportional representation from other cities, and representation from unincorporated areas of each county within the service area. At least one-half of all appointees from each county shall serve on the governing authority of a public transportation system.

Members appointed from each county shall serve staggered four-year terms. Vacancies shall be filled by appointment for the remainder of the unexpired term of the position being vacated.

The governing board shall be reconstituted, with regard to the number of representatives from each county, on a population basis, using the official office of financial management population estimates, five years after its initial formation and, at minimum, in the year following each official federal census. The board membership may be reduced, maintained, or expanded to reflect population changes but under no circumstances may the board membership exceed twenty-five.

(2) Major decisions of the authority shall require a favorable vote of two-thirds of the entire membership of the voting members. "Major decisions" include at least the following: System plan adoption and amendment; system phasing decisions; annual budget adoption; authorization of annexations; modification of board composition; and executive director employment.

(3) Each member of the board is eligible to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060 and to receive compensation as provided in RCW 43.03.250.

**NEW SECTION. Sec. 5. AREA INCLUDED.** (1) At the time of formation, the area to be included within the boundary of the authority shall be that area set forth in the system plan adopted by the joint regional policy committee. Prior to submitting the system and financing plan to the voters, the authority may make adjustments to the boundaries as deemed appropriate but must assure that, to the extent possible, the boundaries: (a) Include the largest-population urban growth area designated by each county under chapter 36.70A RCW; and (b) follow election precinct boundaries. If a portion of any city is determined to be within the service area, the entire city must be included within the boundaries of the authority.

(2) After voters within the authority boundaries have approved the system and financing plan, elections to add areas contiguous to the authority boundaries may be called by resolution of the regional transit authority, after consultation with affected transit agencies and with the concurrence of the legislative authority of the city or town if the area is incorporated, or with the concurrence of the county legislative authority if the area is unincorporated. Only those areas that would benefit from the services provided by the authority may be included and services or projects proposed for the area must be consistent with the regional transportation plan. The election may include a single ballot proposition providing for annexation to the authority boundaries and imposition of the taxes at rates already imposed within the authority boundaries.

**NEW SECTION. Sec. 6. AUTHORITY POWERS.** An authority shall have the following powers:

(1) To establish offices, departments, boards, and commissions that are necessary to carry out the purposes of the authority, and to prescribe the functions, powers, and duties thereof.

(2) To appoint or provide for the appointment of, and to remove or to provide for the removal of, all officers and employees of the authority.

(3) To fix the salaries, wages, and other compensation of all officers and employees of the authority.

(4) To employ such engineering, legal, financial, or other specialized personnel as may be necessary to accomplish the purposes of the authority.

**NEW SECTION. Sec. 7. GENERAL POWERS.** In addition to the powers specifically granted by this chapter an authority shall have all powers necessary to implement a high capacity transportation system and to develop revenues for system support. An authority may contract with the United States or any agency thereof, any state or agency thereof, any public transportation benefit area, any county, county transportation authority, city, metropolitan municipal corporation, special district, or governmental agency, within or without the state, and any private person, firm, or corporation for: (1) The purpose of receiving gifts or grants or securing loans or advances for preliminary planning and feasibility studies; (2) the design, construction, or operation of high capacity transportation system facilities; or (3) the provision or receipt of services, facilities, or property rights to provide revenues for the system. An authority shall have the power to contract pursuant to RCW 39.33.050. In addition, an authority may contract with any governmental agency or with any private person, firm, or corporation for the use by either contracting party of all or any part of the facilities, structures, lands, interests in lands, air rights over lands and rights of way of all kinds which are owned, leased, or held by the other party and for the purpose of planning, constructing, or operating any facility or performing any service that the authority may be authorized to operate or perform, on such terms as may be agreed upon by the contracting parties. Before any contract for the lease or operation of any authority facilities is let to any private person, firm, or corporation, a general schedule of rental rates for equipment with or without operators applicable to all private certificated carriers shall be publicly posted, and for other facilities competitive bids shall first be called upon such notice, bidder qualifications, and bid conditions as the board shall determine. This shall allow use of negotiated procurements.

**NEW SECTION. Sec. 8. ADDITIONAL POWERS—ACQUISITION OF FACILITIES.** An authority shall have the following powers in addition to the general powers granted by this chapter:

- (1) To carry out the planning processes set forth in RCW 81.104.100;
- (2) To acquire by purchase, condemnation, gift, or grant and to lease, construct, add to, improve, replace, repair, maintain, operate, and regulate the use of high capacity transportation facilities and properties within authority boundaries including surface, underground, or overhead railways, tramways, busways, buses, bus sets, entrained and linked buses, ferries, or other means of local transportation except taxis, and including escalators, moving sidewalks, personal rapid transit systems or other people-moving systems, passenger terminal and parking facilities and properties, and such other facilities and properties as may be necessary for passenger, vehicular, and vessel access to and

from such people-moving systems, terminal and parking facilities and properties, together with all lands, rights of way, property, equipment, and accessories necessary for such high capacity transportation systems. When developing specifications for high capacity transportation system operating equipment, an authority shall take into account efforts to establish or sustain a domestic manufacturing capacity for such equipment. The right of eminent domain shall be exercised by an authority in the same manner and by the same procedure as or may be provided by law for cities of the first class, except insofar as such laws may be inconsistent with the provisions of this chapter. Public transportation facilities and properties which are owned by any city, county, county transportation authority, public transportation benefit area, or metropolitan municipal corporation may be acquired or used by an authority only with the consent of the agency owning such facilities. Such agencies are hereby authorized to convey or lease such facilities to an authority or to contract for their joint use on such terms as may be fixed by agreement between the agency and the authority.

The facilities and properties of an authority whose vehicles will operate primarily within the rights of way of public streets, roads, or highways, may be acquired, developed, and operated without the corridor and design hearings that are required by RCW 35.58.273 for mass transit facilities operating on a separate right of way;

(3) To dispose of any real or personal property acquired in connection with any authority function and that is no longer required for the purposes of the authority, in the same manner as provided for cities of the first class. When an authority determines that a facility or any part thereof that has been acquired from any public agency without compensation is no longer required for authority purposes, but is required by the agency from which it was acquired, the authority shall by resolution transfer it to such agency.

(4) To fix rates, tolls, fares, and charges for the use of such facilities and to establish various routes and classes of service. Fares or charges may be adjusted or eliminated for any distinguishable class of users.

**NEW SECTION. Sec. 9. AGREEMENTS WITH OPERATORS OF HIGH CAPACITY TRANSPORTATION SERVICES.** Except in accordance with an agreement made as provided in this section, upon the date an authority begins high capacity transportation service, no person or private corporation may operate a high capacity transportation service within the authority boundary with the exception of services owned or operated by any corporation or organization solely for the purposes of the corporation or organization and for the use of which no fee or fare is charged.

The authority and any person or corporation legally operating a high capacity transportation service wholly within or partly within and partly without the authority boundary on the date an authority begins high capacity transportation service may enter into an agreement under which such person or corporation

may continue to operate such service or any part thereof for such time and upon such terms and conditions as provided in such agreement. Such agreement shall provide for a periodic review of the terms and conditions contained therein. Where any such high capacity transportation service will be required to cease to operate within the authority boundary, the authority may agree with the owner of such service to purchase the assets used in providing such service, or if no agreement can be reached, an authority shall condemn such assets in the manner and by the same procedure as is or may be provided by law for the condemnation of other properties for cities of the first class, except insofar as such laws may be inconsistent with this chapter.

Wherever a privately owned public carrier operates wholly or partly within an authority boundary, the Washington utilities and transportation commission shall continue to exercise jurisdiction over such operation as provided by law.

**NEW SECTION. Sec. 10. TRANSFER OF LOCAL GOVERNMENT POWERS TO AUTHORITY.** An authority shall have and exercise all rights with respect to the construction, acquisition, maintenance, operation, extension, alteration, repair, control and management of high capacity transportation system facilities that are identified in the system plan developed pursuant to RCW 81.104.100 that any city, county, county transportation authority, metropolitan municipal corporation, or public transportation benefit area within the authority boundary has been previously empowered to exercise and such powers shall not thereafter be exercised by such agencies without the consent of the authority. Nothing in this chapter shall restrict development, construction, or operation of a personal rapid transit system by a city or county.

An authority may adopt, in whole or in part, and may complete, modify, or terminate any planning, environmental review, or procurement processes related to the high capacity transportation system that had been commenced by a joint regional policy committee or a city, county, county transportation authority, metropolitan municipality, or public transportation benefit area prior to the formation of the authority.

**NEW SECTION. Sec. 11. ACQUISITION OF EXISTING SYSTEM.** If an authority acquires any existing components of a high capacity transportation system, it shall assume and observe all existing labor contracts relating to the transportation system and, to the extent necessary for operation of facilities, all of the employees of such acquired transportation system whose duties are necessary to operate efficiently the facilities acquired shall be appointed to comparable positions to those which they held at the time of such transfer, and no employee or retired or pensioned employee of such transportation systems shall be placed in any worse position with respect to pension seniority, wages, sick leave, vacation or other benefits that he or she enjoyed as an employee of the transportation system prior to such acquisition. At such times as may be required by such contracts, the authority shall engage in collective bargaining with the duly appointed representatives of any employee labor organization

having existing contracts with the acquired transportation system and may enter into labor contracts with such employee labor organization. Facilities and equipment which are acquired after July 1, 1993, related to high capacity transportation services which are to be assumed by the authority as specifically identified in the adopted system plan shall be acquired by the authority in a manner consistent with sections 7 through 10 of this act.

**NEW SECTION. Sec. 12. AUTHORITY FINANCES.** The board of an authority, by resolution, shall designate a person having experience in financial or fiscal matters as treasurer of the authority. The board may designate, with the concurrence of the treasurer, the treasurer of a county within which the authority is located. Such a treasurer shall possess all of the powers, responsibilities, and duties the county treasurer possesses for a public transportation benefit area authority related to investing surplus authority funds. The board shall require a bond with a surety company authorized to do business in the state of Washington in an amount and under the terms and conditions the board, by resolution, from time to time finds will protect the authority against loss. The premium on any such bond shall be paid by the authority.

All authority funds shall be paid to the treasurer and shall be disbursed by the treasurer only on warrants issued by the authority upon orders or vouchers approved by the board.

The treasurer shall establish a special fund, into which shall be paid all authority funds, and the treasurer shall maintain such special accounts as may be created by the authority into which shall be placed all money as the board may, by resolution, direct.

If the treasurer of the authority is the treasurer of a county, all authority funds shall be deposited with the county depository under the same restrictions, contracts, and security as provided for county depositories. If the treasurer of the authority is some other person, all funds shall be deposited in such bank or banks authorized to do business in this state that have qualified for insured deposits under any federal deposit insurance act as the board, by resolution, shall designate.

The authority may by resolution designate a person having experience in financial or fiscal matters, as the auditor of the authority. Such auditor shall possess all of the powers, responsibilities, and duties related to creating and maintaining funds, issuing warrants, and maintaining a record of receipts and disbursements.

The board may provide and require a reasonable bond of any other person handling moneys or securities of the authority, but the authority shall pay the premium on the bond.

**NEW SECTION. Sec. 13. BONDING.** Notwithstanding RCW 39.36.020(1), an authority may at any time contract indebtedness or borrow money for authority purposes and may issue general obligation bonds in an amount not exceeding, together with any existing indebtedness of the authority

not authorized by the voters, one and one-half percent of the value of the taxable property within the boundaries of the authority; and with the assent of three-fifths of the voters therein voting at an election called for that purpose, may contract indebtedness or borrow money for authority purposes and may issue general obligation bonds therefor, provided the total indebtedness of the authority shall not exceed five percent of the value of the taxable property therein. Such bonds shall be issued and sold in accordance with chapter 39.46 RCW.

The term "value of the taxable property" shall have the meaning set forth in RCW 39.36.015.

**NEW SECTION. Sec. 14. REVENUE BONDS.** (1) An authority may issue revenue bonds to provide funds to carry out its authorized functions without submitting the matter to the voters of the authority. The authority shall create a special fund or funds for the sole purpose of paying the principal of and interest on the bonds of each such issue, into which fund or funds the authority may obligate itself to pay such amounts of the gross revenue of the high capacity transportation system constructed, acquired, improved, added to, or repaired out of the proceeds of sale of such bonds, as the authority shall determine and may obligate the authority to pay such amounts out of otherwise unpledged revenue that may be derived from the ownership, use, or operation of properties or facilities owned, used, or operated incident to the performance of the authorized function for which such bonds are issued or out of otherwise unpledged fees, tolls, charges, tariffs, fares, rentals, special taxes, or other sources of payment lawfully authorized for such purpose, as the authority shall determine. The principal of, and interest on, such bonds shall be payable only out of such special fund or funds, and the owners of such bonds shall have a lien and charge against the gross revenue of such high capacity transportation system or any other revenue, fees, tolls, charges, tariffs, fares, special taxes, or other authorized sources pledged to the payment of such bonds.

Such revenue bonds and the interest thereon issued against such fund or funds shall be a valid claim of the owners thereof only as against such fund or funds and the revenue pledged therefor, and shall not constitute a general indebtedness of the authority.

(2) Notwithstanding subsection (1) of this section, such bonds may be issued and sold in accordance with chapter 39.46 RCW.

**NEW SECTION. Sec. 15. LOCAL IMPROVEMENT DISTRICTS AUTHORIZED.** (1) An authority may form a local improvement district to provide any transportation improvement it has the authority to provide, impose special assessments on all property specially benefited by the transportation improvements, and issue special assessment bonds or revenue bonds to fund the costs of the transportation improvement. Local improvement districts shall be created and assessments shall be made and collected pursuant to chapters 35.43, 35.44, 35.49, 35.50, 35.51, 35.53, and 35.54 RCW.

(2) The board shall by resolution establish for each special assessment bond issue the amount, date, terms, conditions, denominations, maximum fixed or variable interest rate or rates, maturity or maturities, redemption rights, registration privileges, if any, covenants, and form, including registration as to principal and interest, registration as to principal only, or bearer. Registration may include, but not be limited to: (a) A book entry system of recording the ownership of a bond whether or not physical bonds are issued; or (b) recording the ownership of a bond together with the requirement that the transfer of ownership may only be effected by the surrender of the old bond and either the reissuance of the old bond or the issuance of a new bond to the new owner. Facsimile signatures may be used on the bonds and any coupons. The maximum term of any special assessment bonds shall not exceed thirty years beyond the date of issue. Special assessment bonds issued pursuant to this section shall not be an indebtedness of the authority issuing the bonds, and the interest and principal on the bonds shall only be payable from special assessments made for the improvement for which the bonds were issued and any local improvement guaranty fund that the authority has created. The owner or bearer of a special assessment bond or any interest coupon issued pursuant to this section shall not have any claim against the authority arising from the bond or coupon except for the payment from special assessments made for the improvement for which the bonds were issued and any local improvement guaranty fund the authority has created. The authority issuing the special assessment bonds is not liable to the owner or bearer of any special assessment bond or any interest coupon issued pursuant to this section for any loss occurring in the lawful operation of its local improvement guaranty fund. The substance of the limitations included in this subsection shall be plainly printed, written, or engraved on each special assessment bond issued pursuant to this section.

(3) Assessments shall reflect any credits given by the authority for real property or property right donations made pursuant to RCW 47.14.030.

(4) The board may establish and pay moneys into a local improvement guaranty fund to guarantee special assessment bonds issued by the authority.

**NEW SECTION. Sec. 16. COUNTY ASSESSOR'S DUTIES.** It shall be the duty of the assessor of each component county to certify annually to a regional transit authority the aggregate assessed valuation of all taxable property within the boundaries of the authority as the same appears from the last assessment roll of the county.

**NEW SECTION. Sec. 17. INTERIM FINANCING.** A regional transit authority may apply for high capacity transportation account funds and for central Puget Sound account funds for high capacity transit planning and system development.

Transit agencies contained wholly or partly within a regional transit authority may make grants or loans to the authority for high capacity transportation planning and system development.

**Sec. 18.** RCW 81.104.010 and 1991 c 318 s 1 are each amended to read as follows:

Increasing congestion on Washington's roadways calls for identification and implementation of high capacity transportation system alternatives. (~~"High capacity transportation system" means a system of public transportation services within an urbanized region operating principally on exclusive rights of way, and the supporting services and facilities necessary to implement such a system, including high occupancy vehicle lanes, which taken as a whole, provides a substantially higher level of passenger capacity, speed, and service frequency than traditional public transportation systems operating principally in general purpose roadways.~~) The legislature believes that local jurisdictions should coordinate and be responsible for high capacity transportation policy development, program planning, and implementation. The state should assist by working with local agencies on issues involving rights of way, partially financing projects meeting established state criteria including development and completion of the high occupancy vehicle lane system, authorizing local jurisdictions to finance high capacity transportation systems through voter-approved tax options, and providing technical assistance and information.

**NEW SECTION.** **Sec. 19.** A new section is added to chapter 81.104 RCW to read as follows:

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

(1) "High capacity transportation system" means a system of public transportation services within an urbanized region operating principally on exclusive rights of way, and the supporting services and facilities necessary to implement such a system, including interim express services and high occupancy vehicle lanes, which taken as a whole, provides a substantially higher level of passenger capacity, speed, and service frequency than traditional public transportation systems operating principally in general purpose roadways.

(2) "Regional transit system" means a high capacity transportation system under the jurisdiction of one or more transit agencies except where a regional transit authority created under chapter 81.-- RCW (sections 1 through 17 of this act) exists, in which case "regional transit system" means the high capacity transportation system under the jurisdiction of a regional transit authority.

(3) "Transit agency" means city-owned transit systems, county transportation authorities, metropolitan municipal corporations, and public transportation benefit areas.

**Sec. 20.** RCW 81.104.030 and 1991 c 318 s 3 and 1991 c 309 s 2 are each reenacted and amended to read as follows:

(1) In any county with a population of from two hundred ten thousand to less than one million that is not bordered by a county with a population of one million or more, and in each county with a population of less than two hundred ten thousand, (~~(city-owned transit systems, county transportation authorities,~~

~~metropolitan municipal corporations, and public transportation benefit areas))~~ transit agencies may elect to establish high capacity transportation service. Such agencies shall form a regional policy committee with proportional representation based upon population distribution within the designated service area and a representative of the department of transportation, or such agencies may use the designated metropolitan planning organization as the regional policy committee.

~~((City-owned transit systems, county transportation authorities, metropolitan municipal corporations, and public transportation benefit areas))~~ Transit agencies participating in joint regional policy committees shall seek voter approval within their own service boundaries of a high capacity transportation system plan and financing plan.

(2) ~~((City-owned transit systems, county transportation authorities, metropolitan municipal corporations, and public transportation benefit areas))~~ Transit agencies in counties adjoining state or international boundaries are authorized to participate in the regional high capacity transportation programs of an adjoining state or Canadian province.

**Sec. 21.** RCW 81.104.040 and 1991 c 318 s 4 are each amended to read as follows:

~~((4))~~ Transit agencies in each county with a population of one million or more, and in each county with a population of from two hundred ten thousand to less than one million bordering a county with a population of one million or more that are ~~((currently))~~ authorized on January 1, 1991, to provide high capacity transportation planning and operating services~~((, including but not limited to city-owned transit systems, county transportation authorities, metropolitan municipal corporations, and public transportation benefit areas,))~~ must establish through interlocal agreements a joint regional policy committee with proportional representation based upon the population distribution within each agency's designated service area, as determined by the parties to the agreement.

~~((a))~~ (1) The membership of the joint regional policy committee shall consist of locally elected officials who serve on the legislative authority of the existing transit systems and a representative from the department of transportation. Nonvoting membership for elected officials from adjoining counties may be allowed at the committee's discretion.

~~((b))~~ (2) The joint regional policy committee shall be responsible for the preparation and adoption of a regional high capacity transportation implementation program, which shall include the system plan, project plans, and a financing plan. This program shall be in conformance with the regional transportation planning organization's regional transportation plan and consistent with RCW 81.104.080.

~~((c))~~ (3) The joint regional policy committee shall present ~~((a))~~ an adopted high capacity transportation system plan and financing plan to the boards of directors of the transit agencies within the service area ~~((for adoption.~~

~~(d) Transit agencies shall present the adopted high capacity transportation system plan and financing plan for voter approval within four years of the execution of the interlocal agreements. A simple majority vote is required for approval of the high capacity transportation system plan and financing plan in any service district within each county. The implementation program may proceed in any service area approving the system and financing plans.~~

~~(2) High capacity transportation planning, construction, operations, and funding shall be governed through the interlocal agreement process, including but not limited to provision for a cost allocation and distribution formula, service corridors, station area locations, right of way transfers, and feeder transportation systems. The interlocal agreement shall include a mechanism for resolving conflicts among parties to the agreement)) or to the regional transit authority, if such authority has been formed. The authority shall proceed as prescribed in section 3 of this act.~~

**Sec. 22.** RCW 81.104.050 and 1991 c 318 s 5 are each amended to read as follows:

Regional high capacity transportation service ((boundaries)) may be expanded beyond the established ((service)) district boundaries through interlocal agreements among the transit agencies and ((the local jurisdictions within which such expanded service is proposed)) any regional transit authorities in existence.

**Sec. 23.** RCW 81.104.100 and 1991 sp.s. c 15 s 68 are each amended to read as follows:

To assure development of an effective high capacity transportation system, local authorities shall follow the following planning process:

(1) Regional, multimodal transportation planning is the ongoing urban transportation planning process conducted in each urbanized area by its regional transportation planning organization. During this process, regional transportation goals are identified, travel patterns are analyzed, and future land use and travel are projected. The process provides a comprehensive view of the region's transportation needs but does not select specified modes to serve those needs. The process shall identify a priority corridor or corridors for further study of high capacity transportation facilities if it is deemed feasible by local officials.

(2) High capacity transportation system planning is the detailed evaluation of a range of high capacity transportation system options, including: Do nothing, low capital, and ranges of higher capital facilities. To the extent possible this evaluation shall take into account the urban mass transportation administration's requirements identified in subsection (3) of this section.

High capacity transportation system planning shall proceed as follows:

(a) Organization and management. The responsible local transit agency or agencies shall define roles for various local agencies, review background information, provide for public involvement, and develop a detailed work plan for the system planning process.

(b) Development of options. Options to be studied shall be developed to ensure an appropriate range of technologies and service policies can be evaluated. A do-nothing option and a low capital option that maximizes the current system shall be developed. Several higher capital options that consider a range of capital expenditures for several candidate technologies shall be developed.

(c) Analysis methods. The local transit agency shall develop reports describing the analysis and assumptions for the estimation of capital costs, operating and maintenance costs, methods for travel forecasting, a financial plan and an evaluation methodology.

(d) The system plan submitted to the voters pursuant to RCW 81.104.140 shall address, but is not limited to the following issues:

(i) Identification of level and types of high capacity transportation services to be provided;

(ii) A plan of high occupancy vehicle lanes to be constructed;

(iii) Identification of route alignments and station locations with sufficient specificity to permit calculation of costs, ridership, and system impacts;

(iv) Performance characteristics of technologies in the system plan;

(v) Patronage forecasts;

(vi) A financing plan describing: Phasing of investments; capital and operating costs and expected revenues; cost-effectiveness represented by a total cost per system rider and new rider estimate; estimated ridership and the cost of service for each individual high capacity line (~~line~~); and identification of the operating revenue to operating expense ratio.

The financing plan shall specifically differentiate the proposed use of funds between high capacity transportation facilities and services, and high occupancy vehicle facilities(~~(, and expanded local feeder service)~~);

(vii) Description of the relationship between the high capacity transportation system plan and adopted land use plans;

(viii) An assessment of social, economic, and environmental impacts; and

(ix) Mobility characteristics of the system presented, including but not limited to: Qualitative description of system/service philosophy and impacts; qualitative system reliability; travel time and number of transfers between selected residential, employment, and activity centers; and system and activity center mode splits.

(3) High capacity transportation project planning is the detailed identification of alignments, station locations, equipment and systems, construction schedules, environmental effects, and costs. High capacity transportation project planning shall proceed as follows: The local transit agency shall analyze and produce information needed for the preparation of environmental impact statements. The impact statements shall address the impact that development of such a system will have on abutting or nearby property owners. The process of identification of alignments and station locations shall include notification of affected property

owners by normal legal publication. At minimum, such notification shall include notice on the same day for at least three weeks in at least two newspapers of general circulation in the county where such project is proposed. Special notice of hearings by the conspicuous posting of notice, in a manner designed to attract public attention, in the vicinity of areas identified for station locations or transfer sites shall also be provided.

In order to increase the likelihood of future federal funding, the project planning processes shall follow the urban mass transportation administration's requirements as described in "Procedures and Technical Methods for Transit Project Planning", published by the United States department of transportation, urban mass transportation administration, September 1986, or the most recent edition. Nothing in this subsection shall be construed to preclude detailed evaluation of more than one corridor in the planning process.

The department of transportation shall provide system and project planning review and monitoring in cooperation with the expert review panel identified in RCW 81.104.110. In addition, the local transit agency shall maintain a continuous public involvement program and seek involvement of other government agencies.

**Sec. 24.** RCW 81.104.120 and 1990 c 43 s 33 are each amended to read as follows:

(1) (~~City-owned transit service, county transportation authorities, metropolitan municipal corporations, and public transportation benefit areas~~) Transit agencies and regional transit authorities may operate or contract for commuter rail service where it is deemed to be a reasonable alternative transit mode. A reasonable alternative is one whose passenger costs per mile, including costs of trackage, equipment, maintenance, operations, and administration are equal to or less than comparable bus, entrained bus, trolley, or personal rapid transit systems.

(2) A county may use funds collected under RCW 81.100.030 or 81.100.060 to contract with one or more transit agencies or regional transit authorities for planning, operation, and maintenance of commuter rail projects which: (a) Are consistent with the regional transportation plan; (b) have met the project planning and oversight requirements of RCW 81.104.100 and 81.104.110; and (c) have been approved by the voters within the service area of each transit agency or regional transit authority participating in the project. The phrase "approved by the voters" includes specific funding authorization for the commuter rail project.

(3) The utilities and transportation commission shall maintain safety responsibility for passenger rail service operating on freight rail lines. Agencies providing passenger rail service on lines other than freight rail lines shall maintain safety responsibility for that service.

**Sec. 25.** RCW 81.104.140 and 1991 c 318 s 11 and 1991 c 309 s 4 are each reenacted and amended to read as follows:

(1) Agencies authorized to provide high capacity transportation service, including (~~city-owned transit systems, county transportation authorities,~~

~~metropolitan municipal corporations and public transportation benefit areas~~) transit agencies and regional transit authorities, are hereby granted dedicated funding sources for such systems. These dedicated funding sources, as set forth in RCW 81.104.150, 81.104.160, and 81.104.170, are authorized only for agencies located in (a) each county with a population of two hundred ten thousand or more and (b) each county with a population of from one hundred twenty-five thousand to less than two hundred ten thousand except for those counties that do not border a county with a population as described under (a) of this subsection. In any county with a population of one million or more or in any county having a population of four hundred thousand or more bordering a county with a population of one million or more, these funding sources may be imposed only by a regional transit authority.

(2) Agencies planning to construct and operate a high capacity transportation system should also seek other funds, including federal, state, local, and private sector assistance.

(3) Funding sources should satisfy each of the following criteria to the greatest extent possible:

- (a) Acceptability;
- (b) Ease of administration;
- (c) Equity;
- (d) Implementation feasibility;
- (e) Revenue reliability; and
- (f) Revenue yield.

(4) Agencies participating in regional high capacity transportation system development (~~through interlocal agreements~~) are authorized to levy and collect the following voter-approved local option funding sources:

- (a) Employer tax as provided in RCW 81.104.150;
- (b) Special motor vehicle excise tax as provided in RCW 81.104.160; and
- (c) Sales and use tax as provided in RCW 81.104.170.

Revenues from these taxes may be used only to support those purposes prescribed in subsection (10) of this section. Before the date of an election authorizing an agency to impose any of the taxes enumerated in this section and authorized in RCW 81.104.150, 81.104.160, and 81.104.170, the agency must comply with the process prescribed in RCW 81.104.100 (1) and (2) and 81.104.110. No construction on exclusive right of way may occur before the requirements of RCW 81.104.100(3) are met.

(5) Authorization in subsection (4) of this section shall not adversely affect the funding authority of ~~(existing)~~ transit agencies not provided for in this chapter. Local option funds may be used to support implementation of interlocal agreements with respect to the establishment of regional high capacity transportation service. Except when a regional transit authority exists, local jurisdictions shall retain control over moneys generated within their boundaries, although funds may be commingled with those generated in other areas for

planning, construction, and operation of high capacity transportation systems as set forth in the agreements.

(6) Agencies planning to construct and operate high capacity transportation systems may contract with the state for collection and transference of voter-approved local option revenue.

(7) Dedicated high capacity transportation funding sources authorized in RCW 81.104.150, 81.104.160, and 81.104.170 shall be subject to voter approval by a simple majority. A single ballot proposition may seek approval for one or more of the authorized taxing sources. The ballot title shall reference the document identified in subsection (8) of this section.

(8) Agencies shall provide to the registered voters in the area a document describing the systems plan and the financing plan set forth in RCW 81.104.100. It shall also describe the relationship of the system to regional issues such as development density at station locations and activity centers, and the interrelationship of the system to adopted land use and transportation demand management goals within the region. This document shall be provided to the voters at least twenty days prior to the date of the election.

(9) For any election in which voter approval is sought for a high capacity transportation system plan and financing plan pursuant to RCW 81.104.040, a local voter's pamphlet shall be produced as provided in chapter 29.81A RCW.

(10) Agencies providing high capacity transportation service shall retain responsibility for revenue encumbrance, disbursement, and bonding. Funds may be used for any purpose relating to planning, construction, and operation of high capacity transportation systems~~((:))~~ and commuter rail systems, ~~((and-feeder-transportation-systems))~~ personal rapid transit, busways, bus sets, and entrained and linked buses.

**Sec. 26.** RCW 81.104.150 and 1990 c 43 s 41 are each amended to read as follows:

Cities that operate transit systems, county transportation authorities, metropolitan municipal corporations, ~~((and))~~ public transportation benefit areas, ~~((solely for the purpose of providing high capacity transportation service))~~ and regional transit authorities may submit an authorizing proposition to the voters and if approved may impose an excise tax of up to two dollars per month per employee on all employers located within the agency's jurisdiction, measured by the number of full-time equivalent employees, solely for the purpose of providing high capacity transportation service. The rate of tax shall be approved by the voters. This tax may not be imposed by ~~((an))~~: (1) A transit agency when the county within which it is located is imposing an excise tax pursuant to RCW 81.100.030; or (2) a regional transit authority when any county within the authority's boundaries is imposing an excise tax pursuant to RCW 81.100.030. The agency imposing the tax authorized in this section may provide for exemptions from the tax to such educational, cultural, health, charitable, or religious organizations as it deems appropriate.

**Sec. 27.** RCW 81.104.160 and 1991 c 318 s 12 are each amended to read as follows:

~~((Any city that operates a))~~ Cities that operate transit systems, county transportation ((authority)) authorities, metropolitan municipal corporations, ((or)) public transportation benefit areas, ((solely for the purpose of providing high capacity transportation service)) and regional transit authorities may submit an authorizing proposition to the voters, and if approved, may levy and collect an excise tax, at a rate approved by the voters, but not exceeding eighty one-hundredths of one percent on the value, under chapter 82.44 RCW, of every motor vehicle owned by a resident of ~~((such city, county transportation authority, metropolitan municipal corporation, or public transportation benefit area))~~ the taxing district, solely for the purpose of providing high capacity transportation service. In any county imposing a motor vehicle excise tax surcharge pursuant to RCW 81.100.060, the maximum tax rate under this section shall be reduced to a rate equal to eighty one-hundredths of one percent on the value less the equivalent motor vehicle excise tax rate of the surcharge imposed pursuant to RCW 81.100.060. This rate shall not apply to vehicles licensed under RCW 46.16.070 except vehicles with an unladen weight of six thousand pounds or less, RCW 46.16.079, 46.16.080, 46.16.085, or 46.16.090.

**Sec. 28.** RCW 81.104.170 and 1990 2nd ex.s. c 1 s 902 are each amended to read as follows:

~~((The legislative bodies of))~~ Cities that operate transit systems, county transportation authorities, metropolitan municipal corporations, ((and)) public transportation benefit areas, ((solely for the purpose of providing high capacity transportation service)) and regional transit authorities may submit an authorizing proposition to the voters and if approved by a majority of persons voting, fix and impose a sales and use tax in accordance with the terms of this chapter, solely for the purpose of providing high capacity transportation service.

The tax authorized pursuant to this section shall be in addition to the tax authorized by RCW 82.14.030 and shall be collected from those persons who are taxable by the state pursuant to chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within ~~((such city, county transportation authority, metropolitan municipal corporation, or public transportation benefit area, as the case may be))~~ the taxing district. The maximum rate of such tax shall be approved by the voters and shall not exceed one percent of the selling price (in the case of a sales tax) or value of the article used (in the case of a use tax). The maximum rate of such tax that may be imposed shall not exceed nine-tenths of one percent ~~((if))~~ in any county that imposes a tax ((is imposed in the county)) under RCW 82.14.340, or within a regional transit authority if any county within the authority imposes a tax under RCW 82.14.340.

**Sec. 29.** RCW 81.104.180 and 1990 c 43 s 44 are each amended to read as follows:

Cities that operate transit systems, county transportation authorities, metropolitan municipal corporations, ~~((and))~~ public transportation benefit areas, and regional transit authorities are authorized to pledge revenues from the employer tax authorized by RCW 81.104.150, the special motor vehicle excise tax authorized by RCW 81.104.160, and the sales and use tax authorized by RCW 81.104.170, to retire bonds issued solely for the purpose of providing high capacity transportation service.

**Sec. 30.** RCW 81.104.190 and 1990 c 43 s 45 are each amended to read as follows:

Cities that operate transit systems, county transportation authorities, metropolitan municipal corporations, ~~((and))~~ public transportation benefit areas, and regional transit systems may contract with the state department of revenue or other appropriate entities for administration and collection of any tax authorized by RCW 81.104.150, 81.104.160, and 81.104.170.

**NEW SECTION.** **Sec. 31.** A new section is added to chapter 47.80 RCW to read as follows:

**EXECUTIVE BOARD MEMBERSHIP.** In order to qualify for state planning funds available to regional transportation planning organizations, the regional transportation planning organizations containing any county with a population in excess of one million shall provide voting membership on its executive board to the state transportation commission, the state department of transportation, and the three largest public port districts within the region as determined by gross operating revenues. It shall further assure that at least fifty percent of the county and city local elected officials who serve on the executive board also serve on transit agency boards or on a regional transit authority.

**NEW SECTION.** **Sec. 32.** Sections 1 through 17 of this act shall constitute a new chapter in Title 81 RCW.

**NEW SECTION.** **Sec. 33.** Section headings as used in this act do not constitute any part of the law.

**NEW SECTION.** **Sec. 34.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION.** **Sec. 35.** This act shall take effect July 1, 1992.

Passed the House March 9, 1992.

Passed the Senate March 6, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

CHAPTER 102

[Substitute House Bill 2281]

PASSENGER TRAIN CREW SIZE REQUIREMENTS

Effective Date: 6/11/92

AN ACT Relating to passenger train crew size; and amending RCW 81.40.010.

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

Sec. 1. RCW 81.40.010 and 1961 c 14 s 81.40.010 are each amended to read as follows:

~~((It shall be unlawful for any person, corporation, company, or officer of court operating any railroad or railway, or part of any railroad or railway, in the state of Washington, and engaged, as a common carrier, in the transportation of freight or passengers, to operate over its road or any part thereof, or suffer or permit to be run over its road outside of the yard limits, any passenger, mail or express train consisting of four or more cars with less than a full passenger crew consisting of five men, to wit: one engineer, one fireman, one conductor, one brakeman and one flagman (said flagman to have had at least one year's experience in train service) and none of the said crew shall be required or permitted to perform the duties of train baggageman or express messenger while on the road))~~ No law or order of any regulatory agency of this state shall prevent a common carrier by railroad from staffing its passenger trains in accordance with collective bargaining agreements or any national or other applicable settlement of train crew size. In the absence of a collective bargaining agreement or any national or other applicable settlement of train crew size, any common carrier railroad operating a passenger train with a crew of less than two members shall be subject to a safety review by the Washington utilities and transportation commission, which, as to staffing, may issue an order requiring as many as two crew members.

Passed the House February 12, 1992.

Passed the Senate March 4, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

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CHAPTER 103

[Engrossed Substitute House Bill 2293]

CERTIFIED PUBLIC ACCOUNTANTS—

REVISED LICENSING AND PRACTICE REQUIREMENTS

Effective Date: 6/11/92

AN ACT Relating to accounting; amending RCW 18.04.015, 18.04.025, 18.04.035, 18.04.045, 18.04.055, 18.04.065, 18.04.105, 18.04.180, 18.04.205, 18.04.215, 18.04.295, 18.04.305, 18.04.335, 18.04.345, 18.04.350, 18.04.390, and 18.04.405; and adding a new section to chapter 18.04 RCW.

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

**Sec. 1.** RCW 18.04.015 and 1983 c 234 s 2 are each amended to read as follows:

(1) It is the policy of this state and the purpose of this chapter:

~~((1))~~ (a) To promote the dependability of information which is used for guidance in financial transactions or for accounting for or assessing the status or performance of commercial and noncommercial enterprises, whether public, private or governmental; and

~~((2))~~ (b) To protect the public interest by requiring that:

~~((a))~~ (i) Persons ~~((engaged in the practice of public accounting be qualified))~~ who hold themselves out to the public as certified public accountants who offer to perform, or perform for clients, professional services, including but not limited to one or more kinds of services involving the use of accounting or auditing skills, including the issuance of "audit reports," "review reports," or "compilation reports" on financial statements, or one or more kinds of management advisory, or consulting services, the preparation of tax returns, or the furnishing of advice on tax matters, perform such services in a competent and professional manner;

~~((b))~~ (ii) A public authority be established that is competent to prescribe and assess the qualifications of certified public accountants ~~((be established))~~, including certificate holders who are not licensed for the practice of public accounting;

~~((c))~~ (iii) Persons other than certified public accountants refrain from using the words "audit," "review," and "compilation" when designating a report customarily prepared by someone knowledgeable in accounting; and

~~((d))~~ (iv) The use of accounting titles likely to confuse the public be prohibited.

(2) A purpose of chapter ..., Laws of 1992 (this act), revising provisions of chapter 234, Laws of 1983, is to clarify the authority of the board of accountancy with respect to the activities of persons holding certificates under this chapter. Furthermore, it is not the intent of chapter ..., Laws of 1992 (this act) to in any way restrict or limit the activities of persons not holding certificates under this chapter except as otherwise specifically restricted or limited by chapter 234, Laws of 1983.

**Sec. 2.** RCW 18.04.025 and 1986 c 295 s 1 are each amended to read as follows:

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

(1) "Board" means the board of accountancy created by RCW 18.04.035.

(2) "Certified public accountant" or "CPA" means a person holding a certified public accountant certificate ~~((issued under this chapter or the accountancy act of any state)).~~

(3) "State" includes the states of the United States, the District of Columbia, Puerto Rico, Guam, and the United States Virgin Islands.

(4) "~~(Opinions)~~ Reports on financial statements" ~~((are))~~ means any reports or opinions prepared by certified public accountants, based on ~~((examinations))~~ services performed in accordance with generally accepted auditing standards, standards for attestation engagements, or standards for accounting and review services as to whether the presentation of information used for guidance in financial transactions or for accounting for or assessing the status or performance of commercial and noncommercial enterprises, whether public, private, or governmental, conforms with generally accepted accounting principles or other comprehensive bases of accounting.

(5) The "practice of public accounting" means performing ~~((services as one skilled in the knowledge and practice of public accounting and preparing reports designated as "audit reports," "review reports," and "compilation reports."))~~ or offering to perform by a person or firm holding itself out to the public as a licensee, for a client or potential client, one or more kinds of services involving the use of accounting or auditing skills, including the issuance of "audit reports," "review reports," or "compilation reports" on financial statements, or one or more kinds of management advisory, or consulting services, or the preparation of tax returns, or the furnishing of advice on tax matters. The "practice of public accounting" shall not include practices that are permitted under the provisions of RCW 18.04.350(6) by persons or firms not required to be licensed under this chapter.

(6) "Firm" means a sole proprietorship, a corporation, or a partnership.

(7) "CPE" means continuing professional education.

(8) "Certificate" means a certificate as a certified public accountant issued under this chapter, or a corresponding certificate issued by another state or foreign jurisdiction that is recognized in accordance with the reciprocity provisions of RCW 18.04.180 and section 18 of this act.

(9) "Licensee" means the holder of ~~((a certificate who also holds))~~ a valid license issued under this chapter.

(10) "License" means a biennial license to practice public accountancy issued to an individual or firm under this chapter.

(11) "Quality assurance review" means a process established by and conducted at the direction of the board of study, appraisal, or review of one or more aspects of the professional work of a person or firm in the practice of public accountancy, by a person or persons who hold certificates and who are not affiliated with the person or firm being reviewed.

(12) "Quality review" means a study, appraisal, or review of one or more aspects of the professional work of a person or firm in the practice of public accountancy, by a person or persons who hold certificates and who are not affiliated with the person or firm being reviewed, including a peer review, or any internal review or inspection intended to comply with quality control policies and procedures, but not including the "quality assurance review" under subsection (11) of this section.

(13) "Review committee" means any person carrying out, administering or overseeing a quality review authorized by the reviewee.

(14) "Rule" means any rule adopted by the board under authority of this chapter.

(15) "Holding out" means any representation to the public by the use of restricted titles as set forth in RCW 18.04.345 by a person or firm that the person or firm is a certified public accountant and that the person or firm offers to perform any professional services to the public as a certified public accountant. "Holding out" shall not affect or limit a person not required to hold a certificate under this chapter or a person or firm not required to hold a license under this chapter from engaging in practices identified in RCW 18.04.350(6).

**Sec. 3.** RCW 18.04.035 and 1986 c 295 s 2 are each amended to read as follows:

(1) There is created a board of accountancy for the state of Washington to be known as the Washington state board of accountancy. The board shall consist of ~~((five))~~ seven members appointed by the governor. Members of the board shall include four persons who hold valid certified public accountant certificates and have been in public practice as certified public accountants in this state continuously for the previous ten years and two persons who have held a valid certified public accountant's certificate in this state for at least ten years. The ~~((fifth))~~ seventh member shall be the public member and shall be a person who is qualified to judge whether the qualifications, activities, and professional practice of those regulated under this chapter conform with standards to protect the public interest.

(2) The members of the board of accountancy shall be appointed by the governor to a term of three years. Vacancies occurring during a term shall be filled by appointment for the unexpired term. Upon the expiration of a member's term of office, the member shall continue to serve until a successor has been appointed and has assumed office. The governor shall remove from the board any member whose certificate or license to practice has been revoked or suspended and may, after hearing, remove any member of the board for neglect of duty or other just cause. No person who has served two successive complete terms is eligible for reappointment. Appointment to fill an unexpired term is not considered a complete term. In order to stagger their terms, of the two new appointments made to the board upon the effective date of this act, the first appointed member shall serve a term of two years initially.

**Sec. 4.** RCW 18.04.045 and 1986 c 295 s 3 are each amended to read as follows:

(1) The board shall annually elect a ~~((chairman))~~ chair, a ~~((vice-chairman))~~ vice-chair, and a secretary from its members.

~~((The board may adopt and amend rules under chapter 34.05 RCW for the orderly conduct of its affairs and for the administration of this chapter.~~

(3)) A majority of the board constitutes a quorum for the transaction of business.

~~((4))~~ (3) The board shall have a seal which shall be judicially noticed.

~~((5))~~ (4) The board shall keep records of its proceedings, and of any proceeding in court arising from or founded upon this chapter. Copies of these records certified as correct under the seal of the board are admissible in evidence as tending to prove the content of the records.

~~((6))~~ (5) The governor shall appoint an executive director of the board, who shall serve at the pleasure of the governor. The executive director may employ such personnel as is appropriate for carrying out the purposes of this chapter. The executive director shall hold a Washington CPA certificate. The board may ((employ personnel and)) arrange for such volunteer assistance as it requires to perform its duties. Individuals or committees assisting the board ((under this subsection (6))) constitute volunteers for purposes of chapter 4.92 RCW.

~~((7))~~ Each member of the board shall receive compensation as provided under RCW 18.04.080.

(8)) (6) The board shall file an annual report of its activities with the governor. The report shall include, but not be limited to, a statement of all receipts and disbursements. Upon request, the board shall mail a copy of each annual report to any member of the public.

(7) In making investigations concerning alleged violations of the provisions of this chapter and in all proceedings under RCW 18.04.295 or chapter 34.05 RCW, the board chair, or a member of the board, or a board designee acting in the chair's place, may administer oaths or affirmations to witnesses appearing before the board, subpoena witnesses and compel their attendance, take testimony, and require that documentary evidence be submitted.

(8) The board may review the publicly available professional work of licensees on a general and random basis, without any requirement of a formal complaint or suspicion of impropriety on the part of any particular licensee. If as a result of such review the board discovers reasonable grounds for a more specific investigation, the board may proceed under its investigative and disciplinary rules.

Sec. 5. RCW 18.04.055 and 1986 c 295 s 4 are each amended to read as follows:

The board may adopt and amend rules under chapter 34.05 RCW for the orderly conduct of its affairs. The board shall prescribe rules consistent with this chapter as necessary to implement this chapter. Included may be:

- (1) Rules of procedure to govern the conduct of matters before the board;
- (2) Rules of professional conduct for all certificate and license holders, in order to establish and maintain high standards of competence and ((integrity in the profession)) ethics of certified public accountants including rules dealing with independence, integrity, objectivity, and freedom from conflicts of interest;

(3) Rules specifying actions and circumstances deemed to constitute holding oneself out as a licensee in connection with the practice of public accountancy;

(4) Rules specifying the manner and circumstances of the use of the titles "certified public accountant" and "CPA", by holders of certificates who do not also hold licenses under this chapter;

(5) Educational requirements to ~~((set for an))~~ take the certified public accountant examination or for the issuance of the certificate or license of certified public accountant;

~~((4))~~ (6) Rules designed to ensure that certified public accountants' ~~((opinions))~~ reports on financial statements" meet the definitional requirements for that term as specified in RCW 18.04.025;

~~((5))~~ (7) Requirements for continuing professional education to maintain or improve the professional competence of certificate and license holders as a condition to maintaining their certificate or license to practice under RCW 18.04.215;

~~((6-Regulations))~~ (8) Rules governing sole proprietors, partnerships, and corporations practicing public accounting including, but not limited to, rules concerning their style, name, title, and affiliation with any other organization, and establishing reasonable practice standards to protect the public interest;

~~((7))~~ (9) The board may by rule implement a quality assurance review program as a means to monitor licensees' quality of practice and compliance with professional standards. The board may exempt from such program, licensees who undergo periodic ~~((peer))~~ quality reviews in programs of the American Institute of Certified Public Accountants, National Association of State Boards of Accountancy, or other programs recognized and approved by the board ~~((by rule));~~

~~((8))~~ (10) The board may by rule require firms to obtain professional liability insurance if in the board's discretion such insurance provides additional and necessary protection for the public; and

~~((9))~~ (11) Any other rule which the board finds necessary or appropriate to implement this chapter.

**Sec. 6.** RCW 18.04.065 and 1983 c 234 s 24 are each amended to read as follows:

The board shall set its fees at a level adequate to pay the costs of administering this chapter. Beginning in the 1993-95 biennium, all fees for certified public accountants' licenses, certificates, renewals of licenses, renewals of certificates, and delinquent filings received under the authority of this chapter shall be deposited in the certified public accountants' account created by RCW 18.04.105. Appropriation from such account shall be made only for the cost of administering the provisions of this chapter.

**Sec. 7.** RCW 18.04.105 and 1991 sp.s. c 13 s 20 are each amended to read as follows:

(1) The certificate of "certified public accountant" shall be granted by the board to any person:

(a) Who is of good character. Good character, for purposes of this section, means lack of a history of dishonest or felonious acts. The board may refuse to grant a certificate on the ground of failure to satisfy this requirement only if there is a substantial connection between the lack of good character of the applicant and the professional responsibilities of a ~~((licensee))~~ certified public accountant and if the finding by the board of lack of good character is supported by a preponderance of evidence. When an applicant is found to be unqualified for a certificate because of a lack of good character, the board shall furnish the applicant a statement containing the findings of the board and a notice of the applicant's right of appeal;

(b) Who has met ~~((such))~~ the educational standards established by rule as the board determines to be appropriate; ~~((and))~~

The board may, in its discretion, waive the educational requirements for any person if it is satisfied through review of documentation of successful completion of an equivalency examination that the person's educational qualifications are an acceptable substitute for the requirements of (b) of this subsection; and

(c) Who has passed a written examination ~~((in accounting, auditing, and related subjects the board determines to be appropriate)).~~

(2) ~~The examination described in subsection (1)(c) of this section shall be ((held by the board and shall take place as often as the board determines to be desirable, but at least once a year. The board may use all or any part of the examination or grading service of the American Institute of Certified Public Accountants or National Association of State Boards of Accountancy to assist it in performing its duties under this chapter))~~ in writing, shall be held twice a year, and shall test the applicant's knowledge of the subjects of accounting and auditing, and other related fields the board may specify by rule. The time for holding the examination is fixed by the board and may be changed from time to time. The board shall prescribe by rule the methods of applying for and taking the examination, including methods for grading papers and determining a passing grade required of an applicant for a certificate. The board shall to the extent possible see to it that the grading of the examination, and the passing grades, are uniform with those applicable to all other states. The board may make use of all or a part of the uniform certified public accountant examination and advisory grading service of the American Institute of Certified Public Accountants and may contract with third parties to perform administrative services with respect to the examination as the board deems appropriate to assist it in performing its duties under this chapter.

(3) ~~((The board may, by rule, provide for granting credit to a person for satisfactory completion of a written examination in any one or more of the subjects specified in subsection (1)(c) of this section given by the licensing authority in any other state. These rules shall include requirements the board~~

determines to be appropriate in order that any examination approved as a basis for any credit shall, in the judgment of the board, be at least as thorough as the most recent examination given by the board at the time credit is granted)) An applicant is required to pass all sections of the examination provided for in subsection (2) of this section in order to qualify for a certificate. If at a given sitting of the examination an applicant passes two or more but not all sections, then the applicant shall be given credit for those sections that he or she passed, and need not take those sections again: PROVIDED, That:

(a) The applicant took all sections of the examination at that sitting;

(b) The applicant attained a minimum grade of fifty on each section not passed at that sitting;

(c) The applicant passes the remaining sections of the examination within six consecutive examinations given after the one at which the first sections were passed;

(d) At each subsequent sitting at which the applicant seeks to pass additional sections, the applicant takes all sections not yet passed; and

(e) In order to receive credit for passing additional sections in a subsequent sitting, the applicant attains a minimum grade of fifty on sections written but not passed on the sitting.

~~(4) ((The board may, by rule, prescribe the terms and conditions under which a person who passes the examination in one or more of the subjects indicated in subsection (1)(c) of this section may be reexamined in only the remaining subjects, giving credit for the subjects previously passed. It may also provide by rule for a reasonable waiting period for a person's reexamination in a subject he or she has failed. A person is entitled to any number of reexaminations, subject to this subsection and any other rules adopted by the board.~~

~~(5) A person passing the examination in any one or more subjects specified in subsection (1)(c) of this section shall meet the educational requirements of subsection (1)(b) of this section in effect on the date the person successfully completes the requirements of subsection (1)(c) of this section. The board may provide, by rule, for exceptions to prevent what it determines to be undue hardship to applicants)) The board may waive or defer any of the requirements of subsection (3) of this section for candidates transferring conditional CPA exam credits from other states or for qualifying reciprocity certification applicants who met the conditioning requirements of the state or foreign jurisdiction issuing their original certificate.~~

~~((6))~~ (5) The board shall charge each applicant an examination fee for the initial examination under subsection (1) of this section, or for reexamination under subsection ((4)) (3) of this section for each subject in which the applicant is reexamined. The applicable fee shall be paid by the person at the time he or she applies for examination, reexamination, or evaluation of educational qualifications. Fees for examination, reexamination, or evaluation of educational qualifications shall be determined by the board under chapter 18.04 RCW. There

is established in the state treasury an account to be known as the certified public accountants' account. All fees received from candidates to take any or all sections of the certified public accountant examination shall be used only for costs related to the examination.

~~((7))~~ (6) Persons who on June 30, 1986, held certified public accountant certificates previously issued under the laws of this state shall not be required to obtain additional certificates under this chapter, but shall otherwise be subject to this chapter. Certificates previously issued shall, for all purposes, be considered certificates issued under this chapter and subject to its provisions.

~~((8) Persons who held qualifications as licensed public accountants but who do not hold annual permits to practice on July 1, 1983, are not entitled to engage in the practice of public accounting under this chapter. No person shall use the term "licensed public accountant" or the designation "LPA."~~

(9)) (7) A certificate of a "certified public accountant" under this chapter is issued on a biennial basis with renewal subject to requirements of continuing professional education and payment of fees, prescribed by the board.

~~((10))~~ (8) The board shall adopt rules providing for continuing professional education for certified public accountants. The rules shall:

(a) Provide that a certified public accountant (~~(holding a certificate on July 1, 1986,)~~) shall verify to the board that he or she has completed at least ~~((ten days or))~~ an accumulation of eighty hours of continuing professional education during the last two-year period to maintain the certificate;

(b) Establish continuing professional education requirements;

(c) Establish when newly certificated public accountants shall verify that they have completed the required continuing professional education; and

(d) ~~((Establish proceedings for revocation, suspension, and reinstatement of certificates for failure to meet the continuing professional education requirement.~~

~~(11))~~ Provide that failure to furnish verification of the completion of the continuing professional education requirement ((constitutes grounds for revocation, suspension, or failure to renew the certificate)) shall make the certificate invalid and subject to reinstatement, unless the board determines that the failure was due to retirement, reasonable cause, or excusable neglect.

**Sec. 8.** RCW 18.04.180 and 1949 c 226 s 17 are each amended to read as follows:

The board shall ~~((authorize the issuance of a certificate as certified public accountant to any person who is the holder of a certificate, license, permit or degree authorizing him to practice as a certified public accountant in any state, territory, or possession of the United States, providing the requirements which such person has been called upon to meet in order to obtain such certificate, license, permit or degree were at least the equivalent of those for obtaining a certificate to practice as a certified public accountant in this state: AND PROVIDED, FURTHER, That such state, territory or possession makes similar provision to authorize a person who holds a valid certificate to practice in this~~

state as a certified public accountant to practice in such state, territory or possession as a certified public accountant)) issue a certificate to a holder of a certificate issued by another state, or shall issue a certificate and license to a holder of a certificate/valid license issued by another state that entitles the holder to practice public accountancy, provided that:

(1) Such state makes similar provision to grant reciprocity to a holder of a certificate or certificate and valid license in this state; and

(2) The applicant meets the continuing professional education requirements of RCW 18.04.105(8); and

(3) If the application is for a certificate only:

(a) The applicant passed the examination required for issuance of his or her certificate with grades that would have been passing grades at that time in this state; and

(b) The applicant: Meets all current requirements in this state for issuance of a certificate at the time application is made; or at the time of the issuance of the applicant's certificate in the other state, met all the requirements then applicable in this state; or

(4) If the application is for a certificate and license:

(a) The applicant passed the examination required for issuance of his or her certificate with grades that would have been passing grades at that time in this state; and

(b) The applicant: Meets all current requirements in this state for issuance of a license at the time application is made; or at the time of the issuance of the applicant's license in the other state, met all the requirements then applicable in this state; or has had five years of experience within the ten years immediately preceding application in the practice of public accountancy that meets the requirements prescribed by the board.

**Sec. 9.** RCW 18.04.205 and 1986 c 295 s 9 are each amended to read as follows:

(1) Each office established or maintained in this state for the practice of public accounting in this state by a certified public accountant, or a partnership or corporation of certified public accountants, shall register with the board under this chapter biennially.

(2) Each office shall be under the direct supervision of a resident licensee holding a license ~~((to practice))~~ under RCW 18.04.215 who may be a sole proprietor, partner, principal shareholder, or a staff employee.

(3) The board shall by rule prescribe the procedure to be followed to register and maintain offices established in this state for the practice of public accounting.

(4) Fees for the registration of offices shall be determined by the board. Fees shall be paid by the applicant at the time the registration form is filed with the board.

**Sec. 10.** RCW 18.04.215 and 1986 c 295 s 10 are each amended to read as follows:

(1) Biennial licenses (~~(to engage in the practice of public accounting in this state)~~) shall be issued by the board:

(a) To holders of certificates as certified public accountants who have demonstrated, in accordance with rules issued by the board, one year of public accounting experience, or such other experience or employment which the board in its discretion regards as substantially equivalent and who, if their certificate was issued more than forty-eight months prior to application under this section, submit to the board satisfactory proof of having completed an accumulation of eighty hours of continuing professional education during the twenty-four months preceding the application;

(b) To firms under RCW 18.04.195, if all offices of the firm in this state are maintained and registered as required under RCW 18.04.205.

(2) (~~All licenses to practice issued to persons born in an even numbered year expire on the last day of June of each even numbered year. All licenses to practice issued to persons born in an odd numbered year expire on the last day of June of each odd numbered year. Renewals of licenses to practice issued to individuals under subsection (1)(a) of this section shall be issued in accordance with subsection (4) of this section.~~) The board shall, by rule, provide for a system of certificate and license renewal. Applicants for issuance or renewal of certificates or licenses shall, at the time of filing their applications, list with the board all states and foreign jurisdictions in which they hold or have applied for certificates, permits or licenses to practice.

(3) A certified public accountant who holds a permit or license issued by another state, and applies for a license in this state, may practice in this state from the date of filing a completed application with the board, until the board has acted upon the application provided the application is made prior to holding out as a certified public accountant in this state and no sanctions or investigations, deemed by the board to be pertinent to public accountancy, by other jurisdictions or agencies are in process.

(4) (~~As a prerequisite to renewal of a license, a person practicing public accounting~~) A certified public accountant shall submit to the board satisfactory proof of having completed ((ten days or)) an accumulation of eighty hours of continuing education recognized and approved by the board during the preceding two years. Failure to furnish this evidence as required ((constitutes grounds for revocation, suspension, or refusal to renew the license in a proceeding under RCW 18.04.295)) shall make the certificate invalid and subject to reinstatement procedures, unless the board determines the failure to have been due to retirement, reasonable cause, or excusable neglect.

The board in its discretion may renew a ((biennial)) certificate or license ((to practice)) despite failure to furnish evidence of compliance with requirements of continuing professional education upon condition that the applicant follow a

particular program of continuing professional education. In issuing rules and individual orders with respect to continuing professional education requirements, the board, among other considerations, may rely upon guidelines and pronouncements of recognized educational and professional associations, may prescribe course content, duration, and organization, and may take into account the accessibility of continuing education to applicants and instances of individual hardship.

(5) Fees for ~~((biennial))~~ issuance or renewal of certificates and licenses ~~((to engage in the practice of public accounting))~~ in this state shall be determined by the board under chapter 18.04 RCW. Fees shall be paid by the applicant at the time the application form is filed with the board. The board, by rule, may provide for proration of fees for certificates and licenses issued between normal renewal dates.

**Sec. 11.** RCW 18.04.295 and 1986 c 295 s 11 are each amended to read as follows:

The board of accountancy shall have the power to revoke, suspend, ~~((or))~~ refuse to renew a certificate or license, and may impose a fine in an amount not to exceed one thousand dollars plus the board's investigative and legal costs in bringing charges against a certified public accountant, or impose conditions precedent to renewal of the certificate or license of any certified public accountant for any of the following causes:

(1) Fraud or deceit in obtaining a certificate as a certified public accountant, or in obtaining a license ~~((to practice public accounting under RCW 18.04.215))~~;

(2) Dishonesty, fraud, or negligence ~~((in the practice of public accounting))~~ while representing oneself as a CPA;

(3) A violation of any provision of this chapter;

(4) A violation of a rule of professional conduct promulgated by the board under the authority granted by this chapter;

(5) Conviction of a crime or an act constituting a crime under:

(a) The laws of this state;

(b) The laws of another state, and which, if committed within this state, would have constituted a crime under the laws of this state; or

(c) Federal law;

(6) Cancellation, revocation, suspension, or refusal to renew the authority to practice as a certified public accountant by any other state for any cause other than failure to pay a fee or to meet the requirements of continuing education in the other state;

(7) Suspension or revocation of the right to practice matters relating to public accounting before any state or federal agency;

For purposes of subsections (6) and (7) of this section, a certified copy of such revocation, suspension, or refusal to renew shall be prima facie evidence;

(8) Failure to maintain compliance with the requirements for issuance, renewal, or reinstatement of the certificate or license, or to report changes to the board;

(9) Failure to cooperate with the board by:

(a) Failure to furnish any papers or documents requested or ordered by the board;

(b) Failure to furnish in writing a full and complete explanation covering the matter contained in the complaint filed with the board or the inquiry of the board;

(c) Failure to respond to subpoenas issued by the board, whether or not the recipient of the subpoena is the accused in the proceeding.

**Sec. 12.** RCW 18.04.305 and 1986 c 295 s 12 are each amended to read as follows:

The board of accountancy may revoke, suspend, or refuse to renew the license issued to a firm if at any time the firm does not meet the requirements of this chapter for licensing, or for any of the causes enumerated in RCW 18.04.295, or for any of the following additional causes:

(1) The revocation or suspension of the certificate as a certified public accountant or the revocation or suspension or refusal to renew the certificate or license of any partner or shareholder; or

(2) The revocation, suspension, or refusal to renew the license or permit of the firm, or any partner or shareholder thereof, to practice public accounting in any other state or foreign jurisdiction for any cause other than failure to pay a fee or to meet the requirements of continuing professional education in the other state or foreign jurisdiction.

**Sec. 13.** RCW 18.04.335 and 1986 c 295 s 14 are each amended to read as follows:

Upon application in writing and after hearing pursuant to notice, the board may:

(1) ~~((Reissue a certificate to a certified public accountant))~~ Modify the suspension of, or reissue a certificate or license to, an individual whose certificate has been revoked or suspended; or

(2) Modify the suspension of, or reissue ~~((any))~~ a license to ~~((practice which))~~ a firm whose license has been revoked, suspended, or which the board has refused to renew.

**Sec. 14.** RCW 18.04.345 and 1986 c 295 s 15 are each amended to read as follows:

(1) No person may ~~((hold himself or herself out to the public, or))~~ assume or use the designation "certified public accountant" or "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person is a certified public accountant or CPA unless the person ~~((has received a))~~ holds a valid certificate as a certified public accountant~~((, holds a valid license to practice under RCW 18.04.215, and all of the person's offices~~

~~in this state for the practice of public accounting are maintained and registered under RCW 18.04.205)).~~

(2) No person may hold himself or herself out to the public and assume or use the designation "certified public accountant" or "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person is a certified public accountant or CPA unless the person holds a valid certificate as a certified public accountant and holds a valid license to practice under RCW 18.04.215.

(3) No firm may hold itself out to the public, or assume or use the designation "certified public accountant" or "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the firm is composed of certified public accountants or CPAs, unless the firm is licensed under RCW 18.04.195, holds a valid license to practice under RCW 18.04.215, and all offices of the firm in this state for the practice of public accounting are maintained and registered under RCW 18.04.205.

~~((3))~~ (4) No person, partnership, or corporation may hold himself, herself, or itself out to the public, or assume or use along, or in connection with his, hers, or its name, or any other name the title or designation "certified accountant," "chartered accountant," "licensed accountant," "licensed public accountant," "public accountant," or any other title or designation likely to be confused with "certified public accountant" or any of the abbreviations "CA," "LA," "LPA," or "PA," or similar abbreviations likely to be confused with "CPA." However, nothing in this chapter prohibits use of the title "accountant" by any person regardless of whether the person has been granted a certificate or holds a license under this chapter.

~~((4))~~ (5) No person may sign, affix, or associate his or her name or any trade or assumed name used by the person in his or her business to any report designated as an "audit," "review," or "compilation," unless the person holds a biennial license to practice under RCW 18.04.215 and all of the person's offices in this state for the practice of public accounting are maintained and licensed under RCW 18.04.205.

~~((5))~~ (6) No person may sign, affix, or associate a firm name to any report designated as an "audit," "review," or "compilation," unless the firm is licensed under RCW 18.04.195 and 18.04.215, and all of its offices in this state for the practice of public accounting are maintained and registered under RCW 18.04.205.

~~((6))~~ (7) No person, partnership, or corporation not holding a license to practice under RCW 18.04.215 may hold himself, herself, or itself out to the public as an "auditor" with or without any other description or designation by use of such word on any sign, card, letterhead, or in any advertisement or directory.

~~((7) Nothing contained in this chapter prohibits any person who is the holder of a valid certified public accountant certificate from assuming or using the designation "certified public accountant" or "CPA" or any other title,~~

~~designation, words, letters, sign, card, or device tending to indicate that the person is a certified public accountant.))~~

(8) No person may assume or use the designation "certified public accountant" or "CPA" in conjunction with names indicating or implying that there is a partnership or corporation, if there is in fact no bona fide partnership or corporation registered under RCW 18.04.195.

(9) No person, partnership, or corporation holding a license under RCW 18.04.215 may hold himself, herself, or itself out to the public in conjunction with the designation "and Associates" or "and Assoc." unless he or she has in fact a partner or employee who holds a license under RCW 18.04.215.

~~((10) No person, partnership, or corporation may hold himself, herself, or itself out to the public for the practice of public accounting unless the person, partnership, or corporation holds a license to practice under RCW 18.04.215 and all of his or its offices in this state are maintained and registered under RCW 18.04.205.))~~

**Sec. 15.** RCW 18.04.350 and 1986 c 295 s 16 are each amended to read as follows:

(1) Nothing in this chapter prohibits any person not a certified public accountant from serving as an employee of, or as assistant to, a certified public accountant or partnership composed of certified public accountants or corporation of certified public accountants holding a valid license under RCW 18.04.215. However, the employee or assistant shall not issue any accounting or financial statement over his or her name.

(2) Nothing in this chapter prohibits a certified public accountant registered in another state, or any accountant of a foreign country holding a certificate, degree or license which permits him to practice therein from temporarily practicing in this state on professional business incident to his regular practice.

(3) Nothing in this chapter prohibits a certified public accountant, a partnership, or corporation of certified public accountants, or any of their employees from disclosing any data in confidence to other certified public accountants, quality or peer review teams, partnerships, or corporations of public accountants or to the board or any of its employees engaged in conducting quality, quality assurance, or peer reviews, or any one of their employees in connection with quality or peer reviews of that accountant's accounting and auditing practice conducted under the auspices of recognized professional associations.

(4) Nothing in this chapter prohibits a certified public accountant, a partnership, or corporation of certified public accountants, or any of their employees from disclosing any data in confidence to any employee, representative, officer, or committee member of a recognized professional association, or to the board of accountancy, or any of its employees or committees in connection with a professional investigation held under the auspices of recognized professional associations or the board of accountancy.

(5) Nothing in this chapter prohibits any officer, employee, partner, or principal of any organization:

(a) From affixing his or her signature to any statement or report in reference to the affairs of the organization with any wording designating the position, title, or office which he or she holds in the organization; or

(b) From describing himself or herself by the position, title, or office he or she holds in such organization.

(6) Nothing in this chapter prohibits any person, or partnership or corporation composed of persons not holding a license under RCW 18.04.215 from offering or rendering to the public bookkeeping, accounting, ~~((and))~~ tax services, ~~((including))~~ the devising and installing of financial information systems, ((financial information or data, or preparing financial)) management advisory, or consulting services, the preparation of tax returns, or the furnishing of advice on tax matters, the preparation of financial statements, written statements describing how such financial statements were prepared, or similar services, provided that persons, partnerships, or corporations not holding a license under RCW 18.04.215 who offer or render these services do not designate any written statement as an "audit report," "review report," or "compilation report," do not issue any written statement which purports to express or disclaim an opinion on financial statements which have been audited, and do not issue any written statement which expresses assurance on financial statements which have been reviewed.

(7) Nothing in this chapter prohibits any act of or the use of any words by a public official or a public employee in the performance of his or her duties.

(8) Nothing contained in this chapter prohibits any person who holds only a valid certified public accountant certificate from assuming or using the designation "certified public accountant" or "CPA" or any other title, designation, words, letters, sign, card, or device tending to indicate the person is a certified public accountant, provided, that such person shall not hold himself or herself out to the public as engaged in the practice of public accounting unless that person holds a valid license in addition to the certificate under RCW 18.04.215.

**Sec. 16.** RCW 18.04.390 and 1986 c 295 s 18 are each amended to read as follows:

(1) In the absence of an express agreement between the certified public accountant and the client to the contrary, all statements, records, schedules, working papers, and memoranda made by a certified public accountant incident to or in the course of professional service to clients, except reports submitted by a certified public accountant to a client, are the property of the certified public accountant.

(2) No statement, record, schedule, working paper, or memorandum may be sold, transferred, or bequeathed without the consent of the client or his or her personal representative or assignee, to anyone other than one or more surviving partners, shareholders, or new partners or new shareholders of the accountant or

corporation, or any combined or merged partnership or corporation, or successor in interest.

(3) A licensee shall furnish to the board or to his or her client or former client, upon request and reasonable notice:

(a) A copy of the licensee's working papers, to the extent that such working papers include records that would ordinarily constitute part of the client's records and are not otherwise available to the client; and

(b) Any accounting or other records belonging to, or obtained from or on behalf of, the client that the licensee removed from the client's premises or received for the client's account; the licensee may make and retain copies of such documents of the client when they form the basis for work done by him or her.

(4) Nothing in this section shall require a licensee to keep any work paper beyond the period prescribed in any other applicable statute.

Sec. 17. RCW 18.04.405 and 1986 c 295 s 19 are each amended to read as follows:

(1) A certified public accountant, a partnership or corporation of certified public accountants, or any of their employees shall not disclose any confidential information obtained in the course of a professional transaction except with the consent of the client or former client or as disclosure may be required by law, legal process, the standards of the profession, or as disclosure of confidential information is permitted by RCW 18.04.350 (3) and (4), 18.04.295(8), 18.04.390, and this section in connection with quality, quality assurance, or peer reviews ((and)), investigations, and any proceeding under chapter 34.05 RCW.

(2) This section shall not be construed as limiting the authority of this state or of the United States or an agency of this state, the board, or of the United States to subpoena and use such information in connection with any investigation, public hearing, or other proceeding, nor shall this section be construed as prohibiting a certified public accountant whose professional competence has been challenged in a court of law or before an administrative agency from disclosing confidential information as a part of a defense to the court action or administrative proceeding.

(3) The proceedings, records, and work papers of a review committee shall be privileged and shall not be subject to discovery, subpoena, or other means of legal process or introduction into evidence in any civil action, arbitration, administrative proceeding, or state accountancy board proceeding and no member of the review committee or person who was involved in the quality review process shall be permitted or required to testify in any such civil action, arbitration, administrative proceeding, or state accountancy board proceeding as to any matter produced, presented, disclosed, or discussed during or in connection with the quality review process, or as to any findings, recommendations, evaluations, opinions, or other actions of such committees, or any members thereof. Information, documents, or records that are publicly available are not

to be construed as immune from discovery or use in any civil action, arbitration, administrative proceeding, or state accountancy board proceeding merely because they were presented or considered in connection with the quality review process.

**NEW SECTION. Sec. 18.** A new section is added to chapter 18.04 RCW to read as follows:

The board shall grant a certificate or license as a certified public accountant to a holder of a permit, license, or certificate issued by a foreign country's board, agency, or institute, provided that:

(1) The foreign country where the foreign permit, license, or certificate was issued is a party to an agreement on trade with the United States that encourages the mutual recognition of licensing and certification requirements for the provision of covered services by the parties under the trade agreement; and

(2) Such foreign country's board, agency, or institute makes similar provision to allow a person who holds a valid certificate issued by this state to obtain such foreign country's comparable permit, license, or certificate; and

(3) The foreign permit, license, or certificate:

(a) Was duly issued by such foreign country's board, agency, or institute that regulates the practice of public accountancy; and

(b) Is in good standing at the time of the application; and

(c) Was issued upon the basis of educational, examination, and ethical requirements substantially equivalent currently or at the time of issuance of the foreign permit, license, or certificate to those in this state; and

(4) The applicant has within the twenty-four months prior to application completed an accumulation of eighty hours of continuing professional education as required under RCW 18.04.105(8); and

(5) If the application is for a certificate:

(a) The applicant's foreign permit, license, or certificate was the type of permit, license, or certificate requiring the most stringent qualifications if, in the foreign country, more than one type of permit, license, or certificate is issued. This state's board shall decide which are the most stringent qualifications; and

(b) The applicant has passed a written examination or its equivalent, approved by the board, that tests knowledge in the areas of United States accounting principles, auditing standards, commercial law, income tax law, and Washington state rules of professional ethics; or

(6) If the application is for a certificate and license:

(a) The requirements of subsections (1) through (5) of this section are satisfied; and

(b) The applicant has within the five years prior to applying for the certificate and license under this section, demonstrated, in accordance with the rules issued by the board, one year of public accounting experience, within the foreign country where the foreign permit, license, or certificate was issued, equivalent to the experience required under RCW 18.04.215(1)(a) or such other

experience or employment which the board in its discretion regards as substantially equivalent.

Passed the House March 8, 1992.

Passed the Senate March 5, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

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## CHAPTER 104

[Substitute House Bill 2055]

### FACILITIES FOR VULNERABLE ADULTS—CRIMINAL HISTORY OF EMPLOYEES

Effective Date: 6/11/92

AN ACT Relating to criminal history background checks; and amending RCW 43.43.842.

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

**Sec. 1.** RCW 43.43.842 and 1989 c 334 s 11 are each amended to read as follows:

(1) The secretary of social and health services and the secretary of health shall adopt additional requirements for the licensure or relicensure of agencies or facilities which provide care and treatment to vulnerable adults. These additional requirements shall ensure that any person associated with a licensed agency or facility having direct contact with a vulnerable adult shall not have been: ~~((1))~~ (a) Convicted of a crime against persons as defined in RCW 43.43.830, except as provided in this section; ~~((2))~~ (b) convicted of crimes relating to financial exploitation ~~((of a vulnerable adult))~~ as defined in RCW 43.43.830, except as provided in this section; ~~((3))~~ (c) found in any disciplinary board final decision to have abused a vulnerable adult under RCW 43.43.830; or ~~((4))~~ (d) the subject in a protective proceeding under chapter 74.34 RCW.

(2) The rules adopted under this section shall permit the licensee to consider the criminal history of an applicant for employment in a licensed facility when the applicant has one or more convictions for a past offense and:

(a) The offense was simple assault, assault in the fourth degree, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(b) The offense was prostitution, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(c) The offense was theft in the third degree, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(d) The offense was theft in the second degree, or the same offense as it may be renamed, and five or more years have passed between the most recent conviction and the date of application for employment;

(e) The offense was forgery, or the same offense as it may be renamed, and five or more years have passed between the most recent conviction and the date of application for employment.

The offenses set forth in (a) through (e) of this subsection do not automatically disqualify an applicant from employment by a licensee. Nothing in this section may be construed to require the employment of any person against a licensee's judgment.

In consultation with law enforcement personnel, the secretary of social and health services and the secretary of health shall investigate the conviction record and the protection proceeding record information under chapter 43.43 RCW of each agency or facility and its staff under their respective jurisdictions seeking licensure or relicensure. The ~~((secretary))~~ secretaries shall use the information solely for the purpose of determining eligibility for licensure or relicensure. Criminal justice agencies shall provide the ~~((secretary))~~ secretaries such information as they may have and that the ~~((secretary))~~ secretaries may require for such purpose.

Passed the House March 7, 1992.

Passed the Senate March 4, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

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## CHAPTER 105

[Engrossed Senate Bill 6128]

### SHORELINE EROSION—PROTECTION OF SINGLE FAMILY RESIDENCES AND APPURTENANT STRUCTURES

Effective Date: 6/11/92

AN ACT Relating to erosion of shoreline uplands used for residential purposes; and amending RCW 90.58.020, 90.58.100, and 90.58.140.

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

**Sec. 1.** RCW 90.58.020 and 1982 1st ex.s. c 13 s 1 are each amended to read as follows:

The legislature finds that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration, and preservation. In addition it finds that ever increasing pressures of additional uses are being placed on the shorelines necessitating increased coordination in the management and development of the shorelines of the state. The legislature further finds that much of the shorelines of the state and the uplands adjacent thereto are in private ownership; that unrestricted construction on the privately owned or publicly owned shorelines of the state is not in the best public interest; and therefore, coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state while, at the same time,

recognizing and protecting private property rights consistent with the public interest. There is, therefore, a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.

It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto.

The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of state-wide significance. The department, in adopting guidelines for shorelines of state-wide significance, and local government, in developing master programs for shorelines of state-wide significance, shall give preference to uses in the following order of preference which:

- (1) Recognize and protect the state-wide interest over local interest;
- (2) Preserve the natural character of the shoreline;
- (3) Result in long term over short term benefit;
- (4) Protect the resources and ecology of the shoreline;
- (5) Increase public access to publicly owned areas of the shorelines;
- (6) Increase recreational opportunities for the public in the shoreline;
- (7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state. Alterations of the natural condition of the shorelines and wetlands of the state shall be recognized

by the department. Shorelines and wetlands of the state shall be appropriately classified and these classifications shall be revised when circumstances warrant regardless of whether the change in circumstances occurs through man-made causes or natural causes. Any areas resulting from alterations of the natural condition of the shorelines and wetlands of the state no longer meeting the definition of "shorelines of the state" shall not be subject to the provisions of chapter 90.58 RCW.

Permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

**Sec. 2.** RCW 90.58.100 and 1991 c 322 s 32 are each amended to read as follows:

(1) The master programs provided for in this chapter, when adopted and approved by the department, as appropriate, shall constitute use regulations for the various shorelines of the state. In preparing the master programs, and any amendments thereto, the department and local governments shall to the extent feasible:

(a) Utilize a systematic interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts;

(b) Consult with and obtain the comments of any federal, state, regional, or local agency having any special expertise with respect to any environmental impact;

(c) Consider all plans, studies, surveys, inventories, and systems of classification made or being made by federal, state, regional, or local agencies, by private individuals, or by organizations dealing with pertinent shorelines of the state;

(d) Conduct or support such further research, studies, surveys, and interviews as are deemed necessary;

(e) Utilize all available information regarding hydrology, geography, topography, ecology, economics, and other pertinent data;

(f) Employ, when feasible, all appropriate, modern scientific data processing and computer techniques to store, index, analyze, and manage the information gathered.

(2) The master programs shall include, when appropriate, the following:

(a) An economic development element for the location and design of industries, transportation facilities, port facilities, tourist facilities, commerce and other developments that are particularly dependent on their location on or use of the shorelines of the state;

(b) A public access element making provision for public access to publicly owned areas;

(c) A recreational element for the preservation and enlargement of recreational opportunities, including but not limited to parks, tidelands, beaches, and recreational areas;

(d) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other public utilities and facilities, all correlated with the shoreline use element;

(e) A use element which considers the proposed general distribution and general location and extent of the use on shorelines and adjacent land areas for housing, business, industry, transportation, agriculture, natural resources, recreation, education, public buildings and grounds, and other categories of public and private uses of the land;

(f) A conservation element for the preservation of natural resources, including but not limited to scenic vistas, aesthetics, and vital estuarine areas for fisheries and wildlife protection;

(g) An historic, cultural, scientific, and educational element for the protection and restoration of buildings, sites, and areas having historic, cultural, scientific, or educational values;

(h) An element that gives consideration to the state-wide interest in the prevention and minimization of flood damages; and

(i) Any other element deemed appropriate or necessary to effectuate the policy of this chapter.

(3) The master programs shall include such map or maps, descriptive text, diagrams and charts, or other descriptive material as are necessary to provide for ease of understanding.

(4) Master programs will reflect that state-owned shorelines of the state are particularly adapted to providing wilderness beaches, ecological study areas, and other recreational activities for the public and will give appropriate special consideration to same.

(5) Each master program shall contain provisions to allow for the varying of the application of use regulations of the program, including provisions for permits for conditional uses and variances, to insure that strict implementation of a program will not create unnecessary hardships or thwart the policy enumerated in RCW 90.58.020. Any such varying shall be allowed only if extraordinary circumstances are shown and the public interest suffers no substantial detrimental effect. The concept of this subsection shall be incorporated in the rules adopted by the department relating to the establishment of a permit system as provided in RCW 90.58.140(3).

(6) Each master program shall contain standards governing the protection of single family residences and appurtenant structures against damage or loss due to shoreline erosion. The standards shall govern the issuance of substantial development permits for shoreline protection, including structural methods such as construction of bulkheads, and nonstructural methods of protection. The standards shall provide for methods which achieve effective and timely protection

against loss or damage to single family residences and appurtenant structures due to shoreline erosion. The standards shall provide a preference for permit issuance for measures to protect single family residences occupied prior to January 1, 1992, where the proposed measure is designed to minimize harm to the shoreline natural environment.

Sec. 3. RCW 90.58.140 and 1990 c 201 s 2 are each amended to read as follows:

(1) A development shall not be undertaken on the shorelines of the state unless it is consistent with the policy of this chapter and, after adoption or approval, as appropriate, the applicable guidelines, rules, or master program.

(2) A substantial development shall not be undertaken on shorelines of the state without first obtaining a permit from the government entity having administrative jurisdiction under this chapter.

A permit shall be granted:

(a) From June 1, 1971, until such time as an applicable master program has become effective, only when the development proposed is consistent with: (i) The policy of RCW 90.58.020; and (ii) after their adoption, the guidelines and rules of the department; and (iii) so far as can be ascertained, the master program being developed for the area;

(b) After adoption or approval, as appropriate, by the department of an applicable master program, only when the development proposed is consistent with the applicable master program and the provisions of chapter 90.58 RCW.

(3) The local government shall establish a program, consistent with rules adopted by the department, for the administration and enforcement of the permit system provided in this section. The administration of the system so established shall be performed exclusively by the local government.

(4) Except as otherwise specifically provided in subsection (13) of this section, the local government shall require notification of the public of all applications for permits governed by any permit system established pursuant to subsection (3) of this section by ensuring that:

(a) A notice of such an application is published at least once a week on the same day of the week for two consecutive weeks in a legal newspaper of general circulation within the area in which the development is proposed; and

(b) Additional notice of such an application is given by at least one of the following methods:

(i) Mailing of the notice to the latest recorded real property owners as shown by the records of the county assessor within at least three hundred feet of the boundary of the property upon which the substantial development is proposed;

(ii) Posting of the notice in a conspicuous manner on the property upon which the project is to be constructed; or

(iii) Any other manner deemed appropriate by local authorities to accomplish the objectives of reasonable notice to adjacent landowners and the public.

The notices shall include a statement that any person desiring to submit written comments concerning an application, or desiring to receive a copy of the final order concerning an application as expeditiously as possible after the issuance of the order, may submit the comments or requests for orders to the local government within thirty days of the last date the notice is to be published pursuant to subsection (a) of this subsection. The local government shall forward, in a timely manner following the issuance of an order, a copy of the order to each person who submits a request for the order.

If a hearing is to be held on an application, notices of such a hearing shall include a statement that any person may submit oral or written comments on an application at the hearing.

(5) The system shall include provisions to assure that construction pursuant to a permit will not begin or be authorized until thirty days from the date the final order was filed as provided in subsection (6) of this section; or until all review proceedings are terminated if the proceedings were initiated within thirty days from the date of filing as defined in subsection (6) of this section except as follows:

(a) In the case of any permit issued to the state of Washington, department of transportation, for the construction and modification of SR 90 (I-90) on or adjacent to Lake Washington, the construction may begin after thirty days from the date of filing, and the permits are valid until December 31, 1995;

(b) If a permit is granted by the local government and (i) the granting of the permit is appealed to the shorelines hearings board within thirty days of the date of filing, (ii) the hearings board approves the granting of the permit by the local government or approves a portion of the substantial development for which the local government issued the permit, and (iii) an appeal for judicial review of the hearings board decision is filed pursuant to chapter 34.05 RCW, the permittee may request, within ten days of the filing of the appeal with the court, a hearing before the court to determine whether construction may begin pursuant to the permit approved by the hearings board or to a revised permit issued pursuant to the order of the hearings board. If, at the conclusion of the hearing, the court finds that construction pursuant to such a permit would not involve a significant, irreversible damaging of the environment, the court may allow the permittee to begin the construction pursuant to the approved or revised permit as the court deems appropriate. The court may require the permittee to post bonds, in the name of the local government that issued the permit, sufficient to remove the substantial development or to restore the environment if the permit is ultimately disapproved by the courts, or to alter the substantial development if the alteration is ultimately ordered by the courts. Construction pursuant to a permit revised at the direction of the hearings board may begin only on that portion of the substantial development for which the local government had originally issued the permit, and construction pursuant to such a revised permit on other portions of the substantial development may not begin until after all review proceedings are

terminated. In such a hearing before the court, the burden of proving whether the construction may involve significant irreversible damage to the environment and demonstrating whether such construction would or would not be appropriate is on the appellant;

(c) If a permit is granted by the local government and the granting of the permit is appealed directly to the superior court for judicial review pursuant to the proviso in RCW 90.58.180(1), the permittee may request the court to remand the appeal to the shorelines hearings board, in which case the appeal shall be so remanded and construction pursuant to such a permit shall be governed by the provisions of subsection (b) of this subsection or may otherwise begin after review proceedings before the hearings board are terminated if judicial review is not thereafter requested pursuant to chapter 34.05 RCW;

(d) If the permit is for a substantial development meeting the requirements of subsection (13) of this section, construction pursuant to that permit may not begin or be authorized until thirty days from the date the final order was filed as provided in subsection (6) of this section.

If a permittee begins construction pursuant to subsections (a), (b), (c), or (d) of this subsection, the construction is begun at the permittee's own risk. If, as a result of judicial review, the courts order the removal of any portion of the construction or the restoration of any portion of the environment involved or require the alteration of any portion of a substantial development constructed pursuant to a permit, the permittee is barred from recovering damages or costs involved in adhering to such requirements from the local government that granted the permit, the hearings board, or any appellant or intervener.

(6) Any ruling on an application for a permit under the authority of this section, whether it is an approval or a denial, shall, concurrently with the transmittal of the ruling to the applicant, be filed with the department and the attorney general. With regard to a permit other than a permit governed by subsection (12) of this section, "date of filing" as used herein means the date of actual receipt by the department. With regard to a permit for a variance or a conditional use, "date of filing" means the date a decision of the department rendered on the permit pursuant to subsection (12) of this section is transmitted by the department to the local government. The department shall notify in writing the local government and the applicant of the date of filing.

(7) Applicants for permits under this section have the burden of proving that a proposed substantial development is consistent with the criteria that must be met before a permit is granted. In any review of the granting or denial of an application for a permit as provided in RCW 90.58.180 (1) and (2), the person requesting the review has the burden of proof.

(8) Any permit may, after a hearing with adequate notice to the permittee and the public, be rescinded by the issuing authority upon the finding that a permittee has not complied with conditions of a permit. If the department is of the opinion that noncompliance exists, the department shall provide written notice

to the local government and the permittee. If the department is of the opinion that the noncompliance continues to exist thirty days after the date of the notice, and the local government has taken no action to rescind the permit, the department may petition the hearings board for a rescission of the permit upon written notice of the petition to the local government and the permittee if the request by the department is made to the hearings board within fifteen days of the termination of the thirty-day notice to the local government.

(9) The holder of a certification from the governor pursuant to chapter 80.50 RCW shall not be required to obtain a permit under this section.

(10) A permit shall not be required for any development on shorelines of the state included within a preliminary or final plat approved by the applicable state agency or local government before April 1, 1971, if:

(a) The final plat was approved after April 13, 1961, or the preliminary plat was approved after April 30, 1969; and

(b) The development is completed within two years after June 1, 1971.

(11) The applicable state agency or local government is authorized to approve a final plat with respect to shorelines of the state included within a preliminary plat approved after April 30, 1969, and before April 1, 1971: **PROVIDED**, That any substantial development within the platted shorelines of the state is authorized by a permit granted pursuant to this section, or does not require a permit as provided in subsection (10) of this section, or does not require a permit because of substantial development occurred before June 1, 1971.

(12) Any permit for a variance or a conditional use by local government under approved master programs must be submitted to the department for its approval or disapproval.

(13)(a) An application for a substantial development permit for a limited utility extension or for the construction of a bulkhead or other measures to protect a single family residence and its appurtenant structures from shoreline erosion shall be subject to the following procedures:

(i) The public comment period under subsection (4) of this section shall be twenty days. The notice provided under subsection (4) of this section shall state the manner in which the public may obtain a copy of the local government decision on the application no later than two days following its issuance;

(ii) The local government shall issue its decision to grant or deny the permit within twenty-one days of the last day of the comment period specified in (i) of this subsection; and

(iii) If there is an appeal of the decision to grant or deny the permit to the local government legislative authority, the appeal shall be finally determined by the legislative authority within thirty days.

(b) For purposes of this section, a limited utility extension means the extension of a utility service that:

(i) Is categorically exempt under chapter 43.21C RCW for one or more of the following: Natural gas, electricity, telephone, water, or sewer;

~~((b)-(ii))~~ (ii) Will serve an existing use in compliance with this chapter; and

~~((e)-(iii))~~ (iii) Will not extend more than twenty-five hundred linear feet within the shorelines of the state.

Passed the Senate March 12, 1992.

Passed the House March 11, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

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## CHAPTER 106

[Substitute Senate Bill 5557]

### RETRACEMENT OR RESURVEY OF BOUNDARIES— WHEN RECORDING OF SURVEY NOT REQUIRED

Effective Date: 6/1/92

AN ACT Relating to recording of surveys; amending RCW 58.09.090; and adding a new section to chapter 58.09 RCW.

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

**Sec. 1.** RCW 58.09.090 and 1973 c 50 s 9 are each amended to read as follows:

(1) A record of survey is not required of any survey:

(a) When it has been made by a public officer in his official capacity and a reproducible copy thereof has been filed with the county engineer of the county in which the land is located. A map so filed shall be indexed and kept available for public inspection. A record of survey shall not be required of a survey made by the United States bureau of land management. A state agency conducting surveys to carry out the program of the agency shall not be required to use a land surveyor as defined by this chapter;

(b) When it is of a preliminary nature;

(c) When a map is in preparation for recording or shall have been recorded in the county under any local subdivision or platting law or ordinance;

(d) When it is a retracement or resurvey of boundaries of platted lots, tracts, or parcels shown on a filed or recorded and surveyed subdivision plat or filed or recorded and surveyed short subdivision plat in which monuments have been set to mark all corners of the block or street centerline intersections, provided that no discrepancy is found as compared to said recorded information or information revealed on other subsequent public survey map records, such as a record of survey or city or county engineer's map. If a discrepancy is found, that discrepancy must be clearly shown on the face of the required new record of survey. For purposes of this exemption, the term discrepancy shall include:

(i) A nonexisting or displaced original or replacement monument from which the parcel is defined and which nonexistence or displacement has not been previously revealed in the public record;

(ii) A departure from proportionate measure solutions which has not been revealed in the public record;

(iii) The presence of any physical evidence of encroachment or overlap by occupation or improvement; or

(iv) Differences in linear and/or angular measurement between all controlling monuments that would indicate differences in spatial relationship between said controlling monuments in excess of 0.50 feet when compared with all locations of public record: That is, if these measurements agree with any previously existing public record plat or map within the stated tolerance, a discrepancy will not be deemed to exist under this subsection.

(2) Surveys exempted by foregoing subsections of this section shall require filing of a record of corner information pursuant to RCW 58.09.040(2).

***\*NEW SECTION. Sec. 2. A new section is added to chapter 58.09 RCW to read as follows:***

***When the public interest will be served, the department of natural resources shall adopt rules and regulations limiting the exemption under RCW 58.09.090 over instances when retracements or resurveys are not required to be recorded.***

***\*Sec. 2 was vetoed, see message at end of chapter.***

Passed the Senate March 7, 1992.

Passed the House March 4, 1992.

Approved by the Governor March 31, 1992, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State March 31, 1992.

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

"I am returning herewith, without my approval as to section 2, Substitute Senate Bill No. 5557 entitled:

"AN ACT Relating to recording of surveys."

Section 1 of Substitute Senate Bill No. 5557 amends the Survey Recording Act of 1973 (RCW 58.09) by clearly specifying when a record of survey is not required. Section 2 requires the Department of Natural Resources to adopt rules and regulations limiting the exemptions when the public interest will be served.

I support the legislature's desire to protect the public interest in matters related to land surveys. I am concerned, however, that section 2 authorizes the Department of Natural Resources to override policies established in statute by the adoption of rules. This provision not only creates the potential for confusion among the surveying community, but also raises questions about the appropriateness of requiring a state agency to adopt rules which negate statutory exemptions to land survey recording requirements. I am satisfied that the public interest is sufficiently protected through the provisions of section 1.

For this reason, I have vetoed section 2 of Substitute Senate Bill No. 5557.

With the exception of section 2, Substitute Senate Bill No. 5557 is approved."

## CHAPTER 107

[Substitute Senate Bill 6461]

## MASTER BUSINESS LICENSE PROGRAM—REVISIONS

**Effective Date:** 6/1/92 - Except Sections 5 & 7 which become effective on 7/1/92.

AN ACT Relating to business licenses; amending RCW 19.02.020, 19.02.075, 19.02.080, 19.02.085, 19.80.075, and 23B.01.220; adding a new section to chapter 19.02 RCW; repealing RCW 19.80.035; providing effective dates; and declaring an emergency.

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

**Sec. 1.** RCW 19.02.020 and 1982 c 182 s 2 are each amended to read as follows:

As used in this chapter, the following words shall have the following meanings:

(1) "System" means the mechanism by which master licenses are issued and renewed, license and regulatory information is disseminated, and account data is exchanged by the agencies;

(2) "Business license center" means the business registration and licensing center established by this chapter and located in and under the administrative control of the department of licensing;

(3) "Board of review" means the body established to review policies and rules adopted by the department of licensing for carrying out the provisions of this chapter;

(4) "Master application" means a document incorporating pertinent data from existing applications for licenses covered under this chapter;

(5) "Master license" means the single document designed for public display issued by the business license center which certifies state agency license approval and which incorporates the endorsements for individual licenses included in the master license system, which the state requires for any person subject to this chapter;

(6) "License" means the whole or part of any agency permit, license, certificate, approval, registration, charter, or any form or permission required by law, including agency rule, to engage in any activity;

(7) "Regulatory" means all licensing and other governmental or statutory requirements pertaining to business or professional activities;

(8) "Person" means any individual, sole proprietorship, partnership, association, cooperative, corporation, nonprofit organization, state or local government agency, and any other organization required to register with the state to do business in the state and to obtain one or more licenses from the state or any of its agencies;

(9) "Director" means the director of licensing;

(10) "Department" means the department of licensing; ~~((and))~~

(11) "Regulatory agency" means any state agency, board, commission, or division which regulates one or more professions, occupations, industries, businesses, or activities;

(12) "Renewal application" means a document used to collect pertinent data for renewal of licenses covered under this chapter; and

(13) "License information packet" means a collection of information about licensing requirements and application procedures custom-assembled for each request.

**Sec. 2.** RCW 19.02.075 and 1990 c 264 s 2 are each amended to read as follows:

~~((The department shall collect a handling fee of twelve dollars on each original master license issued. The handling fees collected under this section shall be deposited in the general fund.))~~ (1) Beginning June 1, 1992, the department shall collect a fee of fifteen dollars on each master application and five dollars on each license information packet. From June 1, 1992, to June 30, 1992, twelve dollars of the master application fee shall be deposited in the general fund and three dollars deposited in the master license fund. Thereafter, the entire master application fee shall be deposited in the master license fund. License information packet fees shall be deposited in the general fund.

(2) Beginning July 1, 1992, the department shall collect a fee of nine dollars on each renewal application. Renewal application fees shall be deposited in the master license fund.

**Sec. 3.** RCW 19.02.080 and 1982 c 182 s 7 are each amended to read as follows:

All fees collected under the system shall be deposited with the state treasurer. Upon issuance or renewal of the master license or supplemental licenses, the department shall distribute the fees, except for fees covered under section 4 of this act and for fees covered under RCW 19.80.075, to the appropriate accounts under the applicable statutes for those agencies' licenses.

**NEW SECTION. Sec. 4.** A new section is added to chapter 19.02 RCW to read as follows:

The master license fund is created in the state treasury. Unless otherwise indicated in RCW 19.02.075, all receipts from handling and master license delinquency fees shall be deposited into the fund. Moneys in the fund may be spent only after appropriation beginning in fiscal year 1993. Expenditures from the fund may be used only to administer the master license services program.

**Sec. 5.** RCW 19.02.085 and 1989 c 170 s 1 are each amended to read as follows:

To encourage timely renewal by applicants, a master license delinquency fee shall be imposed on licensees who fail to renew by the master license expiration date. The master license delinquency fee shall be the lesser of one hundred fifty dollars or fifty percent of a base comprised of the licensee's renewal fee minus corporate licensing taxes, corporation annual report fee, and any interest fees or penalties charged for late taxes or corporate renewals. The master license delinquency fee shall be added to the renewal fee and paid by the licensee before

a master license shall be renewed. The delinquency fee shall be deposited in the ~~((general))~~ master license fund.

**Sec. 6.** RCW 19.80.075 and 1984 c 130 s 9 are each amended to read as follows:

All fees collected by the department of licensing under this chapter shall be deposited with the state treasurer and credited to the ~~((general))~~ master license fund, except for trade name registration fees collected from June 1, 1992, to June 30, 1992, which shall be deposited in the general fund. Beginning July 1, 1992, trade name registration fees shall be deposited in the master license fund.

**Sec. 7.** RCW 23B.01.220 and 1991 c 72 s 26 are each amended to read as follows:

(1) The secretary of state shall collect in accordance with the provisions of this title:

- (a) Fees for filing documents and issuing certificates;
- (b) Miscellaneous charges;
- (c) License fees as provided in RCW 23B.01.500 through 23B.01.550;
- (d) Penalty fees; and
- (e) Other fees as the secretary of state may establish by rule adopted under chapter 34.05 RCW.

(2) The secretary of state shall collect the following fees when the documents described in this subsection are delivered for filing:

(a) One hundred seventy-five dollars, pursuant to RCW 23B.01.520 and 23B.01.540, for:

- (i) Articles of incorporation; and
- (ii) Application for certificate of authority;
- (b) Fifty dollars for an application for reinstatement;
- (c) Twenty-five dollars for:
  - (i) Articles of correction;
  - (ii) Amendment of articles of incorporation;
  - (iii) Restatement of articles of incorporation, with or without amendment;
  - (iv) Articles of merger or share exchange;
  - (v) Articles of revocation of dissolution; and
  - (vi) Application for amended certificate of authority;

(d) Twenty dollars for an application for reservation, registration, or assignment of reserved name;

(e) Ten dollars for:

(i) Corporation's statement of change of registered agent or registered office, or both, except where this information is provided in conjunction with and on an initial report or an annual report form filed under RCW 23B.01.530, 23B.01.550, 23B.02.050, or 23B.16.220;

(ii) Agent's resignation, or statement of change of registered office, or both, for each affected corporation;

(iii) Initial report ~~((or annual report))~~; and

(iv) Any document not listed in this subsection that is required or permitted to be filed under this title;

(f) No fee for:

(i) Agent's consent to act as agent;

(ii) Agent's resignation, if appointed without consent;

(iii) Articles of dissolution;

(iv) Certificate of judicial dissolution; ~~((and))~~

(v) Application for certificate of withdrawal; and

(vi) Annual report.

(3) The secretary of state shall collect a fee of twenty-five dollars per defendant served, upon being served process under this title. The party to a proceeding causing service of process is entitled to recover this fee as costs if such party prevails in the proceeding.

(4) The secretary of state shall collect from every person or organization:

(a) For furnishing a certified copy of any document, instrument, or paper relating to a corporation, ten dollars for the certificate, plus twenty cents for each page copied;

(b) For furnishing a certificate, under seal, attesting to the existence of a corporation, or any other certificate, ten dollars; and

(c) For furnishing copies of any document, instrument, or paper relating to a corporation, other than of an initial report or an annual report, one dollar for the first page and twenty cents for each page copied thereafter. The fee for furnishing a copy of the most recent annual report of a corporation (or of the initial report if no annual report has been filed) is one dollar, and the fee for furnishing a copy of any other annual report of a corporation is five dollars.

(5) For annual license fees for domestic and foreign corporations, see RCW 23B.01.500, 23B.01.510, 23B.01.530, and 23B.01.550. For penalties for nonpayment of annual license fees and failure to complete annual report, see RCW 23B.01.570.

NEW SECTION. Sec. 8. RCW 19.80.035 and 1985 c 88 s 1 & 1984 c 130 s 4 are each repealed.

NEW SECTION. Sec. 9. (1) Sections 1 through 4, 6, and 8 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect June 1, 1992.

(2) Sections 5 and 7 of this act shall take effect July 1, 1992.

Passed the Senate March 10, 1992.

Passed the House March 11, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

## CHAPTER 108

[Substitute House Bill 2874]

## FUNERAL EXPENSES OF PUBLIC ASSISTANCE RECIPIENTS—RESPONSIBILITY

Effective Date: 6/11/92

AN ACT Relating to funeral expenses of a deceased person; amending RCW 68.50.160 and 74.08.120; and adding a new section to chapter 74.08 RCW.

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

**Sec. 1.** RCW 68.50.160 and 1943 c 247 s 29 are each amended to read as follows:

The right to control the disposition of the remains of a deceased person, unless other directions have been given by the decedent, vests in, and the duty of ~~((interment))~~ disposition and the liability for the reasonable cost of ~~((interment))~~ preparation, care, and disposition of such remains devolves upon the following in the order named:

- (1) The surviving spouse.
- (2) The surviving children of the decedent.
- (3) The surviving parents of the decedent.

The liability for the reasonable cost of ~~((interment))~~ preparation, care, and disposition devolves jointly and severally upon all kin of the decedent hereinbefore mentioned in the same degree of kindred and upon the estate of the decedent.

**Sec. 2.** RCW 74.08.120 and 1987 c 75 s 39 are each amended to read as follows:

The term "funeral" shall mean the mortuary services needed for the proper preparation, ~~((transportation within the local service area defined by the department))~~ preservation, and care of the remains of a deceased person with needed facilities and appropriate memorial services. "Transportation" shall mean transport of a body from place of death to mortuary and transportation to place of disposition, within the service area defined by the department. ~~((Burial))~~ "Disposition" includes necessary costs of a ~~((lot))~~ burial and cemetery plot or cremation and disposition site, and all services related to interment and the ~~((customary))~~ minimal memorial marking of a grave.

The department is hereby authorized to assume responsibility for payment for the funeral, transportation, and ~~((burial))~~ disposition of deceased persons dying without assets sufficient to pay for the minimum standard ~~((funeral))~~ services herein provided: PROVIDED, HOWEVER, That the secretary may furnish funeral assistance for deceased recipients if they leave assets to a surviving spouse and/or to minor children and if the assets are resources permitted to be owned by or available to an eligible applicant or recipient under RCW 74.04.005, and the department shall thereby have a lien against said assets as provided in RCW 43.20B.120. If the deceased person is survived by a spouse or is a minor child survived by his parent or parents, the department may take into consideration the assets of such surviving spouse, parent, or parents in

determining whether or not the department will assume responsibility for the funeral, or disposition costs.

The department shall not pay more than cost for a minimum standard service rendered by each vendor. Payments to the funeral director and to the cemetery or crematorium will be made by separate vouchers. The standard of such services and the uniform amounts to be paid shall be determined by the department after giving due consideration to such advice and counsel as it shall obtain from the trade associations of the various vendors and related state departments, agencies, and commissions. Payment made for any funeral, transportation, or burial service by relatives, friends, or any other third party above a donation level established by the department shall be subtracted from the payment made by the department.

NEW SECTION. Sec. 3. A new section is added to chapter 74.08 RCW to read as follows:

If the deceased person is an adult and is survived by a parent or parents, or children, the department may take into consideration the assets of such parent, parents, or children in determining whether or not the department will assume responsibility for the funeral, transportation, or disposition costs.

Passed the House March 9, 1992.

Passed the Senate March 6, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

## CHAPTER 109

[Engrossed Substitute Senate Bill 6069]

### BONE MARROW DONOR RECRUITMENT AND EDUCATION PROGRAM

Effective Date: 6/11/92

AN ACT Relating to bone marrow transplants; adding new sections to chapter 70.54 RCW; and creating new sections.

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

NEW SECTION. Sec. 1. The legislature finds that an estimated sixteen thousand American children and adults are stricken each year with leukemia, aplastic anemia, or other fatal blood diseases. For many of these individuals, bone marrow transplantation is the only chance for survival. Nearly seventy percent cannot find a suitable bone marrow match within their own families. The chance that a patient will find a matching, unrelated donor in the general population is between one in a hundred and one in a million.

The legislature further finds that because tissue types are inherited, and different tissue types are found in different ethnic groups, the chances of finding an unrelated donor vary according to the patient's ethnic and racial background. Patients from minority groups are therefore less likely to find matching, unrelated donors.

It is the intent of the legislature to establish a state-wide bone marrow donor education and recruitment program in order to increase the number of Washington residents who become bone marrow donors, and to increase the chance that patients in need of bone marrow transplants will find a suitable bone marrow match.

**NEW SECTION. Sec. 2.** The department of health shall establish a bone marrow donor recruitment and education program to educate residents of the state about:

- (1) The need for bone marrow donors;
- (2) The procedures required to become registered as a potential bone marrow donor, including procedures for determining a person's tissue type; and
- (3) The procedures a donor must undergo to donate bone marrow or other sources of blood stem cells.

The department of health shall make special efforts to educate and recruit citizens from minority populations to volunteer as potential bone marrow donors. Means of communication may include use of press, radio, and television, and placement of educational materials in appropriate health care facilities, blood banks, and state and local agencies. The department of health in conjunction with the department of licensing shall make educational materials available at all places where driver licenses are issued or renewed.

**NEW SECTION. Sec. 3.** The department of health shall make special efforts to educate and recruit state employees to volunteer as potential bone marrow donors. Such efforts shall include, but not be limited to, conducting a bone marrow donor drive to encourage state employees to volunteer as potential bone marrow donors. The drive shall include educational materials furnished by the national bone marrow donor program and presentations that explain the need for bone marrow donors, and the procedures for becoming registered as potential bone marrow donors. The cost of educational materials and presentations to state employees shall be borne by the national marrow donor program.

**NEW SECTION. Sec. 4.** In addition to educating and recruiting state employees, the department of health shall make special efforts to encourage community and private sector businesses and associations to initiate independent efforts to achieve the goals of this act.

**NEW SECTION. Sec. 5.** If specific funding for the purposes of this act, referencing this act by bill number, is not provided by June 30, 1992, in the omnibus appropriations act, this act shall be null and void.

**NEW SECTION. Sec. 6.** Sections 2 and 3 of this act are each added to chapter 70.54 RCW.

Passed the Senate March 8, 1992.

Passed the House March 6, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

**CHAPTER 110**

[Substitute House Bill 1392]

**ACUPUNCTURE—CERTIFICATION REVISIONS**

**Effective Date: 6/11/92**

AN ACT Relating to acupuncture; amending RCW 18.06.010, 18.06.080, and 18.06.120; adding a new section to chapter 18.06 RCW; and repealing RCW 18.06.030, 18.06.040, 18.06.910, and 18.06.911.

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

**Sec. 1.** RCW 18.06.010 and 1991 c 3 s 4 are each amended to read as follows:

The following terms in this chapter shall have the meanings set forth in this section unless the context clearly indicates otherwise:

(1) "Acupuncture" means a health care service based on a traditional Oriental system of medical theory utilizing Oriental diagnosis and treatment to promote health and treat organic or functional disorders by treating specific acupuncture points or meridians. Acupuncture includes but is not necessarily limited to the following techniques:

(a) Use of acupuncture needles to stimulate acupuncture points and meridians;

(b) Use of electrical, mechanical, or magnetic devices to stimulate acupuncture points and meridians;

(c) Moxibustion;

(d) Acupressure;

(e) Cupping;

(f) Dermal friction technique (~~((gwa-hsa)))~~);

(g) Infra-red;

(h) Sonopuncture;

(i) Laserpuncture;

(j) Dietary advice based on traditional (~~((Chinese)))~~ Oriental medical theory; and

(k) Point injection therapy (aquapuncture).

(2) "Acupuncturist" means a person certified under this chapter.

(3) "Department" means the department of health.

(4) "Secretary" means the secretary of health or the secretary's designee.

**NEW SECTION.** **Sec. 2.** A new section is added to chapter 18.06 RCW to read as follows:

Nothing in this chapter shall be construed to prohibit or restrict:

(1) The practice licensed, certified, or registered under the laws of this state and performing services within such individual's authorized scope of practice;

(2) The practice by an individual employed by the government of the United States while engaged in the performance of duties prescribed by the laws of the United States;

(3) The practice by a person who is a regular student in an educational program approved by the secretary, and whose performance of services is

pursuant to a regular course of instruction or assignments from an instructor and under the general supervision of the instructor;

(4) The practice of acupuncture by any person licensed or certified to perform acupuncture in any other jurisdiction where such person is doing so in the course of regular instruction of a school of acupuncture approved by the secretary or in an educational seminar by a professional organization of acupuncture, provided that in the latter case, the practice is supervised directly by a person certified pursuant to this chapter or licensed under any other healing art whose scope of practice includes acupuncture.

**Sec. 3.** RCW 18.06.080 and 1991 c 3 s 10 are each amended to read as follows:

(1) The secretary is hereby authorized and empowered to execute the provisions of this chapter and shall offer examinations in acupuncture at least twice a year at such times and places as the secretary may select. The examination shall be a written examination (~~(in English)~~) and may include a practical examination.

(2) The secretary shall develop or approve a (~~(licensure)~~) certification examination in the subjects that the secretary determines are within the scope of and commensurate with the work performed by certified acupuncturists and shall include but not necessarily be limited to anatomy, physiology, (~~(bacteriology)~~) microbiology, biochemistry, pathology, hygiene, and acupuncture. All application papers shall be deposited with the secretary and there retained for at least one year, when they may be destroyed.

(3) If the examination is successfully passed, the secretary shall confer on such candidate the title of Certified Acupuncturist.

**Sec. 4.** RCW 18.06.120 and 1991 c 3 s 12 are each amended to read as follows:

(1) Every person certified in acupuncture shall register with the secretary annually and pay an annual renewal registration fee determined by the secretary as provided in RCW 43.70.250 on or before the certificate holder's birth anniversary date. The certificate of the person shall be renewed for a period of one year or longer in the discretion of the secretary. A person whose practice is exclusively out-of-state or who is on sabbatical shall be granted an inactive certification status and pay a reduced registration fee. The reduced fee shall be set by the secretary under RCW 43.70.250.

(2) Any failure to register and pay the annual renewal registration fee shall render the certificate invalid. The certificate shall be reinstated upon: (a) Written application to the secretary; (b) payment to the state of a penalty fee determined by the secretary as provided in RCW 43.70.250; and (c) payment to the state of all delinquent annual certificate renewal fees.

(3) Any person who fails to renew his or her certification for a period of three years shall not be entitled to renew such certification under this section. Such person, in order to obtain a certification in acupuncture in this state, shall

file a new application under this chapter, along with the required fee, and shall meet examination or continuing education requirements as the secretary, by rule, provides.

(4) All fees collected under this section and RCW (~~(18.06.060)~~) 18.06.070 shall be credited to the health professions account as required under RCW 43.70.320.

**NEW SECTION. Sec. 5.** The following acts or parts of acts are each repealed:

- (1) RCW 18.06.030 and 1991 c 3 s 6 and 1985 c 326 s 3;
- (2) RCW 18.06.040 and 1985 c 326 s 4;
- (3) RCW 18.06.910 and 1990 c 297 s 15; and
- (4) RCW 18.06.911 and 1990 c 297 s 16.

Passed the House March 7, 1992.

Passed the Senate March 2, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

## CHAPTER 111

[Engrossed Second Substitute Senate Bill 6347]

### DOMESTIC VIOLENCE PROTECTION ORDERS—REVISIONS

Effective Date: 6/11/92

AN ACT Relating to domestic violence; amending RCW 26.50.030, 26.50.035, 26.50.060, 10.99.030, 26.50.010, 26.50.020, 4.08.050, 12.04.140, 12.04.150, and 26.28.015; and creating new sections.

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

**NEW SECTION. Sec. 1.** The legislature finds that:

Domestic violence is a problem of immense proportions affecting individuals as well as communities. Domestic violence has long been recognized as being at the core of other major social problems: Child abuse, other crimes of violence against person or property, juvenile delinquency, and alcohol and drug abuse. Domestic violence costs millions of dollars each year in the state of Washington for health care, absence from work, services to children, and more. The crisis is growing.

While the existing protection order process can be a valuable tool to increase safety for victims and to hold batterers accountable, specific problems in its use have become evident. Victims have difficulty completing the paperwork required particularly if they have limited English proficiency; model forms have been modified to be inconsistent with statutory language; different forms create confusion for law enforcement agencies about the contents and enforceability of orders. Refinements are needed so that victims have the easy, quick, and effective access to the court system envisioned at the time the protection order process was first created.

When courts issue mutual protection orders without the filing of separate written petitions, notice to each respondent, and hearing on each petition, the original petitioner is deprived of due process. Mutual protection orders label both parties as violent and treat both as being equally at fault: Batterers conclude that the violence is excusable or provoked and victims who are not violent are confused and stigmatized. Enforcement may be ineffective and mutual orders may be used in other proceedings as evidence that the victim is equally at fault.

Valuable information about the reported incidents of domestic violence in the state of Washington is unobtainable without gathering data from all law enforcement agencies; without this information, it is difficult for policymakers, funders, and service providers to plan for the resources and services needed to address the issue.

Domestic violence must be addressed more widely and more effectively in our state: Greater knowledge by professionals who deal frequently with domestic violence is essential to enforce existing laws, to intervene in domestic violence situations that do not come to the attention of the law enforcement or judicial systems, and to reduce and prevent domestic violence by intervening before the violence becomes severe.

Adolescent dating violence is occurring at increasingly high rates: Preventing and confronting adolescent violence is important in preventing potential violence in future adult relationships.

**Sec. 2.** RCW 26.50.030 and 1985 c 303 s 2 are each amended to read as follows:

There shall exist an action known as a petition for an order for protection in cases of domestic violence.

(1) A petition for relief shall allege the existence of domestic violence, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.

(2) A petition for relief may be made regardless of whether or not there is a pending lawsuit, complaint, petition, or other action between the parties except in cases where the court realigns petitioner and respondent in accordance with RCW 26.50.060(3).

(3) Within ninety days of receipt of the master copy from the administrator for the courts, all court clerk's offices shall make available ((simplified)) the standardized forms, instructions, and ((instructional)) informational brochures required by RCW 26.50.035 and shall fill in and keep current specific program names and telephone numbers for community resources. Any assistance or information provided by clerks under this section does not constitute the practice of law and clerks are not responsible for incorrect information contained in a petition.

(4) A filing fee of twenty dollars shall be charged for proceedings under this section. No filing fee may be charged for: (a) A petition filed in an existing

action or under an existing cause number brought under this chapter in the jurisdiction where the relief is sought; or (b) the transfer of a case from district or municipal court to superior court under RCW 26.50.020(2). Forms and instructional brochures shall be provided free of charge.

(5) A person is not required to post a bond to obtain relief in any proceeding under this section.

*\*Sec. 3. RCW 26.50.035 and 1985 c 303 s 3 are each amended to read as follows:*

*By January 1, 1993, the administrator for the courts shall develop and prepare, in consultation with interested persons, to include a representative of the state domestic violence coalition, judges, and law enforcement personnel, ((the forms)) instructions and ((instructional)) informational brochures required under RCW 26.50.030(3), standard petition and order for protection forms that must be used after April 15, 1993, for all petitions filed and orders issued under this chapter, and a court staff handbook on domestic violence and the protection order process. The instructions shall be designed to assist petitioners in completing the petition. The informational brochure shall describe the use of and the process for obtaining a protection order, a no contact order as provided by RCW 10.99.040, a restraining order as provided by RCW 26.09.060, and an antiharassment protection order as provided by chapter 10.14 RCW, along with a list of local community resources. The community resources shall be in the form of a list that includes law enforcement agencies, domestic violence agencies, sexual assault agencies, legal assistance programs, interpreters, multicultural programs, and batterers' treatment programs, which shall contain the names and telephone numbers of programs serving the community in which the court is located. Court staff shall obtain the community resource list from a domestic violence program as defined in RCW 70.123.020 serving the county in which the court is located. The order for protection form shall include, in a conspicuous location, notice of criminal penalties resulting from violation of the order, notice that the petitioner may not waive any provisions of the order, and notice that it is the sole responsibility of the respondent to avoid or refrain from violating the provisions of the order. The administrator for the courts shall distribute a master copy of the petition and order forms ((and instructional)), instructions, and informational brochures to ((all court clerks)) the staff of all courts and shall distribute a master copy of the order forms to all superior, district, and municipal courts.*

*The administrator for the courts shall arrange for translation of the instructions and informational brochures into Spanish, Vietnamese, Laotian, Cambodian, and Chinese and shall distribute a master copy of the translated instructions and informational brochures to all court clerks by March 1, 1993.*

*The administrator for the courts shall, in consultation with interested parties to include a representative of the state domestic violence coalition,*

judges, law enforcement personnel, and staff from multicultural programs, determine by June 30, 1993, whether translation of the petition and standard order forms would substantially improve access to the protection order process for those with limited English proficiency. If so, the administrator for the courts shall arrange for the translation of the petition and standard order forms into Spanish, Vietnamese, Laotian, Cambodian, and Chinese, and shall distribute a master copy of the translated petition and standard order forms to all court staff by September 1, 1993, along with any necessary instructions or explanations for use of the translated petition and standard order forms.

\*Sec. 3 was vetoed, see message at end of chapter.

Sec. 4. RCW 26.50.060 and 1989 c 411 s 1 are each amended to read as follows:

(1) Upon notice and after hearing, the court may provide relief as follows:

(a) Restrain (~~(a-party)~~) the respondent from committing acts of domestic violence;

(b) Exclude the respondent from the dwelling which the parties share or from the residence of the petitioner;

(c) On the same basis as is provided in chapter 26.09 RCW, the court shall make residential provision with regard to minor children of the parties. However, parenting plans as specified in chapter 26.09 RCW shall not be required under this chapter;

(d) Order the respondent to participate in batterers' treatment (~~(or counseling services)~~);

(e) Order other relief as it deems necessary for the protection of ((a)) the petitioner and other family or household members sought to be protected, including orders or directives to a peace officer, as allowed under this chapter;

(f) Require the respondent to pay the filing fee and court costs, including service fees, and to reimburse the petitioner for costs incurred in bringing the action, including a reasonable attorney's fee. If the petitioner has been granted leave to proceed in forma pauperis, the court may require the respondent to pay the filing fee and costs, including services fees, to the county or municipality incurring the expense; and

(g) Restrain (~~(any-party)~~) the respondent from having any contact with the victim of domestic violence or the victim's children or members of the victim's household.

(2) Any relief granted by the order for protection, other than a judgment for costs, shall be for a fixed period not to exceed one year.

(3) In providing relief under this chapter, the court may realign the designation of the parties as "petitioner" and "respondent" where the court finds that the original petitioner is the abuser and the original respondent is the victim of domestic violence and may issue an ex parte temporary order for protection in accordance with RCW 26.50.070 on behalf of the victim until the victim is

able to prepare a petition for an order for protection in accordance with RCW 26.50.030.

(4) Except as provided in subsection (3) of this section, no order for protection shall grant relief to any party except upon notice to the respondent and hearing pursuant to a petition or counter-petition filed and served by the party seeking relief in accordance with RCW 26.50.050.

*\*Sec. 5. RCW 10.99.030 and 1984 c 263 s 21 are each amended to read as follows:*

*(1) All training relating to the handling of domestic violence complaints by law enforcement officers shall stress enforcement of criminal laws in domestic situations, availability of community resources, and protection of the victim. Law enforcement agencies and community organizations with expertise in the issue of domestic violence shall cooperate in all aspects of such training.*

*(2) The primary duty of peace officers, when responding to a domestic violence situation, is to enforce the laws allegedly violated and to protect the complaining party.*

*(3)(a) When a peace officer responds to a domestic violence call and has probable cause to believe that a crime has been committed, the peace officer shall exercise arrest powers with reference to the criteria in RCW 10.31.100. The officer shall notify the victim of the victim's right to initiate a criminal proceeding in all cases where the officer has not exercised arrest powers or decided to initiate criminal proceedings by citation or otherwise. The parties in such cases shall also be advised of the importance of preserving evidence.*

*(b) A peace officer responding to a domestic violence call shall take a complete offense report including the officer's disposition of the case.*

*(4) When a peace officer responds to a domestic violence call, the officer shall advise victims of all reasonable means to prevent further abuse, including advising each person of the availability of a shelter or other services in the community, and giving each person immediate notice of the legal rights and remedies available. The notice shall include handing each person a copy of the following statement:*

***"IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you can ask the city or county prosecuting attorney to file a criminal complaint. You also have the right to file a petition in superior, district, or municipal court requesting an order for protection from domestic abuse which could include any of the following: (a) An order restraining your abuser from further acts of abuse; (b) an order directing your abuser to leave your household; (c) an order preventing your abuser from entering your residence, school, business, or place of employment; (d) an order awarding you or the other parent custody of or visitation with your minor child or children; and (e) an order restraining your abuser from molesting or interfering with***

*minor children in your custody. The forms you need to obtain a protection order are available in any municipal, district, or superior court.*

*Information about shelters and alternatives to domestic violence is available from a state-wide twenty-four-hour toll-free hotline at 1-800-562-6025. The battered women's shelter and other resources in your area are --- (include local information)"*

*(5) The peace officer may offer, arrange, or facilitate transportation for the victim to a hospital for treatment of injuries or to a place of safety or shelter.*

*(6) The law enforcement agency shall forward the offense report to the appropriate prosecutor within ten days of making such report if there is probable cause to believe that an offense has been committed, unless the case is under active investigation.*

*(7) Each law enforcement agency shall make as soon as practicable a written record and shall maintain records of all incidents of domestic violence reported to it.*

*(8) Records kept pursuant to subsections (3) and (7) of this section shall be made identifiable by means of a departmental code for domestic violence.*

*(9) Commencing January 1, 1993, records of incidents of domestic violence shall be submitted, in accordance with procedures described in this subsection, to the Washington association of sheriffs and police chiefs by all law enforcement agencies. The Washington criminal justice training commission shall amend its contract for collection of state-wide crime data with the Washington association of sheriffs and police chiefs: (a) To require the compilation, presentation, and inclusion of domestic violence incidents in the annual report of crime in Washington produced by the Washington association of sheriffs and police chiefs pursuant to such contract; and (b) to require that, in consultation with interested persons, the Washington association of sheriffs and police chiefs prepare and disseminate procedures to all law enforcement agencies in the state as to how such agencies shall code and report domestic violence incidents to the Washington association of sheriffs and police chiefs.*

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

NEW SECTION. Sec. 6. The departments of social and health services, community development, and health; the administrator for the courts; and the criminal justice training commission, in cooperation with each other and with the department of social and health services as lead agency shall, in consultation with interested parties, conduct a review of and issue a report on the current level of domestic violence education in the state of Washington, including higher education curricula and continuing professional education for individuals

working in positions that involve duties to, or contact with, those affected by domestic violence. Professions for which education levels should be determined include, but are not limited to, health care, mental health, and substance abuse professionals licensed or certified by the state and pastoral counselors, employee assistance counselors, police and law enforcement officers, prosecutors, judges, court administrators, court clerks, probation officers, parole officers, child protective service workers, school counselors, teachers, and clergy. The analysis shall include suggested approaches of how to achieve any needed additional education, and an evaluation of whether there is a need for additional domestic violence education for some or all of these professions, either as part of their higher education curricula or through continuing education or both. The department of social and health services shall report to the house of representatives judiciary and senate law and justice committees regarding its findings and recommendations by September 1, 1992.

**Sec. 7.** RCW 26.50.010 and 1991 c 301 s 8 are each amended to read as follows:

As used in this chapter, the following terms shall have the meanings given them:

(1) "Domestic violence" means: (a) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; or (b) sexual assault of one family or household member by another.

(2) "Family or household members" means spouses, former spouses, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, ~~((and))~~ adult persons who are presently residing together or who have resided together in the past, persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons sixteen years of age or older with whom a respondent sixteen years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

(3) "Dating relationship" means a social relationship of a romantic nature. Factors that the court may consider in making this determination include: (a) The length of time the relationship has existed; (b) the nature of the relationship; and (c) the frequency of interaction between the parties.

(4) "Court" includes the superior, district, and municipal courts of the state of Washington.

~~((4))~~ (5) "Judicial day" does not include Saturdays, Sundays, or legal holidays.

**Sec. 8.** RCW 26.50.020 and 1989 c 375 s 28 are each amended to read as follows:

(1) Any person may seek relief under this chapter by filing a petition with a court alleging that the person has been the victim of domestic violence committed by the respondent. The person may petition for relief on behalf of himself or herself and on behalf of minor family or household members.

(2) A person under eighteen years of age who is sixteen years of age or older may seek relief under this chapter and is not required to seek relief by a guardian or next friend.

(3) No guardian or guardian ad litem need be appointed on behalf of a respondent to an action under this chapter who is under eighteen years of age if such respondent is sixteen years of age or older.

(4) The court may, if it deems necessary, appoint a guardian ad litem for a petitioner or respondent who is a party to an action under this chapter.

(5) The courts defined in RCW 26.50.010(3) have jurisdiction over proceedings under this chapter. The jurisdiction of district and municipal courts under this chapter shall be limited to enforcement of RCW 26.50.110(1), or the equivalent municipal ordinance, and the issuance and enforcement of temporary orders for protection provided for in RCW 26.50.070 if: (a) A superior court has exercised or is exercising jurisdiction over a proceeding under this title or chapter 13.34 RCW involving the parties; (b) the petition for relief under this chapter presents issues of residential schedule of and contact with children of the parties; or (c) the petition for relief under this chapter requests the court to exclude a party from the dwelling which the parties share. When the jurisdiction of a district or municipal court is limited to the issuance and enforcement of a temporary order, the district or municipal court shall set the full hearing provided for in RCW 26.50.050 in superior court and transfer the case. If the notice and order are not served on the respondent in time for the full hearing, the issuing court shall have concurrent jurisdiction with the superior court to extend the order for protection.

~~((3))~~ (6) An action under this chapter shall be filed in the county or the municipality where the petitioner resides, unless the petitioner has left the residence or household to avoid abuse. In that case, the petitioner may bring an action in the county or municipality of the previous or the new household or residence.

~~((4))~~ (7) A person's right to petition for relief under this chapter is not affected by the person leaving the residence or household to avoid abuse.

**Sec. 9.** RCW 4.08.050 and 1891 c 30 s 1 are each amended to read as follows:

Except as provided under RCW 26.50.020, when an infant is a party he or she shall appear by guardian, or if he or she has no guardian, or in the opinion of the court the guardian is an improper person, the court shall appoint one to act. Said guardian shall be appointed as follows:

(1) When the infant is plaintiff, upon the application of the infant, if he or she be of the age of fourteen years, or if under that age, upon the application of a relative or friend of the infant.

(2) When the infant is defendant, upon the application of the infant, if he or she be of the age of fourteen years, and applies within thirty days after the service of the summons; if he or she be under the age of fourteen, or neglects to apply, then upon the application of any other party to the action, or of a relative or friend of the infant.

**Sec. 10.** RCW 12.04.140 and 1971 ex.s. c 292 s 75 are each amended to read as follows:

Except as provided under RCW 26.50.020, no action shall be commenced by any person under the age of eighteen years, except by his guardian, or until a next friend for such a person shall have been appointed. Whenever requested, the justice shall appoint some suitable person, who shall consent thereto in writing, to be named by such plaintiff, to act as his or her next friend in such action, who shall be responsible for the costs therein.

**Sec. 11.** RCW 12.04.150 and 1971 ex.s. c 292 s 76 are each amended to read as follows:

After service and return of process against a defendant under the age of eighteen years, the action shall not be further prosecuted, until a guardian for such defendant shall have been appointed, except as provided under RCW 26.50.020. Upon the request of such defendant, the justice shall appoint some person who shall consent thereto in writing, to be guardian of the defendant in defense of the action; and if the defendant shall not appear on the return day of the process, or if he or she neglect or refuse to nominate such guardian, the justice may, at the request of the plaintiff, appoint any discreet person as such guardian. The consent of the guardian or next friend shall be filed with the justice; and such guardian for the defendant shall not be liable for any costs in the action.

**Sec. 12.** RCW 26.28.015 and 1971 ex.s. c 292 s 2 are each amended to read as follows:

Notwithstanding any other provision of law, and except as provided under RCW 26.50.020, all persons shall be deemed and taken to be of full age for the specific purposes hereafter enumerated at the age of eighteen years:

(1) To enter into any marriage contract without parental consent if otherwise qualified by law;

(2) To execute a will for the disposition of both real and personal property if otherwise qualified by law;

(3) To vote in any election if authorized by the Constitution and otherwise qualified by law;

(4) To enter into any legal contractual obligation and to be legally bound thereby to the full extent as any other adult person;

(5) To make decisions in regard to their own body and the body of their lawful issue whether natural born to or adopted by such person to the full extent allowed to any other adult person including but not limited to consent to surgical operations;

(6) To sue and be sued on any action to the full extent as any other adult person in any of the courts of this state, without the necessity for a guardian ad litem.

**\*NEW SECTION. Sec. 13.** *(1) If specific funding for the purposes of sections 2 and 3 of this act, referencing sections 2 and 3 of this act by bill and section number, is not provided by June 30, 1992, in the omnibus appropriations act, sections 2 and 3 of this act shall be null and void.*

*(2) If specific funding for the purposes of section 5 of this act, referencing section 5 of this act by bill and section number, is not provided by June 30, 1992, in the omnibus appropriations act, section 5 of this act shall be null and void.*

\*Sec. 13 was vetoed, see message at end of chapter.

**NEW SECTION. Sec. 14.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate February 18, 1992.

Passed the House March 5, 1992.

Approved by the Governor March 31, 1992, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State March 31, 1992.

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

"I am returning herewith, without my approval as to sections 3, 5, and 13, Engrossed Second Substitute Senate Bill No. 6347 entitled:

"AN ACT Relating to domestic violence."

Sections 2 and 3 of Engrossed Second Substitute Senate Bill No. 6347 require the Office of the Administrator for the Courts to develop standardized forms, instructions, and informational brochures for persons petitioning for protection under the state's Domestic Violence Protection Act. Section 5 requires records of incidents of domestic violence to be submitted to the Washington Association of Sheriffs and Police Chiefs for the purpose of collecting statewide crime data.

Section 13 declares sections 2, 3, and 5, null and void if funding is not provided in the omnibus appropriations act referencing these sections by number.

Although funding has not been specifically provided in the 1992 Supplemental Appropriations Act, the Office of the Administrator for the Courts can accomplish the provisions of section 2 within available resources. In order to allow section 2 to go into effect without placing additional burdens on state agencies, I am vetoing section 3, which contains the date for completion, and section 13 which contains the null and void language.

I am further troubled by the lack of funding for the domestic violence incident reporting contained in section 5. The broad coverage of section 5 to include all reports of incidents of domestic violence (rather than just reports of felony incidents) is a cost which cannot be absorbed within the current budget of the Criminal Justice Training Commission. However, because RCW 10.99.030(7) and (8) require law enforcement agencies to maintain records of all domestic violence incidents reported, and to maintain

such records identifiable by a specific code, I believe greater cooperation and coordination between law enforcement records of the various state and local jurisdictions is possible.

Many felonies (for which records are kept) characterized as rape, homicide, assault, arson, robbery, burglary, larceny and motor vehicle theft originate as acts of domestic violence. The lack of coordinated documentation tends to de-emphasize the explosion in domestic violence incidents. Failure to document will continue to impair our ability to control, prevent or adequately respond to such violence.

Despite the veto of section 5, I am directing the Office of Financial Management to work toward obtaining funding, through available grants or applicable federal or state funds, to assist the improvement of domestic violence data through coordinated reporting of domestic violence incidents pursuant to RCW 10.99.030(7). In the event such funding cannot be found, I encourage the Washington State Association of Sheriffs and Police Chiefs to work with interested groups to develop a request for funding to the 1993 Legislature.

With the exception of sections 3, 5, and 13, Engrossed Second Substitute Senate Bill No. 6347 is approved."

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## CHAPTER 112

[Senate Bill 6220]

### SCHOOLS FOR THE TWENTY-FIRST CENTURY PILOT PROGRAM—REVISIONS

Effective Date: 6/11/92

AN ACT Relating to schools for the twenty-first century; amending RCW 28A.630.140; and adding a new section to chapter 28A.630 RCW.

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

**Sec. 1.** RCW 28A.630.140 and 1988 c 1 s 1 are each amended to read as follows:

Initial applications to participate in the schools for the twenty-first century pilot program shall be submitted by the school district board of directors to the state board of education not later than May 31, 1988. Subject to available funding, additional applications may be submitted for board consideration by November 1 of subsequent years. Each application shall contain a proposed plan which:

(1) Enumerates specific activities to be carried out as part of the pilot school(s) project;

(2) Commits all parties to work cooperatively during the term of the pilot project;

(3) Includes provisions for some or all certificated school staff, including certificated administrative staff, and classified school employees whose primary duties are the daily educational instruction of students, to be employed on supplemental contracts with additional compensation for a minimum of an average of ten additional days beyond the general state funded school year allocations for the participating employees, and staff development time as provided by legislative appropriation, and, notwithstanding (~~the provisions of RCW 28A.58.095(1))~~ RCW 28A.400.200, district resources may be used to fund

the employment of staff beyond the average of ten additional days for the purposes of the pilot project;

(4) Includes budget plans for the project and additional anticipated sources of funding, including private grants and contributions, if any;

(5) Identifies the technical resources desired, the potential costs of those resources, and the institutions of higher education, educational service districts, or consultants available to provide such services;

(6) Identifies the evaluation and accountability processes to be used to measure school-wide student and project performance, and identifies a model which provides the basis for a staff incentive pay system. Implementation of the staff incentive pay system is not required;

(7) Justifies each request for waiver of specific state statutes or administrative rules during at least the first two years of the project;

(8) Includes a written statement that school directors and administrators are willing to exempt the pilot school(s) from specifically identified local rules, as needed;

(9) Includes a written statement that the school directors and the local bargaining agents will modify those portions of their local agreements as applicable for the pilot school(s) project; and

(10) Includes written statements of support from the district's board of directors, the district superintendent, the principal and staff of the building requesting to become a pilot school; and statements of support, willingness to participate, or concerns from any interested parent, business, or community organization.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.630 RCW to read as follows:

(1) The state board of education shall submit by January 15, 1995, to the legislature and the governor, a final report on the schools for the twenty-first century program. This report shall include but is not limited to the following information:

(a) Improvements in student performance resulting from activities carried out under the schools for the twenty-first century program;

(b) The relationship between improvements in student performance and increasing local decision-making authority under the schools for the twenty-first century program; and

(c) Identification of restructuring that occurred with and without the granting of waivers of state statutes or administrative rules.

(2) The state board of education and the superintendent of public instruction, from available funds, may contract for an independent evaluation of the schools for the twenty-first century program.

(3) This section shall expire January 30, 1995.

Passed the Senate March 7, 1992.

Passed the House March 4, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

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**CHAPTER 113**

[Engrossed Substitute House Bill 2337]

**MALPRACTICE INSURANCE FOR RETIRED PHYSICIANS  
PROVIDING FREE CARE TO LOW-INCOME PERSONS**

**Effective Date:** 6/11/92

AN ACT Relating to community clinics that utilize retired physicians to provide primary care to low-income persons without compensation; adding new sections to chapter 43.70 RCW; and creating a new section.

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

**NEW SECTION. Sec. 1.** There are a number of retired physicians who wish to provide, or are providing, health care services to low-income patients without compensation. However, the cost of obtaining malpractice insurance is a burden that is deterring them from donating their time and services in treating the health problems of the poor. The necessity of maintaining malpractice insurance for those in practice is a significant reality in today's litigious society.

A program to alleviate the onerous costs of malpractice insurance for retired physicians providing uncompensated health care services to low-income patients will encourage philanthropy and augment state resources in providing for the health care needs of those who have no access to basic health care services.

An estimated sixteen percent of the nonelderly population do not have health insurance and lack access to even basic health care services. This is especially problematic for low-income persons who are young and who are either unemployed or have entry-level jobs without health care benefits. The majority of the uninsured, however, are working adults, and some twenty-nine percent are children.

The legislature declares that this act will increase the availability of primary care to low-income persons and is in the interest of the public health and safety.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.70 RCW to read as follows:

(1) The department may establish a program to purchase and maintain liability malpractice insurance for retired physicians who provide primary health care services at community clinics. The following conditions apply to the program:

(a) Primary health care services shall be provided at community clinics that are public or private tax-exempt corporations;

(b) Primary health care services provided at the clinics shall be offered to low-income patients based on their ability to pay;

(c) Retired physicians providing health care services shall not receive compensation for their services; and

(d) The department shall contract only with a liability insurer authorized to offer liability malpractice insurance in the state.

(2) This section and section 3 of this act shall not be interpreted to require a liability insurer to provide coverage to a physician should the insurer determine that coverage should not be offered to a physician because of past claims experience or for other appropriate reasons.

(3) The state and its employees who operate the program shall be immune from any civil or criminal action involving claims against clinics or physicians that provided health care services under this section and section 3 of this act. This protection of immunity shall not extend to any clinic or physician participating in the program.

(4) The department may monitor the claims experience of retired physicians covered by liability insurers contracting with the department.

(5) The department may provide liability insurance under this act only to the extent funds are provided for this purpose by the legislature.

**NEW SECTION.** Sec. 3. A new section is added to chapter 43.70 RCW to read as follows:

The department may establish by rule the conditions of participation in the liability insurance program by retired physicians at clinics utilizing retired physicians for the purposes of this section and section 2 of this act. These conditions shall include, but not be limited to, the following:

(1) The participating physician associated with the clinic shall hold a valid license to practice medicine and surgery in this state and otherwise be in conformity with current requirements for licensure as a retired physician, including continuing education requirements;

(2) The participating physician shall limit the scope of practice in the clinic to primary care. Primary care shall be limited to noninvasive procedures and shall not include obstetrical care, or any specialized care and treatment. Noninvasive procedures include injections, suturing of minor lacerations, and incisions of boils or superficial abscesses;

(3) The provision of liability insurance coverage shall not extend to acts outside the scope of rendering medical services pursuant to this section and section 2 of this act;

(4) The participating physician shall limit the provision of health care services to low-income persons provided that clinics may, but are not required to, provide means tests for eligibility as a condition for obtaining health care services;

(5) The participating physician shall not accept compensation for providing health care services from patients served pursuant to this section and section 2

of this act, nor from clinics serving these patients. "Compensation" shall mean any remuneration of value to the participating physician for services provided by the physician, but shall not be construed to include any nominal copayments charged by the clinic, nor reimbursement of related expenses of a participating physician authorized by the clinic in advance of being incurred; and

(6) The use of mediation or arbitration for resolving questions of potential liability may be used, however any mediation or arbitration agreement format shall be expressed in terms clear enough for a person with a sixth grade level of education to understand, and on a form no longer than one page in length.

Passed the House March 9, 1992.

Passed the Senate March 6, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

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## CHAPTER 114

[Substitute Senate Bill 6460]

### FOR-HIRE VEHICLE OPERATORS—REVISED PERMIT REQUIREMENTS

Effective Date: 6/11/92

AN ACT Relating to for hire vehicles; and amending RCW 46.72.020, 46.72.030, 46.72.070, 46.72.080, 46.72.120, and 46.72.130.

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

**Sec. 1.** RCW 46.72.020 and 1979 c 158 s 188 are each amended to read as follows:

No for hire operator shall cause operation of a for hire vehicle upon any highway of this state without first obtaining a permit from the director of licensing, except for those for hire operators regulated by cities or counties in accordance with chapter 81.72 RCW. Application for a permit shall be made on forms provided by the director and shall include (1) the name and address of the owner or owners, and if a corporation, the names and addresses of the principal officers thereof; (2) city, town or locality in which any vehicle will be operated; (3) name and motor number of any vehicle to be operated; (4) the endorsement of a city official authorizing an operator under a law or ordinance requiring a license; and (5) such other information as the director may require.

**Sec. 2.** RCW 46.72.030 and 1967 c 32 s 81 are each amended to read as follows:

Application for a permit shall be forwarded to the director with a fee ((of five dollars)). Upon receipt of such application and fee, the director shall, if such application be in proper form, issue a permit authorizing the applicant to operate for hire vehicles upon the highways of this state until such owner ceases to do business as such, or until the permit is suspended or revoked. Such permit shall be displayed in a conspicuous place in the principal place of business of the owner.

**Sec. 3.** RCW 46.72.070 and 1967 c 32 s 84 are each amended to read as follows:

The director shall approve and file all bonds and policies of insurance. The director shall, upon receipt of fees and after approving the bond or policy, furnish the owner with an appropriate certificate which must be carried in a conspicuous place in the vehicle at all times during for hire operation. A for hire operator shall secure a certificate for each for hire vehicle operated and pay therefor a fee ~~((of one dollar))~~ for each vehicle so registered. Such permit or certificate shall expire on June 30th of each year, and may be annually renewed upon payment of a fee ~~((of one dollar))~~.

**Sec. 4.** RCW 46.72.080 and 1967 c 32 s 85 are each amended to read as follows:

In the event the owner substitutes a policy or bond after a for hire certificate has been issued, a new certificate shall be issued to the owner. The owner shall submit the substituted bond or policy to the director for approval, together with a fee ~~((of one dollar))~~. If the director approves the substituted policy or bond, a new certificate shall be issued. In the event any certificate has been lost, destroyed or stolen, a duplicate thereof may be obtained by filing an affidavit of loss and paying a fee ~~((of fifty cents))~~.

**Sec. 5.** RCW 46.72.120 and 1967 c 32 s 88 are each amended to read as follows:

The director is empowered to make and enforce such rules and regulations, including the setting of fees, as may be consistent with and necessary to carry out the provisions of this chapter.

**Sec. 6.** RCW 46.72.130 and 1967 c 32 s 89 are each amended to read as follows:

No operator of a taxicab licensed or possessing a permit in another state to transport passengers for hire, and principally engaged as a for hire operator in another state, shall cause the operation of a taxicab upon any highway of this state without first obtaining an annual permit from the director upon an application accompanied with an annual fee ~~((of twenty dollars))~~ for each taxicab. The issuance of a permit shall be further conditioned upon compliance with this chapter.

Passed the Senate March 6, 1992.

Passed the House March 11, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

**CHAPTER 115**

[Substitute Senate Bill 6451]

**SURETY BONDS—RESTRICTIONS ON USE AS INSURANCE**

**Effective Date:** 6/11/92

AN ACT Relating to insurance coverage; and adding new sections to chapter 19.72 RCW.

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

**NEW SECTION.** **Sec. 1.** A new section is added to chapter 19.72 RCW to read as follows:

(1) Except under RCW 19.72.109, surety bond means any form of surety insurance as defined in RCW 48.11.080. A surety bond may not provide any other type of insurance coverage defined in chapter 48.11 RCW. Language in any statute, ordinance, contract, or surety bond to the contrary is void.

(2) A surety bond shall not be liable for damages based upon or arising out of any:

(a) Tortious injury, including death, to:

(i) Any person; or

(ii) Any real or personal property; or

(b) Failure to have any or adequate insurance coverage, even if liability under (a) or (b) of this subsection is imposed on the surety's principal or the surety by contract, surety bond, strict liability, ordinance, statute, or common law.

**NEW SECTION.** **Sec. 2.** A new section is added to chapter 19.72 RCW to read as follows:

This chapter applies to all sureties, regardless of whether the sureties are compensated or uncompensated.

Passed the Senate February 12, 1992.

Passed the House March 6, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

**CHAPTER 116**

[House Bill 2290]

**FIRE PROTECTION SPRINKLER SYSTEM CONTRACTORS**

**Effective Date:** 3/31/92

AN ACT Relating to fire protection sprinkler systems; amending RCW 18.160.030; adding a new section to chapter 9.45 RCW; adding new sections to chapter 18.160 RCW; prescribing penalties; and declaring an emergency.

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

**NEW SECTION.** **Sec. 1.** A new section is added to chapter 9.45 RCW to read as follows:

Any fire protection sprinkler system contractor, defined under RCW 18.160.010, who willfully and maliciously constructs, installs, or maintains a fire

protection sprinkler system in any structure so as to threaten the safety of any occupant or user of the structure in the event of a fire, is guilty of a class C felony. This section may not be construed to create any criminal liability for a prime contractor or an owner of a structure unless it is proved that the prime contractor or owner had actual knowledge of an illegal construction, installation, or maintenance of a fire protection sprinkler system by a fire protection sprinkler system contractor.

**Sec. 2.** RCW 18.160.030 and 1990 c 177 s 4 are each amended to read as follows:

(1) This chapter shall be administered by the state director of fire protection.

(2) The state director of fire protection shall have the authority, and it shall be his or her duty to:

(a) Issue such administrative regulations as necessary for the administration of this chapter;

(b)(i) Set reasonable fees for licenses, certificates, testing, and other aspects of the administration of this chapter. However, the license fee for fire protection sprinkler system contractors engaged solely in the installation, inspection, maintenance, or servicing of NFPA 13-D fire protection sprinkler systems shall not exceed one hundred dollars, and the license fee for fire protection sprinkler system contractors engaged solely in the installation, inspection, maintenance, or servicing of NFPA 13-R fire protection sprinkler systems shall not exceed three hundred dollars;

(ii) Adopt rules establishing a special category restricted to contractors registered under chapter 18.27 RCW who install underground systems that service fire protection sprinkler systems. The rules shall be adopted within ninety days of the effective date of this act;

(c) Enforce the provisions of this chapter;

(d) Conduct investigations of complaints to determine if any infractions of this chapter or the regulations developed under this chapter have occurred;

(e) Work with the fire sprinkler advisory committee consisting of fire protection sprinkler system contractors and other related officials;

(f) Assign a certificate number to each certificate of competency holder; and

(g) Adopt rules necessary to implement and administer a program which requires the affixation of a seal any time a fire protection sprinkler system is installed, which seal shall include the certificate number of any certificate of competency holder who installs, in whole or in part, the fire protection sprinkler system.

**NEW SECTION. Sec. 3.** A new section is added to chapter 18.160 RCW to read as follows:

Any fire protection sprinkler system contractor who constructs, installs, or maintains a fire protection sprinkler system in any occupancy, except an owner-occupied single-family dwelling, without first obtaining a fire sprinkler contractor's license from the state of Washington, is guilty of a gross misde-

meanor. This section may not be construed to create any criminal liability for a prime contractor or an owner of an occupancy unless it is proved that the prime contractor or owner had actual knowledge of an illegal construction, installation, or maintenance of a fire protection sprinkler system by a fire protection sprinkler system contractor.

**NEW SECTION.** Sec. 4. A new section is added to chapter 18.160 RCW to read as follows:

Civil proceedings to enforce this chapter may be brought by the attorney general or the prosecuting attorney of any county where a violation occurs on his or her own motion or at the request of the state director of fire protection.

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

Passed the House March 9, 1992.

Passed the Senate March 6, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

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## CHAPTER 117

[Substitute House Bill 2937]

### FIRE PROTECTION CONTRACTS AND STATE FIRE SERVICES MOBILIZATION PLAN

Effective Date: 3/31/92

AN ACT Relating to fire protection contracts; amending RCW 28B.35.190, 28B.40.190, and 35.21.775; adding new sections to chapter 35.21 RCW; adding a new chapter to Title 38 RCW; repealing RCW 35.21.777; and declaring an emergency.

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

**Sec. 1.** RCW 28B.35.190 and 1977 ex.s. c 169 s 49 are each amended to read as follows:

Subject to the provisions of section 6 of this act, each board of trustees of the regional universities may:

(1) Contract for such fire protection services as may be necessary for the protection and safety of the students, staff and property of the regional university;

(2) By agreement pursuant to the provisions of chapter 239, Laws of 1967 (chapter 39.34 RCW), as now or hereafter amended, join together with other agencies or political subdivisions of the state or federal government and otherwise share in the accomplishment of any of the purposes of subsection (1) of this section:

PROVIDED, HOWEVER, That neither the failure of the trustees to exercise any of its powers under this section nor anything herein shall detract from the lawful and existing powers and duties of political subdivisions of the state to

provide the necessary fire protection equipment and services to persons and property within their jurisdiction.

**Sec. 2.** RCW 28B.40.190 and 1977 ex.s. c 169 s 69 are each amended to read as follows:

Subject to the provisions of section 6 of this act, the board of trustees of The Evergreen State College may:

(1) Contract for such fire protection services as may be necessary for the protection and safety of the students, staff and property of the college;

(2) By agreement pursuant to the provisions of chapter 239, Laws of 1967 (chapter 39.34 RCW), as now or hereafter amended, join together with other agencies or political subdivisions of the state or federal government and otherwise share in the accomplishment of any of the purposes of subsection (1) of this section:

PROVIDED, HOWEVER, That neither the failure of the trustees to exercise any of its powers under this section nor anything herein shall detract from the lawful and existing powers and duties of political subdivisions of the state to provide the necessary fire protection equipment and services to persons and property within their jurisdiction.

NEW SECTION. **Sec. 3.** A new section is added to chapter 35.21 RCW to read as follows:

The legislature finds that certain state-owned facilities and institutions impose a financial burden on the cities and towns responsible for providing fire protection services to those state facilities. The legislature endeavors pursuant to this act (chapter ..., Laws of 1992), to establish a process whereby cities and towns that have a significant share of their total assessed valuation taken up by state-owned facilities can enter into fire protection contracts with state agencies or institutions to provide a share of the jurisdiction's fire protection funding.

**Sec. 4.** RCW 35.21.775 and 1985 c 6 s 4 are each amended to read as follows:

Subject to the provisions of section 6 of this act, whenever a city or town has located within its territorial limits ~~((buildings or equipment))~~ facilities, except those leased to a nontax-exempt person or organization, owned by the state or an agency or institution of the state, the state or agency or institution ~~((shall))~~ owning such facilities and the city or town may contract ~~((with the city or town))~~ for an equitable share of fire protection services ~~((necessary))~~ for the protection and safety of personnel and property, pursuant to chapter 39.34 RCW, as now or hereafter amended. Nothing in this section shall be construed to require the state, or any state agency or institution, to contract for services which are performed by the staff and equipment of such an entity or by a fire protection district pursuant to RCW 52.30.020. ~~((The director of community development shall present in the budget submitted to the governor for each biennium, an amount sufficient to fund any fire protection service contracts negotiated under the provisions of this section.))~~

**NEW SECTION.** Sec. 5. A new section is added to chapter 35.21 RCW to read as follows:

Nothing in this act (chapter ..., Laws of 1992), shall be interpreted to abrogate existing contracts for fire protection services and equipment, nor be deemed to authorize cities and towns to negotiate additional contractual provisions to apply prior to the expiration of such existing contracts. Upon expiration of contracts negotiated prior to the effective date of this act, future contracts between such cities and towns and state agencies and institutions shall be governed by the provisions of sections 4 and 6 of this act.

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

(1) In cities or towns where the estimated value of state-owned facilities constitutes ten percent or more of the total assessed valuation, the state agency or institution owning the facilities shall contract with the city or town to pay an equitable share for fire protection services. The contract shall be negotiated as provided in subsections (2) through (6) of this section and shall provide for payment by the agency or institution to the city or town.

(2) A city or town seeking to enter into fire protection contract negotiations shall provide written notification to the department of community development and the state agencies or institutions that own property within the jurisdiction, of its intent to contract for fire protection services. Where there are multiple state agencies located within a single jurisdiction, a city may choose to notify only the department of community development, which in turn shall notify the agencies or institution that own property within the jurisdiction of the city's intent to contract for fire protection services. Any such notification shall be based on the valuation procedures, based on commonly accepted standards, adopted by the department of community development in consultation with the department of general administration and the association of Washington cities.

(3) The department of community development shall review any such notification to ensure that the valuation procedures and results are accurate. The department will notify each affected city or town and state agency or institution of the results of their review within thirty days of receipt of notification.

(4) The parties negotiating fire protection contracts under this section shall conduct those negotiations in good faith. Whenever there are multiple state agencies located within a single jurisdiction, every effort shall be made by the state to consolidate negotiations on behalf of all affected agencies.

(5) In the event of notification by one of the parties that an agreement cannot be reached on the terms and conditions of a fire protection contract, the director of the department of community development shall mediate a resolution of the disagreement. In the event of a continued impasse, the director of the department of community development shall recommend a resolution.

(6) If the parties reject the recommendation of the director and an impasse continues, the director shall direct the parties to arbitration. The parties shall

agree on a neutral arbitrator, and the fees and expenses of the arbitrator shall be shared equally between the parties. The arbitration shall be a final offer, total arbitration, with the arbitrator empowered only to pick the final offer of one of the parties or the recommended resolution by the director of the department of community development. The decision of the arbitrator shall be final, binding, and nonappealable on the parties.

(7) The provisions of this section shall not apply if a city or town and a state agency or institution have contracted pursuant to section 4 of this act.

(8) The provisions of this section do not apply to cities and towns not meeting the conditions in subsection (1) of this section. Cities and towns not meeting the conditions of subsection (1) of this section may enter into contracts pursuant to section 4 of this act.

**NEW SECTION.** Sec. 7. A new section is added to chapter 35.21 RCW to read as follows:

On or before May 1, 1992, the department of community development shall, in consultation with the association of Washington cities, adopt rules pursuant to chapter 34.05 RCW for the implementation of this act (chapter ..., Laws of 1992).

**NEW SECTION.** Sec. 8. RCW 35.21.777 and 1983 c 87 s 1 are each repealed.

**NEW SECTION.** Sec. 9. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of community development.

(2) "Director" means the director of the department of community development.

(3) "State fire marshal" means the assistant director of the division of fire protection services in the department of community development.

(4) "Fire chief" includes the chief officer of a statutorily authorized fire agency, or the fire chief's authorized representative. Also included are the department of natural resources fire control chief, and the department of natural resources regional managers.

(5) "Jurisdiction" means state, county, city, fire district, or port district fighting units, or other units covered by this chapter.

(6) "Mobilization" means that fire fighting resources beyond those available through existing agreements will be requested and, when available, sent to fight a fire that has or soon will exceed the capabilities of available local resources. During a large scale fire emergency, mobilization includes redistribution of regional or state-wide fire fighting resources to either direct fire fighting assignments or to assignment in communities where fire fighting resources are needed. This chapter shall not reduce or suspend the authority or responsibility of the department of natural resources under chapter 76.04 RCW.

(7) "Mutual aid" means emergency interagency assistance provided without compensation under an agreement between jurisdictions under chapter 39.34 RCW.

**NEW SECTION. Sec. 10.** Because of the possibility of the occurrence of disastrous fires or other disasters of unprecedented size and destructiveness, the need to insure that the state is adequately prepared to respond to such a fire or disaster, the need to establish a mechanism and a procedure to provide for reimbursement to fire fighting agencies that respond to help others in time of need, and generally to protect the public peace, health, safety, lives, and property of the people of Washington, it is hereby declared necessary to:

(1) Provide the policy and organizational structure for large scale mobilization of fire fighting resources in the state through creation of the Washington state fire services mobilization plan;

(2) Confer upon the director of the department of community development the powers provided herein; and

(3) Provide a means for reimbursement to fire jurisdictions that incur expenses when mobilized by the director under the Washington state fire services mobilization plan.

**NEW SECTION. Sec. 11.** There is created the state fire defense board consisting of the state fire marshal, a representative from the department of natural resources appointed by the commissioner of public lands, the assistant director of the emergency management division of the department of community development, and one representative selected by each regional fire defense board in the state. Members of the state fire defense board shall select from among themselves a chairperson. Members serving on the board do so in a voluntary capacity and are not eligible for reimbursement for meeting-related expenses from the state.

The state fire defense board shall develop and maintain the Washington state fire services mobilization plan, which shall include the procedures to be used during fire emergencies for coordinating local, regional, and state fire jurisdiction resources. The Washington state fire services mobilization plan shall be consistent with, and made part of, the Washington state comprehensive emergency management plan. The director shall review the fire services mobilization plan as submitted by the state fire defense board and after consultation with the fire protection policy board, recommend changes that may be necessary, and approve the fire services mobilization plan for inclusion within the state comprehensive emergency management plan.

It is the responsibility of the director to mobilize jurisdictions under the Washington state fire services mobilization plan. The state fire marshal shall serve as the state fire resources coordinator when the Washington state fire services mobilization plan is mobilized.

**NEW SECTION. Sec. 12.** Regions within the state are initially established as follows but may be adjusted as necessary by the director:

(1) Northwest region - Whatcom, Skagit, Snohomish, San Juan, and Island counties;

(2) Northeast region - Okanogan, Ferry, Stevens, Pend Oreille, Spokane, and Lincoln counties;

(3) Olympic region - Clallam and Jefferson counties;

(4) South Puget Sound region - Kitsap, Mason, King, and Pierce counties;

(5) Southeast region - Chelan, Douglas, Kittitas, Grant, Adams, Whitman, Yakima, Klickitat, Benton, Franklin, Walla Walla, Columbia, Garfield, and Asotin counties;

(6) Central region - Grays Harbor, Thurston, Pacific, and Lewis counties; and

(7) Southwest region - Wahkiakum, Cowlitz, Clark, and Skamania counties.

Within each of these regions there is created a regional fire defense board. The regional fire defense boards shall consist of two members from each county in the region. One member from each county shall be appointed by the county fire chiefs' association or, in the event there is no such county association, by the county's legislative authority. Each county's office of emergency management or, in the event there is no such office, the county's legislative authority shall select the second representative to the regional board. The department of natural resources fire control chief shall appoint a representative from each department of natural resources region to serve as a member of the appropriate regional fire defense board. Members of each regional board will select a chairperson and secretary as officers. Members serving on the regional boards do so in a voluntary capacity and are not eligible for reimbursement for meeting-related expenses from the state.

Regional defense boards shall develop regional fire service plans that include provisions for organized fire agencies to respond across municipal, county, or regional boundaries. Each regional plan shall be consistent with the incident command system, the Washington state fire services mobilization plan, and regional response plans already adopted and in use in the state. The regional boards shall work with the relevant local government entities to facilitate development of intergovernmental agreements if any such agreements are required to implement a regional fire service plan. Each regional plan shall be approved by the state fire defense board before implementation.

**NEW SECTION. Sec. 13.** The department of community development in consultation with the office of financial management shall develop procedures to facilitate reimbursement to jurisdictions from appropriate federal and state funds when jurisdictions are mobilized by the director under the Washington state fire services mobilization plan.

**NEW SECTION. Sec. 14.** Sections 9 through 13 of this act shall constitute a new chapter in Title 38 RCW.

**NEW SECTION. Sec. 15.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 11, 1992.

Passed the Senate March 11, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

## CHAPTER 118

[Second Engrossed Substitute Senate Bill 5121]

### WHISTLEBLOWERS—INVESTIGATION OF REPORTS AND PROTECTION FROM RETALIATION

**Effective Date:** 6/11/92 - Except Section 8 which becomes effective on 4/1/92.

AN ACT Relating to improper governmental action; amending RCW 42.40.020, 42.40.040, 42.40.050, 49.60.210, 49.60.250, 43.09.050, and 43.88.160; reenacting and amending RCW 43.88.160; prescribing penalties; making an appropriation; providing an effective date; and providing an expiration date.

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

**Sec. 1.** RCW 42.40.020 and 1989 c 284 s 1 are each amended to read as follows:

As used in this chapter, the terms defined in this section shall have the meanings indicated unless the context clearly requires otherwise.

- (1) "Auditor" means the office of the state auditor.
- (2) "Employee" means any individual employed or holding office in any department or agency of state government.
  - (3)(a) "Improper governmental action" means any action by an employee:
    - (i) Which is undertaken in the performance of the employee's official duties, whether or not the action is within the scope of the employee's employment; and
    - (ii) Which is in violation of any state law or rule, is an abuse of authority, is of substantial and specific danger to the public health or safety, or is a gross waste of public funds.
  - (b) "Improper governmental action" does not include personnel actions including but not limited to employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, reemployments, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of the state civil service law, alleged labor agreement violations, reprimands, or any action which may be taken under chapter 41.06 or 28B.16 RCW, or other disciplinary action except as provided in RCW 42.40.030.

(4) "Use of official authority or influence" includes taking, directing others to take, recommending, processing, or approving any personnel action such as an appointment, promotion, transfer, assignment, reassignment, reinstatement,

restoration, reemployment, performance evaluation, or any adverse action under chapter 41.06 or 28B.16 RCW, or other disciplinary action.

(5) "Whistleblower" means an employee who in good faith reports alleged improper governmental action to the auditor, initiating an investigation under RCW 42.40.040. For purposes of the provisions of this chapter and chapter 49.60 RCW relating to reprisals and retaliatory action, the term "whistleblower" also means an employee who in good faith provides information to the auditor in connection with an investigation under RCW 42.40.040 and an employee who is believed to have reported alleged improper governmental action to the auditor or to have provided information to the auditor in connection with an investigation under RCW 42.40.040 but who, in fact, has not reported such action or provided such information.

**Sec. 2.** RCW 42.40.040 and 1989 c 284 s 3 are each amended to read as follows:

(1) Upon receiving specific information that an employee has engaged in improper governmental action, the auditor shall, within five working days of receipt of the information, mail written acknowledgement to the whistleblower at the address provided. For a period not to exceed thirty days, the auditor shall conduct such preliminary investigation of the matter as the auditor deems appropriate. In conducting the investigation, the identity of the ((person providing the information which initiated the investigation)) whistleblower shall be kept confidential.

(2) In addition to the authority under subsection (1) of this section, the auditor may, on its own initiative, investigate incidents of improper state governmental action.

(3)(a) If it appears to the auditor, upon completion of the preliminary investigation, that the matter is so unsubstantiated that no further investigation, prosecution, or administrative action is warranted, the auditor shall so notify the ((person, if known, who provided the information initiating the investigation)) whistleblower.

(b) The notification shall be by memorandum containing a summary of the information received, a summary of the results of the preliminary investigation with regard to each allegation of improper governmental action, and any determination made by the auditor under (c) of this subsection.

(c) In any case to which this section applies, the identity of the ((person who provided the information initiating the investigation)) whistleblower shall be kept confidential unless the auditor determines that the information has been provided other than in good faith.

(d) If it appears to the auditor that the matter does not meet the definition of an "improper governmental action" under RCW 42.40.020(3), or is other than a gross waste of public funds, the auditor may forward a summary of the allegations to the appropriate agency for investigation and require a response by memorandum ((containing)) no later than thirty days after the allegations are

received from the auditor. The response shall contain a summary of the investigation with regard to each allegation and any determination of corrective action taken. The auditor will keep the identity of the (~~person who provided the information initiating the investigation~~) whistleblower confidential. Upon receipt of the results of the investigation from the appropriate agency, the auditor will notify the (~~provider~~) whistleblower as prescribed under (a), (b), and (c) of this subsection.

(4) If it appears to the auditor after completion of the preliminary investigation that further investigation, prosecution, or administrative action is warranted, the auditor shall so notify the (~~party, if known, who provided the information initiating the investigation~~) whistleblower and either conduct further investigations or issue a report under subsection (6) of this section. Within sixty days after the thirty-day period in subsection (1) of this section, the auditor shall complete the investigation and report its findings to the whistleblower unless written justification for the delay is furnished to the whistleblower. In all such cases, the report of the auditor's investigation and findings shall be sent to the whistleblower within one year after the information was filed under subsection (1) of this section.

(5)(a) At any stage of an investigation under this section the auditor may require by subpoena the attendance and testimony of witnesses and the production of documentary or other evidence relating to the investigation at any designated place in the state. The auditor may issue subpoenas, administer oaths, examine witnesses, and receive evidence. In the case of contumacy or failure to obey a subpoena, the superior court for the county in which the person to whom the subpoena is addressed resides or is served may issue an order requiring the person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

(b) The auditor may order the taking of depositions at any stage of a proceeding or investigation under this chapter. Depositions shall be taken before an individual designated by the auditor and having the power to administer oaths. Testimony shall be reduced to writing by or under the direction of the individual taking the deposition and shall be subscribed by the deponent.

(6)(a) If the auditor determines that there is reasonable cause to believe that an employee has engaged in any improper activity, the auditor shall report the nature and details of the activity to:

- (i) The employee and the head of the employing agency; and
- (ii) If appropriate, the attorney general or such other authority as the auditor determines appropriate.

(b) The auditor has no enforcement power except that in any case in which the auditor submits a report of alleged improper activity to the head of an agency, the attorney general, or any other individual to which a report has been made under this section, the individual shall report to the auditor with respect to

any action taken by the individual regarding the activity, the first report being transmitted no later than thirty days after the date of the auditor's report and monthly thereafter until final action is taken. If the auditor determines that appropriate action is not being taken within a reasonable time, the auditor shall report the determination to the governor and to the legislature.

(7) This section does not limit any authority conferred upon the attorney general or any other agency of government to investigate any matter.

**Sec. 3.** RCW 42.40.050 and 1989 c 284 s 4 are each amended to read as follows:

~~((1) Any employee (a) who provides his or her name and specific information to the auditor on any matter which is found to warrant further investigation or other action, or which is provided by the employee in good faith, as determined by the auditor, whether or not further action is warranted and (b) who is subjected to any reprisal or retaliatory action undertaken during the period beginning on the day after the date on which the specific information is received by the auditor alleging improper governmental action, may seek judicial review of the reprisal or retaliatory action in superior court, whether or not there has been an administrative review of the action. In such an action, the reviewing court may award reasonable attorney's fees.~~

~~(2) The employee who provided specific information shall notify the state auditor in writing if any changes in the employee's work situation exist which are related to the employee's having provided information. If the auditor has reason to believe that such a change in work situation has occurred, the auditor shall investigate and report on the matter in accordance with this chapter.~~

(3)) Any person who is a whistleblower, as defined in RCW 42.40.020, and who as a result of being a whistleblower has been subjected to workplace reprisal or retaliatory action has the remedies provided under chapter 49.60 RCW. For the purpose of this section "reprisal or retaliatory action" means but is not limited to:

- ~~((a))~~ (1) Denial of adequate staff to perform duties;
- ~~((b))~~ (2) Frequent staff changes;
- ~~((c))~~ (3) Frequent and undesirable office changes;
- ~~((d))~~ (4) Refusal to assign meaningful work;
- ~~((e))~~ (5) Unwarranted and unsubstantiated letters of reprimand or unsatisfactory performance evaluations;
- ~~((f))~~ (6) Demotion;
- ~~((g))~~ (7) Reduction in pay;
- ~~((h))~~ (8) Denial of promotion;
- ~~((i))~~ (9) Suspension; ~~(and~~
- ~~((j))~~ (10) Dismissal;
- (11) Denial of employment; and
- (12) A supervisor or superior encouraging coworkers to behave in a hostile manner toward the whistleblower.

Nothing in this section prohibits an agency from making any decision exercising its authority to terminate, suspend, or discipline an employee who engages in workplace reprisal or retaliatory action against a whistleblower. However, the agency also shall implement any order under chapter 49.60 RCW (other than an order of suspension if the agency has terminated the retaliator).

**Sec. 4.** RCW 49.60.210 and 1985 c 185 s 18 are each amended to read as follows:

(1) It is an unfair practice for any employer, employment agency, labor union, or other person to discharge, expel, or otherwise discriminate against any person because he or she has opposed any practices forbidden by this chapter, or because he or she has filed a charge, testified, or assisted in any proceeding under this chapter.

(2) It is an unfair practice for a government agency or government manager or supervisor to retaliate against a whistleblower as defined in chapter 42.40 RCW.

**Sec. 5.** RCW 49.60.250 and 1989 c 175 s 115 are each amended to read as follows:

(1) In case of failure to reach an agreement for the elimination of such unfair practice, and upon the entry of findings to that effect, the entire file, including the complaint and any and all findings made, shall be certified to the chairperson of the commission. The chairperson of the commission shall thereupon request the appointment of an administrative law judge under Title 34 RCW to hear the complaint and shall cause to be issued and served in the name of the commission a written notice, together with a copy of the complaint, as the same may have been amended, requiring the respondent to answer the charges of the complaint at a hearing before the administrative law judge, at a time and place to be specified in such notice.

(2) The place of any such hearing may be the office of the commission or another place designated by it. The case in support of the complaint shall be presented at the hearing by counsel for the commission: PROVIDED, That the complainant may retain independent counsel and submit testimony and be fully heard. No member or employee of the commission who previously made the investigation or caused the notice to be issued shall participate in the hearing except as a witness, nor shall the member or employee participate in the deliberations of the administrative law judge in such case. Any endeavors or negotiations for conciliation shall not be received in evidence.

(3) The respondent shall file a written answer to the complaint and appear at the hearing in person or otherwise, with or without counsel, and submit testimony and be fully heard. The respondent has the right to cross-examine the complainant.

(4) The administrative law judge conducting any hearing may permit reasonable amendment to any complaint or answer. Testimony taken at the hearing shall be under oath and recorded.

(5) If, upon all the evidence, the administrative law judge finds that the respondent has engaged in any unfair practice, the administrative law judge shall state findings of fact and shall issue and file with the commission and cause to be served on such respondent an order requiring such respondent to cease and desist from such unfair practice and to take such affirmative action, including, (but not limited to) hiring, reinstatement or upgrading of employees, with or without back pay, an admission or restoration to full membership rights in any respondent organization, or to take such other action as, in the judgment of the administrative law judge, will effectuate the purposes of this chapter, including action that could be ordered by a court, except that damages for humiliation and mental suffering shall not exceed one thousand dollars, and including a requirement for report of the matter on compliance.

(6) If a determination is made that retaliatory action, as defined in RCW 42.40.050, has been taken against a whistleblower, as defined in RCW 42.40.020, the administrative law judge may, in addition to any other remedy, impose a civil penalty upon the retaliator of up to three thousand dollars and issue an order to the state employer to suspend the retaliator for up to thirty days without pay. At a minimum, the administrative law judge shall require that a letter of reprimand be placed in the retaliator's personnel file. All penalties recovered shall be paid into the state treasury and credited to the general fund.

(7) The final order of the administrative law judge shall include a notice to the parties of the right to obtain judicial review of the order by appeal in accordance with the provisions of RCW 34.05.510 through 34.05.598, and that such appeal must be served and filed within thirty days after the service of the order on the parties.

~~((7))~~ (8) If, upon all the evidence, the administrative law judge finds that the respondent has not engaged in any alleged unfair practice, the administrative law judge shall state findings of fact and shall similarly issue and file an order dismissing the complaint.

~~((8))~~ (9) An order dismissing a complaint may include an award of reasonable attorneys' fees in favor of the respondent if the administrative law judge concludes that the complaint was frivolous, unreasonable, or groundless.

~~((9))~~ (10) The commission shall establish rules of practice to govern, expedite, and effectuate the foregoing procedure.

**Sec. 6.** RCW 43.09.050 and 1979 c 151 s 91 are each amended to read as follows:

The auditor shall:

(1) Except as otherwise specifically provided by law, audit the accounts of all collectors of the revenue and other holders of public money required by law to pay the same into the treasury;

(2) In his or her discretion, inspect the books of any person charged with the receipt, safekeeping, and disbursement of public moneys;

(3) Investigate improper governmental activity under chapter 42.40 RCW;

(4) Inform the attorney general in writing of the necessity for ~~((him))~~ the attorney general to direct prosecutions in the name of the state for all official delinquencies in relation to the assessment, collection, and payment of the revenue, against all persons who, by any means, become possessed of public money or property, and fail to pay over or deliver the same, and against all debtors of the state;

~~((4))~~ (5) Give information in writing to the legislature, whenever required, upon any subject relating to the financial affairs of the state, or touching any duties of his or her office;

~~((5))~~ (6) Report to the director of financial management in writing the names of all persons who have received any moneys belonging to the state, and have not accounted therefor;

~~((6))~~ (7) Authenticate with his or her official seal papers issued from his or her office;

~~((7))~~ (8) Make his or her official report annually on or before the 31st of December.

**Sec. 7.** RCW 43.88.160 and 1987 c 505 s 36 and 1987 c 436 s 1 are each reenacted and amended to read as follows:

This section sets forth the major fiscal duties and responsibilities of officers and agencies of the executive branch. The regulations issued by the governor pursuant to this chapter shall provide for a comprehensive, orderly basis for fiscal management and control, including efficient accounting and reporting therefor, for the executive branch of the state government and may include, in addition, such requirements as will generally promote more efficient public management in the state.

(1) Governor; director of financial management. The governor, through the director of financial management, shall devise and supervise a modern and complete accounting system for each agency to the end that all revenues, expenditures, receipts, disbursements, resources and obligations of the state shall be properly and systematically accounted for. The accounting system shall include the development of accurate, timely records and reports of all financial affairs of the state. The system shall also provide for central accounts in the office of financial management at the level of detail deemed necessary by the director to perform central financial management. The director of financial management shall adopt and periodically update an accounting procedures manual. Any agency maintaining its own accounting and reporting system shall comply with the updated accounting procedures manual and the rules of the director adopted under this chapter. An agency may receive a waiver from complying with this requirement if the waiver is approved by the director. Waivers expire at the end of the fiscal biennium for which they are granted. The director shall forward notice of waivers granted to the legislative fiscal committees. The director of financial management may require such financial,

statistical, and other reports as the director deems necessary from all agencies covering any period.

The director of financial management is responsible for quarterly reporting of primary budget drivers such as applicable workloads, caseload estimates, and appropriate unit cost data. These reports shall be transmitted to the legislative fiscal committees or by electronic means to the legislative evaluation and accountability program committee. Quarterly reports shall include actual monthly data and the variance between actual and estimated data to date. The reports shall also include estimates of these items for the remainder of the budget period.

In addition, the director of financial management, as agent of the governor, shall:

(a) Make surveys and analyses of agencies with the object of determining better methods and increased effectiveness in the use of manpower and materials; and the director shall authorize expenditures for employee training to the end that the state may benefit from training facilities made available to state employees;

(b) Report to the governor with regard to duplication of effort or lack of coordination among agencies;

(c) Review any pay and classification plans, and changes thereunder, developed by any agency for their fiscal impact: PROVIDED, That none of the provisions of this subsection shall affect merit systems of personnel management now existing or hereafter established by statute relating to the fixing of qualifications requirements for recruitment, appointment, or promotion of employees of any agency. The director shall advise and confer with agencies including appropriate standing committees of the legislature as may be designated by the speaker of the house and the president of the senate regarding the fiscal impact of such plans and may amend or alter said plans, except that for the following agencies no amendment or alteration of said plans may be made without the approval of the agency concerned: Agencies headed by elective officials;

(d) Fix the number and classes of positions or authorized man years of employment for each agency and during the fiscal period amend the determinations previously fixed by the director except that the director shall not be empowered to fix said number or said classes for the following: Agencies headed by elective officials;

(e) Provide for transfers and repayments between the budget stabilization account and the general fund as directed by appropriation and RCW 43.88.525 through 43.88.540;

(f) Promulgate regulations to effectuate provisions contained in ((subsections)) (a) through (e) ((hereof)) of this subsection.

(2) The treasurer shall:

(a) Receive, keep and disburse all public funds of the state not expressly required by law to be received, kept and disbursed by some other persons:

PROVIDED, That this subsection shall not apply to those public funds of the institutions of higher learning which are not subject to appropriation;

(b) Disburse public funds under the treasurer's supervision or custody by warrant or check;

(c) Keep a correct and current account of all moneys received and disbursed by the treasurer, classified by fund or account;

(d) Perform such other duties as may be required by law or by regulations issued pursuant to this law.

It shall be unlawful for the treasurer to issue any warrant or check for public funds in the treasury except upon forms duly prescribed by the director of financial management. Said forms shall provide for authentication and certification by the agency head or the agency head's designee that the services have been rendered or the materials have been furnished; or, in the case of loans or grants, that the loans or grants are authorized by law; or, in the case of payments for periodic maintenance services to be performed on state owned equipment, that a written contract for such periodic maintenance services is currently in effect and copies thereof are on file with the office of financial management; and the treasurer shall not be liable under the treasurer's surety bond for erroneous or improper payments so made: PROVIDED, That when services are lawfully paid for in advance of full performance by any private individual or business entity other than as provided for by RCW 42.24.035, such individual or entity other than central stores rendering such services shall make a cash deposit or furnish surety bond coverage to the state as shall be fixed in an amount by law, or if not fixed by law, then in such amounts as shall be fixed by the director of the department of general administration but in no case shall such required cash deposit or surety bond be less than an amount which will fully indemnify the state against any and all losses on account of breach of promise to fully perform such services: AND PROVIDED FURTHER, That no payments shall be made in advance for any equipment maintenance services to be performed more than three months after such payment. Any such bond so furnished shall be conditioned that the person, firm or corporation receiving the advance payment will apply it toward performance of the contract. The responsibility for recovery of erroneous or improper payments made under this section shall lie with the agency head or the agency head's designee in accordance with regulations issued pursuant to this chapter. Nothing in this section shall be construed to permit a public body to advance funds to a private service provider pursuant to a grant or loan before services have been rendered or material furnished.

(3) The state auditor shall:

(a) Report to the legislature the results of current post audits that have been made of the financial transactions of each agency; to this end the auditor may, in the auditor's discretion, examine the books and accounts of any agency, official or employee charged with the receipt, custody or safekeeping of public

funds. The current post audit of each agency may include a section on recommendations to the legislature as provided in (c) of this subsection (~~((3)(e) of this section))~~).

(b) Give information to the legislature, whenever required, upon any subject relating to the financial affairs of the state.

(c) Make the auditor's official report on or before the thirty-first of December which precedes the meeting of the legislature. The report shall be for the last complete fiscal period and shall include at least the following:

Determinations as to whether agencies, in making expenditures, complied with the laws of this state: PROVIDED, That nothing in this act shall be construed to grant the state auditor the right to perform performance audits. A performance audit for the purpose of this act shall be the examination of the effectiveness of the administration, its efficiency and its adequacy in terms of the programs of departments or agencies as previously approved by the legislature. The authority and responsibility to conduct such an examination shall be vested in the legislative budget committee as prescribed in RCW 44.28.085 as now or hereafter amended.

(d) Be empowered to take exception to specific expenditures that have been incurred by any agency or to take exception to other practices related in any way to the agency's financial transactions and to cause such exceptions to be made a matter of public record, including disclosure to the agency concerned and to the director of financial management. It shall be the duty of the director of financial management to cause corrective action to be taken promptly, such action to include, as appropriate, the withholding of funds as provided in RCW 43.88.110.

(e) Promptly report any irregularities to the attorney general.

(f) Investigate improper governmental activity under chapter 42.40 RCW.

(4) The legislative budget committee may:

(a) Make post audits of the financial transactions of any agency and management surveys and program reviews as provided for in RCW 44.28.085 as now or hereafter amended. To this end the committee may in its discretion examine the books, accounts, and other records of any agency, official, or employee.

(b) Give information to the legislature or any legislative committee whenever required upon any subject relating to the performance and management of state agencies.

(c) Make a report to the legislature which shall include at least the following:

(i) Determinations as to the extent to which agencies in making expenditures have complied with the will of the legislature and in this connection, may take exception to specific expenditures or financial practices of any agencies; and

(ii) Such plans as it deems expedient for the support of the state's credit, for lessening expenditures, for promoting frugality and economy in agency affairs and generally for an improved level of fiscal management.

**Sec. 8.** RCW 43.88.160 and 1991 c 358 s 4 are each amended to read as follows:

This section sets forth the major fiscal duties and responsibilities of officers and agencies of the executive branch. The regulations issued by the governor pursuant to this chapter shall provide for a comprehensive, orderly basis for fiscal management and control, including efficient accounting and reporting therefor, for the executive branch of the state government and may include, in addition, such requirements as will generally promote more efficient public management in the state.

(1) Governor; director of financial management. The governor, through the director of financial management, shall devise and supervise a modern and complete accounting system for each agency to the end that all revenues, expenditures, receipts, disbursements, resources, and obligations of the state shall be properly and systematically accounted for. The accounting system shall include the development of accurate, timely records and reports of all financial affairs of the state. The system shall also provide for central accounts in the office of financial management at the level of detail deemed necessary by the director to perform central financial management. The director of financial management shall adopt and periodically update an accounting procedures manual. Any agency maintaining its own accounting and reporting system shall comply with the updated accounting procedures manual and the rules of the director adopted under this chapter. An agency may receive a waiver from complying with this requirement if the waiver is approved by the director. Waivers expire at the end of the fiscal biennium for which they are granted. The director shall forward notice of waivers granted to the appropriate legislative fiscal committees. The director of financial management may require such financial, statistical, and other reports as the director deems necessary from all agencies covering any period.

(2) The director of financial management is responsible for quarterly reporting of primary operating budget drivers such as applicable workloads, caseload estimates, and appropriate unit cost data. These reports shall be transmitted to the legislative fiscal committees or by electronic means to the legislative evaluation and accountability program committee. Quarterly reports shall include actual monthly data and the variance between actual and estimated data to date. The reports shall also include estimates of these items for the remainder of the budget period.

(3) The director of financial management shall report at least annually to the appropriate legislative committees regarding the status of all appropriated capital projects, including transportation projects, showing significant cost overruns or underruns. If funds are shifted from one project to another, the office of

financial management shall also reflect this in the annual variance report. Once a project is complete, the report shall provide a final summary showing estimated start and completion dates of each project phase compared to actual dates, estimated costs of each project phase compared to actual costs, and whether or not there are any outstanding liabilities or unsettled claims at the time of completion.

(4) In addition, the director of financial management, as agent of the governor, shall:

(a) Make surveys and analyses of agencies with the object of determining better methods and increased effectiveness in the use of manpower and materials; and the director shall authorize expenditures for employee training to the end that the state may benefit from training facilities made available to state employees;

(b) Report to the governor with regard to duplication of effort or lack of coordination among agencies;

(c) Review any pay and classification plans, and changes thereunder, developed by any agency for their fiscal impact: PROVIDED, That none of the provisions of this subsection shall affect merit systems of personnel management now existing or hereafter established by statute relating to the fixing of qualifications requirements for recruitment, appointment, or promotion of employees of any agency. The director shall advise and confer with agencies including appropriate standing committees of the legislature as may be designated by the speaker of the house and the president of the senate regarding the fiscal impact of such plans and may amend or alter said plans, except that for the following agencies no amendment or alteration of said plans may be made without the approval of the agency concerned: Agencies headed by elective officials;

(d) Fix the number and classes of positions or authorized man years of employment for each agency and during the fiscal period amend the determinations previously fixed by the director except that the director shall not be empowered to fix said number or said classes for the following: Agencies headed by elective officials;

(e) Provide for transfers and repayments between the budget stabilization account and the general fund as directed by appropriation and RCW 43.88.525 through 43.88.540;

(f) Promulgate regulations to effectuate provisions contained in ~~((subsections))~~ (a) through (e) ~~((hereof))~~ of this subsection.

(5) The treasurer shall:

(a) Receive, keep, and disburse all public funds of the state not expressly required by law to be received, kept, and disbursed by some other persons: PROVIDED, That this subsection shall not apply to those public funds of the institutions of higher learning which are not subject to appropriation;

(b) Disburse public funds under the treasurer's supervision or custody by warrant or check;

(c) Keep a correct and current account of all moneys received and disbursed by the treasurer, classified by fund or account;

(d) Perform such other duties as may be required by law or by regulations issued pursuant to this law.

It shall be unlawful for the treasurer to issue any warrant or check for public funds in the treasury except upon forms duly prescribed by the director of financial management. Said forms shall provide for authentication and certification by the agency head or the agency head's designee that the services have been rendered or the materials have been furnished; or, in the case of loans or grants, that the loans or grants are authorized by law; or, in the case of payments for periodic maintenance services to be performed on state owned equipment, that a written contract for such periodic maintenance services is currently in effect and copies thereof are on file with the office of financial management; and the treasurer shall not be liable under the treasurer's surety bond for erroneous or improper payments so made: PROVIDED, That when services are lawfully paid for in advance of full performance by any private individual or business entity other than as provided for by RCW 42.24.035, such individual or entity other than central stores rendering such services shall make a cash deposit or furnish surety bond coverage to the state as shall be fixed in an amount by law, or if not fixed by law, then in such amounts as shall be fixed by the director of the department of general administration but in no case shall such required cash deposit or surety bond be less than an amount which will fully indemnify the state against any and all losses on account of breach of promise to fully perform such services: AND PROVIDED FURTHER, That no payments shall be made in advance for any equipment maintenance services to be performed more than three months after such payment. Any such bond so furnished shall be conditioned that the person, firm or corporation receiving the advance payment will apply it toward performance of the contract. The responsibility for recovery of erroneous or improper payments made under this section shall lie with the agency head or the agency head's designee in accordance with regulations issued pursuant to this chapter. Nothing in this section shall be construed to permit a public body to advance funds to a private service provider pursuant to a grant or loan before services have been rendered or material furnished.

(6) The state auditor shall:

(a) Report to the legislature the results of current post audits that have been made of the financial transactions of each agency; to this end the auditor may, in the auditor's discretion, examine the books and accounts of any agency, official or employee charged with the receipt, custody or safekeeping of public funds. The current post audit of each agency may include a section on recommendations to the legislature as provided in (c) of this subsection.

(b) Give information to the legislature, whenever required, upon any subject relating to the financial affairs of the state.

(c) Make the auditor's official report on or before the thirty-first of December which precedes the meeting of the legislature. The report shall be for the last complete fiscal period and shall include at least the following:

Determinations as to whether agencies, in making expenditures, complied with the laws of this state: PROVIDED, That nothing in this section may be construed to grant the state auditor the right to perform performance audits. A performance audit for the purpose of this section is the examination of the effectiveness of the administration, its efficiency, and its adequacy in terms of the programs of departments or agencies as previously approved by the legislature. The authority and responsibility to conduct such an examination shall be vested in the legislative budget committee as prescribed in RCW 44.28.085.

(d) Be empowered to take exception to specific expenditures that have been incurred by any agency or to take exception to other practices related in any way to the agency's financial transactions and to cause such exceptions to be made a matter of public record, including disclosure to the agency concerned and to the director of financial management. It shall be the duty of the director of financial management to cause corrective action to be taken promptly, such action to include, as appropriate, the withholding of funds as provided in RCW 43.88.110.

(e) Promptly report any irregularities to the attorney general.

(f) Investigate improper governmental activity under chapter 42.40 RCW.

(7) The legislative budget committee may:

(a) Make post audits of the financial transactions of any agency and management surveys and program reviews as provided for in RCW 44.28.085. To this end the committee may in its discretion examine the books, accounts, and other records of any agency, official, or employee.

(b) Give information to the legislature or any legislative committee whenever required upon any subject relating to the performance and management of state agencies.

(c) Make a report to the legislature which shall include at least the following:

(i) Determinations as to the extent to which agencies in making expenditures have complied with the will of the legislature and in this connection, may take exception to specific expenditures or financial practices of any agencies; and

(ii) Such plans as it deems expedient for the support of the state's credit, for lessening expenditures, for promoting frugality and economy in agency affairs and generally for an improved level of fiscal management.

NEW SECTION. Sec. 9. Section 7 of this act shall expire April 1, 1992.

NEW SECTION. Sec. 10. Section 8 of this act shall take effect April 1, 1992.

NEW SECTION. **Sec. 11.** The sum of fifteen thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1993, from the general fund to the human rights commission for the purposes of this act.

- Passed the Senate February 14, 1992.
- Passed the House March 9, 1992.
- Approved by the Governor March 31, 1992.
- Filed in Office of Secretary of State March 31, 1992.

**CHAPTER 119**

[Engrossed Substitute Senate Bill 5092]

**RETIREMENT SYSTEM SERVICE CREDIT FOR MILITARY SERVICE**

**Effective Date:** 3/31/92

AN ACT Relating to employee benefits while on active duty during operation Desert Shield; amending RCW 41.26.520, 41.32.810, and 41.40.710; creating a new section; and declaring an emergency.

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

**Sec. 1.** RCW 41.26.520 and 1989 c 88 s 2 are each amended to read as follows:

(1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided for under the provisions of RCW 41.26.410 through 41.26.550.

(2) Except as specified in subsection (3) of this section, a member shall be eligible to receive a maximum of two years service credit during a member's entire working career for those periods when a member is on an unpaid leave of absence authorized by an employer. Such credit may be obtained only if the member makes the employer, member, and state contributions plus interest as determined by the department for the period of the authorized leave of absence within five years of resumption of service or prior to retirement whichever comes sooner: PROVIDED, That for the purpose of this subsection the contribution shall not include the contribution for the unfunded supplemental present value as required by RCW 41.26.450. The contributions required shall be based on the average of the member's basic salary at both the time the authorized leave of absence was granted and the time the member resumed employment.

(3) A member who ~~((is inducted into))~~ leaves the employ of an employer to enter the armed forces of the United States shall be ~~((deemed to be on an unpaid, authorized leave of absence))~~ entitled to retirement system service credit for up to four years of military service.

(a) The member qualifies for service credit under this subsection if:

(i) Within ninety days of the member's honorable discharge from the United States armed forces, the member applies for reemployment with the employer

who employed the member immediately prior to the member entering the United States armed forces; and

(ii) The member makes the employee contributions required under RCW 41.26.450 plus interest as determined by the department within five years of resumption of service or prior to retirement, whichever comes sooner.

(b) Upon receipt of member contributions under (a)(ii) of this subsection, the department shall bill the employer and the state for their respective contributions required under RCW 41.26.450 for the period of military service, plus interest as determined by the department.

(c) The contributions required shall be based on the average of the member's basic salary at both the time the member left the employ of the employer to enter the armed forces and the time the member resumed employment.

(4) A member receiving benefits under Title 51 RCW who is not receiving benefits under this chapter shall be deemed to be on unpaid, authorized leave of absence.

Sec. 2. RCW 41.32.810 and 1977 ex.s. c 293 s 13 are each amended to read as follows:

(1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided for under the provisions of RCW 41.32.755 through 41.32.825.

(2) Except as specified in subsection (3) of this section, a member shall be eligible to receive a maximum of two years service credit during a member's entire working career for those periods when a member is on an unpaid leave of absence authorized by an employer. Such credit may be obtained only if the member makes both the employer and member contributions plus interest as determined by the department for the period of the authorized leave of absence within five years of resumption of service or prior to retirement whichever comes sooner: PROVIDED, That for the purpose of this subsection (~~{{section}}~~) the contribution shall not include the contribution for the unfunded supplemental present value as required by RCW 41.32.775. The contributions required shall be based on the average of the member's (~~compensation~~) earnable compensation at both the time the authorized leave of absence was granted and the time the member resumed employment.

(3) A member who (~~is inducted into~~) leaves the employ of an employer to enter the armed forces of the United States shall be (~~deemed to be on an unpaid, authorized leave of absence~~) entitled to retirement system service credit for up to four years of military service.

(a) The member qualifies for service credit under this subsection if:

(i) Within ninety days of the member's honorable discharge from the United States armed forces, the member applies for reemployment with the employer who employed the member immediately prior to the member entering the United States armed forces; and

(ii) The member makes the employee contributions required under RCW 41.32.775 plus interest as determined by the department within five years of resumption of service or prior to retirement, whichever comes sooner.

(b) Upon receipt of member contributions under (a)(ii) of this subsection, the department shall bill the employer for its contribution required under RCW 41.32.775 for the period of military service, plus interest as determined by the department.

(c) The contributions required shall be based on the average of the member's earnable compensation at both the time the member left the employ of the employer to enter the armed forces and the time the member resumed employment.

Sec. 3. RCW 41.40.710 and 1991 c 35 s 100 are each amended to read as follows:

(1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided for under the provisions of RCW 41.40.610 through 41.40.740.

(2) Except as specified in subsection (3) of this section, a member shall be eligible to receive a maximum of two years service credit during a member's entire working career for those periods when a member is on an unpaid leave of absence authorized by an employer. Such credit may be obtained only if the member makes both the plan II employer and member contributions plus interest as determined by the department for the period of the authorized leave of absence within five years of resumption of service or prior to retirement whichever comes sooner. The contributions required shall be based on the average of the member's compensation earnable at both the time the authorized leave of absence was granted and the time the member resumed employment.

(3) A member who (~~is inducted into~~) leaves the employ of an employer to enter the armed forces of the United States shall be (~~deemed to be on an unpaid, authorized leave of absence~~) entitled to retirement system service credit for up to four years of military service.

(a) The member qualifies for service credit under this subsection if:

(i) Within ninety days of the member's honorable discharge from the United States armed forces, the member applies for reemployment with the employer who employed the member immediately prior to the member entering the United States armed forces; and

(ii) The member makes the employee contributions required under RCW 41.40.650 plus interest as determined by the department within five years of resumption of service or prior to retirement, whichever comes sooner.

(b) Upon receipt of member contributions under (a)(ii) of this subsection, the department shall bill the employer for its contribution required under RCW 41.40.650 for the period of military service, plus interest as determined by the department.

(c) The contributions required shall be based on the average of the member's compensation earnable at both the time the member left the employ of the employer to enter the armed forces and the time the member resumed employment.

**NEW SECTION. Sec. 4.** This act applies retroactively for retirement system service credit for military service which began on or after January 1, 1990.

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

Passed the Senate March 7, 1992.

Passed the House March 3, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

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## CHAPTER 120

[Substitute House Bill 2993]

### RURAL HEALTH ACCESS ACCOUNT

Effective Date: 6/11/92

AN ACT Relating to establishing a rural health access account; and adding a new section to chapter 43.70 RCW.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 43.70 RCW to read as follows:

The rural health access account is created in the custody of the state treasurer. The account may receive moneys through gift, grant, or donation to the state for the purposes of the account. Expenditures from the account may be used only for rural health programs including, but not limited to, those authorized in chapters 70.175 and 70.180 RCW, the health professional and loan repayment programs authorized in chapter 28B.115 RCW, and to make grants to small or rural hospitals, or rural public hospital districts, for the purpose of developing viable, integrated rural health systems. Only the secretary of health or the secretary's designee may authorize expenditures from the account. No appropriation is required for an expenditure from the account. Any residue in the account shall accumulate in the account and shall not revert to the general fund at the end of the biennium. Costs incurred by the department in administering the account shall be paid from the account.

Passed the House March 6, 1992.

Passed the Senate March 10, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

## CHAPTER 121

[Engrossed Senate Bill 6023]

CENTER FOR INTERNATIONAL TRADE IN FOREST PRODUCTS—  
CONTINUATION AND REVISED DUTIES

Effective Date: 6/11/92

AN ACT Relating to the center for international trade in forest products; and amending RCW 76.56.020, 43.131.333, and 43.131.334.

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

**Sec. 1.** RCW 76.56.020 and 1987 c 195 s 16 are each amended to read as follows:

The center shall:

(1) Coordinate the University of Washington's college of forest resources' faculty and staff expertise to assist in:

(a) The development of research and analysis for developing policies and strategies which will expand forest-based international trade, including ~~((trade in manufactured forest products))~~ a major focus on secondary manufacturing;

(b) The development of technology for manufactured products that will meet the evolving needs of international customers; and

(c) The coordination, development, and dissemination of market and technical information relevant to international trade in forest products, especially secondary manufacturing;

(2) Further develop and maintain ~~((a))~~ computer ((based)) data bases on world-wide forest products production and trade ((data-base-system)) in order to monitor and report on trends significant to the Northwest forest products industry and support the center's research functions; and coordinate this system with state, federal, and private sector efforts to insure a cost-effective information resource that will avoid unnecessary duplication;

(3) Monitor international forest products markets and assess the status of the state's forest products industry, including the competitiveness of small and medium-sized secondary manufacturing firms in the forest products industry, which for the purposes of this chapter shall be firms with annual revenues of twenty-five million or less, and including the increased exports of Washington-produced products of small and medium-sized secondary manufacturing firms;

(4) Provide high-quality research and graduate education and professional nondegree training in international trade in forest products in cooperation with the University of Washington's graduate school of business administration, the school of law, the Jackson school of international studies, the Northwest policy center of the graduate school of public administration, and other supporting academic units;

(5) Develop cooperative linkages with the international marketing program for agricultural commodities and trade at Washington State University, the international trade project of the United States forest service, the department of natural resources, the department of trade and economic development, the small

business export finance assistance center, and other state and federal agencies to avoid duplication of effort and programs;

(6) Provide for public dissemination of research, analysis, and results of the center's programs through technical workshops, short courses, international and national symposia, or other means, including appropriate publications; ~~((and))~~

(7) Establish an executive policy board, including representatives of small and medium-sized businesses, to provide advice on: Overall policy direction and program priorities, state and federal budget requests, securing additional research funds, identifying priority areas of focus for research efforts, selection of projects for research, and dissemination of results of research efforts; and

(8) Establish advisory or technical committees ~~((as necessary))~~ for each research program area, to ~~((develop policies, operating procedures, and))~~ advise on research program area priorities, consistent with the international trade opportunities achievable by the forest products sector of the state and region, to help ensure projects are relevant to industry needs, and to advise on and support effective dissemination of research results. Each advisory or technical committee shall include representatives of forest products industries that might benefit from this research.

Service on the committees and the executive policy board established in subsections (7) and (8) of this section shall be without compensation but actual travel expenses incurred in connection with service to the center may be reimbursed from appropriated funds in accordance with RCW 43.03.050 and 43.03.060.

**Sec. 2.** RCW 43.131.333 and 1988 c 288 s 15 are each amended to read as follows:

The center for international trade in forest products in the college of forest resources at the University of Washington shall be terminated on June 30, ~~((1992))~~ 1994, as provided in RCW 43.131.334.

**Sec. 3.** RCW 43.131.334 and 1988 c 288 s 16 are each amended to read as follows:

Sections 1 through 5, chapter 122, Laws of 1985 and chapter 76.56 RCW, as now existing or as hereafter amended, are each repealed, effective June 30, ~~((1993))~~ 1995.

Passed the Senate March 7, 1992.

Passed the House March 5, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

CHAPTER 122

[House Bill 2841]

UNCLAIMED PROPERTY LAW—USED PERSONAL CLOTHING AND EFFECTS

Effective Date: 6/11/92

AN ACT Relating to application of the uniform unclaimed property act to personal effects; and amending RCW 63.29.020.

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

Sec. 1. RCW 63.29.020 and 1988 c 226 s 2 are each amended to read as follows:

(1) Except as otherwise provided by this chapter, all intangible property, including any income or increment derived therefrom, less any lawful charges, that is held, issued, or owing in the ordinary course of the holder's business and has remained unclaimed by the owner for more than five years after it became payable or distributable is presumed abandoned.

(2) Property, with the exception of unredeemed Washington state lottery tickets and un-presented winning parimutuel tickets, is payable and distributable for the purpose of this chapter notwithstanding the owner's failure to make demand or to present any instrument or document required to receive payment.

(3) This chapter does not apply to claims drafts issued by insurance companies representing offers to settle claims unliquidated in amount or settled by subsequent drafts or other means.

(4) This chapter does not apply to property covered by chapter 63.26 RCW.

(5) This chapter does not apply to used clothing, umbrellas, bags, luggage, or other used personal effects if such property is disposed of by the holder as follows:

(a) In the case of personal effects of negligible value, the property is destroyed; or

(b) The property is donated to a bona fide charity.

Passed the House February 14, 1992.

Passed the Senate March 5, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

## CHAPTER 123

[Engrossed Substitute House Bill 2268]

## INMATE WORK PROGRAMS—REVISIONS

Effective Date: 6/11/92

AN ACT Relating to inmate work programs; and amending RCW 72.09.100 and 82.29A.130. Be it enacted by the Legislature of the State of Washington:

**Sec. 1.** RCW 72.09.100 and 1990 c 22 s 1 are each amended to read as follows:

It is the intent of the legislature to vest in the department the power to provide for a comprehensive inmate work program and to remove statutory and other restrictions which have limited work programs in the past. For purposes of establishing such a comprehensive program, the legislature recommends that the department consider adopting any or all, or any variation of, the following classes of work programs:

(1) **CLASS I: FREE VENTURE INDUSTRIES.** The employer model industries in this class shall be operated and managed in total or in part by any profit or nonprofit organization pursuant to an agreement between the organization and the department. The organization shall produce goods or services for sale to both the public and private sector.

The customer model industries in this class shall be operated and managed by the department to provide Washington state manufacturers or businesses with products or services currently produced or provided by out-of-state or foreign suppliers. The correctional industries board of directors shall review these proposed industries before the department contracts to provide such products or services. The review shall include an analysis of the potential impact of the proposed products and services on the Washington state business community and labor market.

The department of corrections shall supply appropriate security and custody services without charge to the participating firms.

Inmates who work in free venture industries shall do so at their own choice. They shall be paid a wage (~~not less than sixty percent of the approximate prevailing wage within the state for the occupation~~) comparable to the wage paid for work of a similar nature in the locality in which the industry is located, as determined by the director of ~~(the)~~ correctional industries ~~(division)~~. If the director ~~(finds that he)~~ cannot reasonably determine the comparable wage, then the pay shall not be less than the federal minimum wage.

(2) **CLASS II: TAX REDUCTION INDUSTRIES.** Industries in this class shall be state-owned and operated enterprises designed to reduce the costs for goods and services for tax-supported agencies and for nonprofit organizations. The industries selected for development within this class shall, as much as possible, match the available pool of inmate work skills and aptitudes with the work opportunities in the free community. The industries shall be closely patterned after private sector industries but with the objective of reducing public

support costs rather than making a profit. The products and services of this industry, including purchased products and services necessary for a complete product line, may be sold to public agencies, to nonprofit organizations, and to private contractors when the goods purchased will be ultimately used by a public agency or a nonprofit organization. Clothing manufactured by an industry in this class may be donated to nonprofit organizations that provide clothing free of charge to low-income persons. Correctional industries products and services shall be reviewed by the correctional industries board of directors before offering such products and services for sale to private contractors. The board of directors shall conduct a yearly marketing review of the products and services offered under this subsection. Such review shall include an analysis of the potential impact of the proposed products and services on the Washington state business community. To avoid waste or spoilage and consequent loss to the state, when there is no public sector market for such goods, byproducts and surpluses of timber, agricultural, and animal husbandry enterprises may be sold to private persons, at private sale. Surplus (~~by-products~~) byproducts and surpluses of timber, agricultural and animal husbandry enterprises that cannot be sold to public agencies or to private persons may be donated to nonprofit organizations. All sales of surplus products shall be carried out in accordance with rules prescribed by the secretary.

Security and custody services shall be provided without charge by the department of corrections.

Inmates working in this class of industries shall do so at their own choice and shall be paid for their work on a gratuity scale which shall not exceed the (~~federal minimum~~) wage paid for work of a similar nature in the locality in which the industry is located and which is approved by the director of correctional industries.

(3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES. Industries in this class shall be operated by the department of corrections. They shall be designed and managed to accomplish the following objectives:

(a) Whenever possible, to provide basic work training and experience so that the inmate will be able to qualify for better work both within correctional industries and the free community. It is not intended that an inmate's work within this class of industries should be his or her final and total work experience as an inmate.

(b) Whenever possible, to provide forty hours of work or work training per week.

(c) Whenever possible, to offset tax and other public support costs.

Supervising, management, and custody staff shall be employees of the department.

All able and eligible inmates who are assigned work and who are not working in other classes of industries shall work in this class.

Except for inmates who work in work training programs, inmates in this class shall be paid for their work in accordance with an inmate gratuity scale. The scale shall be adopted by the secretary of corrections.

(4) **CLASS IV: COMMUNITY WORK INDUSTRIES.** Industries in this class shall be operated by the department of corrections. They shall be designed and managed to provide services in the inmate's resident community at a reduced cost. The services shall be provided to public agencies, to persons who are poor or infirm, or to nonprofit organizations.

Inmates in this program shall reside in facilities owned by, contracted for, or licensed by the department of corrections. A unit of local government shall provide work supervision services without charge to the state and shall pay the inmate's wage.

The department of corrections shall reimburse participating units of local government for liability and workers compensation insurance costs.

Inmates who work in this class of industries shall do so at their own choice and shall receive a gratuity which shall not exceed the ~~((minimum))~~ wage paid for ~~((their))~~ work of a similar nature in the locality in which the industry is located.

(5) **CLASS V: COMMUNITY SERVICE PROGRAMS.** Programs in this class shall be subject to supervision by the department of corrections. The purpose of this class of industries is to enable an offender, placed on community supervision, to work off all or part of a community service order as ordered by the sentencing court.

Employment shall be in a community service program operated by the state, local units of government, or a nonprofit agency.

To the extent that funds are specifically made available for such purposes, the department of corrections shall reimburse nonprofit agencies for workers compensation insurance costs.

**Sec. 2.** RCW 82.29A.130 and 1975-'76 2nd ex.s. c 61 s 13 are each amended to read as follows:

The following leasehold interests shall be exempt from taxes imposed pursuant to RCW 82.29A.030 and 82.29A.040:

(1) All leasehold interests constituting a part of the operating properties of any public utility which is assessed and taxed as a public utility pursuant to chapter 84.12 RCW.

(2) All leasehold interests in facilities owned or used by a school, college or university which leasehold provides housing for students and which is otherwise exempt from taxation under provisions of RCW 84.36.010 and 84.36.050.

(3) All leasehold interests of subsidized housing where the fee ownership of such property is vested in the government of the United States, or the state of Washington or any political subdivision thereof but only if income qualification exists for such housing.

(4) All leasehold interests used for fair purposes of a nonprofit fair association that sponsors or conducts a fair or fairs which receive support from revenues collected pursuant to RCW 67.16.100 and allocated by the director of the department of agriculture where the fee ownership of such property is vested in the government of the United States, the state of Washington or any of its political subdivisions: **PROVIDED**, That this exemption shall not apply to the leasehold interest of any sublessee of such nonprofit fair association if such leasehold interest would be taxable if it were the primary lease.

(5) All leasehold interests in any property of any public entity used as a residence by an employee of that public entity who is required as a condition of employment to live in the publicly owned property.

(6) All leasehold interests held by enrolled Indians of lands owned or held by any Indian or Indian tribe where the fee ownership of such property is vested in or held in trust by the United States and which are not subleased to other than to a lessee which would qualify pursuant to this chapter, RCW 84.36.451 and 84.40.175.

(7) All leasehold interests in any real property of any Indian or Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States: **PROVIDED**, That this exemption shall apply only where it is determined that contract rent paid is greater than or equal to ninety percent of fair market rental, to be determined by the department of revenue using the same criteria used to establish taxable rent in RCW 82.29A.020(2)(b).

(8) All leasehold interests for which annual taxable rent is less than two hundred fifty dollars per year. For purposes of this subsection leasehold interests held by the same lessee in contiguous properties owned by the same lessor shall be deemed a single leasehold interest.

(9) All leasehold interests which give use or possession of the leased property for a continuous period of less than thirty days: **PROVIDED**, That for purposes of this subsection, successive leases or lease renewals giving substantially continuous use of possession of the same property to the same lessee shall be deemed a single leasehold interest: **PROVIDED FURTHER**, That no leasehold interest shall be deemed to give use or possession for a period of less than thirty days solely by virtue of the reservation by the public lessor of the right to use the property or to allow third parties to use the property on an occasional, temporary basis.

(10) All leasehold interests under month-to-month leases in residential units rented for residential purposes of the lessee pending destruction or removal for the purpose of constructing a public highway or building.

(11) All leasehold interests in any publicly owned real or personal property to the extent such leasehold interests arises solely by virtue of a contract for public improvements or work executed under the public works statutes of this

state or of the United States between the public owner of the property and a contractor.

(12) All leasehold interests that give use or possession of state adult correctional facilities for the purposes of operating correctional industries under RCW 72.09.100.

Passed the House February 15, 1992.

Passed the Senate March 11, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

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## CHAPTER 124

[Substitute Senate Bill 5342]

WORKERS' COMPENSATION—

PAYMENT BY ANNUITY BY SELF-INSURED EMPLOYERS

Effective Date: 6/11/92

AN ACT Relating to payment by annuity by self-insured employers; and amending RCW 51.44.070.

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

**Sec. 1.** RCW 51.44.070 and 1989 c 190 s 1 are each amended to read as follows:

(1) For every case resulting in death or permanent total disability the department shall transfer on its books from the accident fund of the proper class and/or appropriate account to the "reserve fund" a sum of money for that case equal to the estimated present cash value of the monthly payments provided for it, to be calculated upon the basis of an annuity covering the payments in this title provided to be made for the case. Such annuity values shall be based upon rates of mortality, disability, remarriage, and interest as determined by the department, taking into account the experience of the reserve fund in such respects.

Similarly, a self-insurer in these circumstances shall pay into the reserve fund a sum of money computed in the same manner, and the disbursements therefrom shall be made as in other cases.

(2) As an alternative to payment procedures otherwise provided under law, in the event of death or permanent total disability to workers of self-insured employers, a self-insured employer may upon establishment of such obligation file with the department a bond, ~~((or))~~ an assignment of account from a federally or state chartered commercial banking institution authorized to conduct business in the state of Washington, or purchase an annuity, in an amount deemed by the department to be reasonably sufficient to insure payment of the pension benefits provided by law. Any purchase of an annuity shall be from an institution meeting the following minimum requirements: (a) The institution must be rated no less than "A+" by A.M. Best, and no less than "AA" by Moody's and by

Standard & Poor's; (b) the value of the assets of the institution must not be less than ten billion dollars; (c) not more than ten percent of the institution's assets may include bonds that are rated less than "BBB" by Moody's and Standard & Poor's; (d) not more than five percent of the assets may be held as equity in real estate; and (e) not more than twenty-five percent of the assets may be first mortgages, and not more than five percent may be second mortgages. The department shall adopt rules governing assignments of account and annuities. Such rules shall ensure that the funds are available if needed, even in the case of failure of the banking institution, the institution authorized to provide annuities, or ((ef)) the employer's business.

The annuity value for every such case shall be determined by the department based upon the department's experience as to rates of mortality, disability, remarriage, and interest. The amount of the required bond ((ef)), assignment of account, or annuity may be reviewed and adjusted periodically by the department, based upon periodic redeterminations by the department as to the outstanding annuity value for the case.

~~Under such alternative, the department shall ((make the monthly payments from the pension reserve fund for the benefits provided for by RCW 51.32.050 and 51.32.060 to the self-insured beneficiary or beneficiaries and the department shall be reimbursed for all such payments from the particular self-insured employer through periodic charges not less than quarterly in a manner to be determined by the director.~~

~~Any self-insured employer electing this alternative method of providing for payment))~~ administer the payment of this obligation to the beneficiary or beneficiaries. The department shall be reimbursed for all such payments from the self-insured employer through periodic charges not less than quarterly in a manner to be determined by the director. The self-insured employer shall additionally pay to the department a deposit equal to the first three months' payments otherwise required under RCW 51.32.050 and 51.32.060. Such deposit shall be placed in the reserve fund in accordance with RCW 51.44.140 and shall be returned to the respective self-insured employer when monthly payments are no longer required for such particular obligation.

If a self-insurer delays or refuses to reimburse the department beyond fifteen days after the reimbursement charges become due, there shall be a penalty paid by the self-insurer upon order of the director of an additional amount equal to twenty-five percent of the amount then due which shall be paid into the pension reserve fund. Such an order shall conform to the requirements of RCW 51.52.050.

Passed the Senate March 7, 1992.

Passed the House March 3, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

**CHAPTER 125**

[Substitute House Bill 2370]

**PROCESS SERVER REGISTRATION****Effective Date:** 6/11/92

AN ACT Relating to registration of process servers; adding a new chapter to Title 18 RCW; adding a new section to chapter 36.22 RCW; and creating a new section.

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

**NEW SECTION. Sec. 1.** (1) A person who serves legal process for a fee in the state of Washington shall register as a process server with the auditor of the county in which the process server resides or operates his or her principal place of business.

(2) The requirement to register under subsection (1) of this section does not apply to any of the following persons:

(a) A sheriff, deputy sheriff, marshal, constable, or government employee who is acting in the course of employment;

(b) An attorney or the attorney's employees, who are not serving process on a fee basis;

(c) A person who is court appointed to serve the court's process;

(d) An employee of a person who is registered under this section;

(e) A person who does not receive a fee or wage for serving process.

**NEW SECTION. Sec. 2.** A new section is added to chapter 36.22 RCW to read as follows:

(1) Each county auditor shall develop a registration process to register process servers required to register under section 1 of this act.

(2) The county auditor may collect an annual registration fee from the process server not to exceed ten dollars.

(3) The office of the administrator for the courts shall develop a registration form for the county auditors to use in the registration process for the purpose of identifying and locating the registrant, including the process server's name, birthdate, and social security number, and the process server's business name, business address, and business telephone number.

(4) The county auditor shall maintain a register of process servers and assign a number to each registrant. Upon renewal of the registration as required in section 3 of this act, the auditor shall continue to assign the same registration number. A successor entity composed of one or more registrants shall be permitted to transfer one or more registration numbers to the new entity.

**NEW SECTION. Sec. 3.** A process server required to register under section 1 of this act must renew the registration within one year of the date of the initial registration or when the registrant changes his or her name, the name of his or her business, business address, or business telephone number, whichever occurs sooner. If the renewal is required because of a change in the information identifying the process server, the process server must renew the registration

within ten days of the date the identifying information changes. The process server shall pay the registration fee upon renewal.

**NEW SECTION. Sec. 4.** (1) A process server required to register under section 1 of this act shall indicate the process server's registration number and the process server's county of registration on any proof of service the process server signs.

(2) Employees of a process server required to register under section 1 of this act shall indicate the employer's registration number and the employer's county of registration on any proof of service the registrant's employee signs.

**NEW SECTION. Sec. 5.** (1) Except as provided in subsection (2) of this section, any person who is otherwise entitled to collect the costs of service of process shall not be entitled to collect those costs if the person does not use a process server who under this chapter either is required to register or is exempt from the registration requirement.

(2) The person may collect the costs of the service of process if the process server registers within forty-five days after serving the process.

(3) This section shall apply to all process served on or after August 1, 1992.

**NEW SECTION. Sec. 6.** Sections 1 and 3 through 5 of this act shall constitute a new chapter in Title 18 RCW.

**NEW SECTION. Sec. 7.** Nothing in this act modifies Superior Court Civil Rule 4.

Passed the House March 10, 1992.

Passed the Senate March 5, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

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**CHAPTER 126**

[Engrossed Senate Bill 6441]

**CONSTRUCTION LIENS—AMENDMENTS TO REVISED LAW**

**Effective Date:** 6/1/92 - Except Section 14 which becomes effective on 3/31/92.

AN ACT Relating to construction liens; amending RCW 60.04.011, 60.04.031, 60.04.041, 60.04.051, 60.04.081, 60.04.091, 60.04.141, 60.04.151, 60.04.161, 60.04.171, 60.04.181, 60.04.221, and 60.04.902; adding a new section to chapter 60.04 RCW; providing an effective date; and declaring an emergency.

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

**Sec. 1.** RCW 60.04.011 and 1991 c 281 s 1 are each amended to read as follows:

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

(1) "Construction agent" means any registered or licensed contractor, registered or licensed subcontractor, architect, engineer, or other person having

charge of any improvement to real property, who shall be deemed the agent of the owner for the limited purpose of establishing the lien created by this chapter.

(2) "Contract price" means the amount agreed upon by the contracting parties, or if no amount is agreed upon, then the customary and reasonable charge therefor.

(3) "Draws" means periodic disbursements of interim or construction financing by a lender.

(4) "Furnishing labor, professional services, materials, or equipment" means the performance of any labor or professional services, the contribution owed to any employee benefit plan on account of any labor, the provision of any supplies or materials, and the renting, leasing, or otherwise supplying of equipment for the improvement of real property.

(5) "Improvement" means: (a) Constructing, altering, repairing, remodeling, demolishing, clearing, grading, or filling in, of, to, or upon any real property or street or road in front of or adjoining the same; (b) planting of trees, vines, shrubs, plants, hedges, or lawns, or providing other landscaping materials on any real property; and (c) providing professional services upon real property or in preparation for or in conjunction with the intended activities in (a) or (b) of this subsection.

(6) "Interim or construction financing" means that portion of money secured by a mortgage, deed of trust, or other encumbrance to finance improvement of, or to real property, but does not include:

(a) Funds to acquire real property;

(b) Funds to pay interest, insurance premiums, lease deposits, taxes, assessments, or prior encumbrances;

(c) Funds to pay loan, commitment, title, legal, closing, recording, or appraisal fees;

(d) Funds to pay other customary fees, which pursuant to agreement with the owner or borrower are to be paid by the lender from time to time;

(e) Funds to acquire personal property for which the potential lien claimant may not claim a lien pursuant to this chapter.

(7) "Labor" means exertion of the powers of body or mind performed at the site for compensation. "Labor" includes amounts due and owed to any employee benefit plan on account of such labor performed.

(8) "Mortgagee" means a person who has a valid mortgage of record or deed of trust of record securing a loan.

~~(9) ("Owner" means the record holder of any legal or beneficial title to the real property to be improved or developed.~~

~~(10))~~ "Owner-occupied" means a single-family residence occupied by the owner as his or her principal residence.

~~((11))~~ (10) "Payment bond" means a surety bond issued by a surety licensed to issue surety bonds in the state of Washington that confers upon potential claimants the rights of third party beneficiaries.

~~((12))~~ (11) "Potential lien claimant" means any person or entity entitled to assert lien rights under this chapter who has otherwise complied with the provisions of this chapter and is registered or licensed if required to be licensed or registered by the provisions of the laws of the state of Washington.

~~((13))~~ (12) "Prime contractor" includes all contractors, general contractors, and specialty contractors, as defined by chapter 18.27 or 19.28 RCW, or who are otherwise required to be registered or licensed by law, who contract directly with a property owner or their common law agent to assume primary responsibility for the creation of an improvement to real property, and includes property owners or their common law agents who are contractors, general contractors, or specialty contractors as defined in chapter 18.27 or 19.28 RCW, or who are otherwise required to be registered or licensed by law, who offer to sell their property without occupying or using the structures, projects, developments, or improvements for more than one year.

~~((14))~~ (13) "Professional services" means surveying, establishing or marking the boundaries of, preparing maps, plans, or specifications for, or inspecting, testing, or otherwise performing any other architectural or engineering services for the improvement of real property.

~~((15))~~ (14) "Real property lender" means a bank, savings bank, savings and loan association, credit union, mortgage company, or other corporation, association, partnership, trust, or individual that makes loans secured by real property located in the state of Washington.

~~((16))~~ (15) "Site" means the real property which is or is to be improved.

~~((17))~~ (16) "Subcontractor" means a general contractor or specialty contractor as defined by chapter 18.27 or 19.28 RCW, or who is otherwise required to be registered or licensed by law, who contracts for the improvement of real property with someone other than the owner of the property or their common law agent.

**Sec. 2.** RCW 60.04.031 and 1991 c 281 s 3 are each amended to read as follows:

(1) Except as otherwise provided in this section, every person furnishing professional services, materials, or equipment for the improvement of real property shall give the owner or reputed owner notice in writing of the right to claim a lien. If the prime contractor is in compliance with the requirements of RCW 19.27.095, 60.04.230, and 60.04.261, this notice shall also be given to the prime contractor as described in this subsection unless the potential lien claimant has contracted directly with the prime contractor. The notice may be given at any time but only protects the right to claim a lien for professional services, materials, or equipment supplied after the date which is sixty days before:

(a) Mailing the notice by certified or registered mail to the owner or reputed owner; or

(b) Delivering or serving the notice personally upon the owner or reputed owner and obtaining evidence of ~~((service))~~ delivery in the form of a receipt or

other acknowledgement signed by the owner or reputed owner or an affidavit of service.

In the case of new construction of a single-family residence, the notice of a right to claim a lien may be given at any time but only protects the right to claim a lien for professional services, materials, or equipment supplied after a date which is ten days before the notice is (~~mailed or served~~) given as described in this subsection.

(2) Notices of a right to claim a lien shall not be required of:

(a) Persons who contract directly with the owner or the owner's common law agent;

(b) Laborers whose claim of lien is based solely on performing labor; or

(c) Subcontractors who contract for the improvement of real property directly with the prime contractor, except as provided in subsection (3)(b) of this section.

(3) Persons who furnish professional services, materials, or equipment in connection with the repair, alteration, or remodel of an existing owner-occupied single-family residence or appurtenant garage:

(a) Who contract directly with the owner-occupier or their common law agent shall not be required to send a written notice of the right to claim a lien and shall have a lien for the full amount due under their contract, as provided in RCW 60.04.021; or

(b) Who do not contract directly with the owner-occupier or their common law agent shall give notice of the right to claim a lien to the owner-occupier. Liens (~~claims by~~) of persons furnishing professional services, materials, or equipment who do not contract directly with the owner-occupier or their common law agent may only be satisfied from amounts not yet paid to the prime contractor by the owner at the time the notice described in this section is received, regardless of whether amounts not yet paid to the prime contractor are due. For the purposes of this subsection "received" means actual receipt of notice by personal service, or registered or certified mail, or three days after mailing by registered or certified mail, excluding Saturdays, Sundays, or legal holidays.

(4) The notice of right to claim a lien described in subsection (1) of this section, shall include but not be limited to the following information and shall substantially be in the following form, using lower-case and upper-case ten-point type where appropriate.

NOTICE TO OWNER

IMPORTANT: READ BOTH SIDES OF THIS NOTICE CAREFULLY.  
PROTECT YOURSELF FROM PAYING TWICE

To: ..... Date: .....

Re: (description of property: Street address or general location.)

From: .....

AT THE REQUEST OF:     (Name of person ((~~placing the order~~)) ordering the professional services, materials, or equipment)    

**THIS IS NOT A LIEN:** This notice is sent to you to tell you who is providing professional services, materials, or equipment for the improvement of your property and to advise you of the rights of these persons and your responsibilities. Also take note that laborers on your project may claim a lien without sending you a notice.

**OWNER/OCCUPIER OF EXISTING RESIDENTIAL PROPERTY**

Under Washington law, those who (~~(work on or provide materials)~~) furnish labor, professional services, materials, or equipment for the repair, remodel, or alteration of your owner-occupied principal residence and who are not paid, have a right to enforce their claim for payment against your property. This claim is known as a construction lien.

The law limits the amount that a lien claimant can claim against your property. Claims may only be made against that portion of the contract price you have not yet paid to your prime contractor as of the time (~~(you received)~~) this notice was given to you or three days after this notice was mailed to you. Review the back of this notice for more information and ways to avoid lien claims.

**COMMERCIAL AND/OR NEW RESIDENTIAL PROPERTY**

We have or will be providing (~~(labor, materials,)~~) professional services, materials, or equipment for the improvement of your commercial or new residential project. In the event you or your contractor fail to pay us, we may file a lien against your property. A lien may be claimed for all (~~(materials, equipment, and)~~) professional services, materials, or equipment furnished after a date that is sixty days before this notice was given to you or mailed to you, unless the improvement to your property is the construction of a new single-family residence, then ten days before this notice was given to you or mailed to you.

Sender: .....

Address: .....

Telephone: .....

Brief description of professional services, materials, or equipment provided or to be provided: .....

**IMPORTANT INFORMATION ON REVERSE SIDE**

**IMPORTANT INFORMATION FOR YOUR PROTECTION**

This notice is sent to inform you that we have or will provide (~~(materials,)~~) professional services, materials, or equipment for the (~~(repair, remodel, or alteration)~~) improvement of your property. We expect to be paid by the person who ordered our services, but if we are not paid, we have the right to enforce our claim by filing a construction lien against your property.

LEARN more about the lien laws and the meaning of this notice by discussing them with your contractor, suppliers, Department of Labor and Industries, the firm sending you this notice, your lender, or your attorney.

COMMON METHODS TO AVOID CONSTRUCTION LIENS: There are several methods available to protect your property from construction liens. The following are two of the more commonly used methods.

DUAL PAYCHECKS (Joint Checks): When paying your contractor for services or materials, you may make checks payable jointly to the contractor and the firms furnishing you this notice.

LIEN RELEASES: You may require your contractor to provide lien releases signed by all the suppliers and subcontractors from whom you have received this notice. If they cannot obtain lien releases because you have not paid them, you may use the dual payee check method to protect yourself.

YOU SHOULD TAKE ((~~WHATEVER~~)) APPROPRIATE STEPS ((~~YOU BELIEVE NECESSARY~~)) TO PROTECT YOUR PROPERTY FROM LIENS.

YOUR PRIME CONTRACTOR AND YOUR CONSTRUCTION LENDER ARE REQUIRED BY LAW TO GIVE YOU WRITTEN INFORMATION ABOUT LIEN CLAIMS. IF YOU HAVE NOT RECEIVED IT, ASK THEM FOR IT.

\* \* \* \* \*

(5) Every potential lien claimant providing professional services where no improvement as defined in RCW 60.04.011(5) (a) or (b) has been commenced, and the professional services provided are not visible from an inspection of the real property ((~~shall~~)) may record in the real property records of the county where the property is located a notice which shall contain the professional service provider's name, address, telephone number, legal description of the property, the owner or reputed owner's name, and the general nature of the professional services provided. If such notice is not recorded, the lien claimed shall be subordinate to the interest of any subsequent mortgagee and invalid as to the interest of any subsequent purchaser ((~~who~~)) if the mortgagee or purchaser acts in good faith and for a valuable consideration acquires an interest in the property prior to the commencement of an improvement as defined in RCW 60.04.011(5) (a) or (b) without notice of the professional services being provided. The notice described in this subsection shall be substantially in the following form:

NOTICE OF FURNISHING PROFESSIONAL SERVICES

That on the (day) day of (month and year) , (name of provider) began providing professional services upon or for the improvement of real property legally described as follows:

[Legal Description is mandatory]

The general nature of the professional services provided is . . . . .  
. . . . .  
The owner or reputed owner of the real property is . . . . .  
. . . . .

. . . . .  
(Signature)  
. . . . .  
(Name of Claimant)  
. . . . .  
(Street Address)  
. . . . .  
(City, State, Zip Code)  
. . . . .  
(Phone Number)

(6) A lien authorized by this chapter shall not be enforced unless the lien claimant has complied with the applicable provisions of this section.

NEW SECTION. **Sec. 3.** A new section is added to chapter 60.04 RCW to read as follows:

The legislature finds that acts of coercion or attempted coercion, including threats to withhold future contracts, made by a contractor or developer to discourage a contractor, subcontractor, or material or equipment supplier from giving an owner the notice of right to claim a lien required by RCW 60.04.031, or from filing a claim of lien under this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. These acts of coercion are not reasonable in relation to the development and preservation of business. These acts of coercion shall constitute an unfair or deceptive act or practice in trade or commerce for the purpose of applying the consumer protection act, chapter 19.86 RCW.

**Sec. 4.** RCW 60.04.041 and 1991 c 281 s 4 are each amended to read as follows:

A contractor or subcontractor required to be registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW, or otherwise required to be registered or licensed by law, shall be deemed the construction agent of the owner for the purposes of establishing the lien created by this chapter only if so registered or licensed. Persons dealing with contractors or subcontractors may rely, for the purposes of this section, upon a certificate of registration issued pursuant to chapter 18.27 RCW or license issued pursuant to chapter 19.28 RCW, or other certificate or license issued pursuant to law, covering the period when the labor, professional services, material, or equipment shall be furnished, and the lien rights shall not be lost by suspension or revocation of registration or license without their knowledge. No lien rights described in this ((section))

chapter shall be lost or denied by virtue of the absence, suspension, or revocation of such registration or license with respect to any contractor or subcontractor not in immediate contractual privity with the lien claimant.

**Sec. 5.** RCW 60.04.051 and 1991 c 281 s 5 are each amended to read as follows:

The lot, tract, or parcel of land which is improved is subject to a lien to the extent of the interest of the ~~((person for whom))~~ owner at whose instance, directly or through a common law or construction agent the labor, professional services, equipment, or materials were furnished, as the court deems appropriate for satisfaction of the lien. If, for any reason, the title or interest in the land upon which the improvement is situated cannot be subjected to the lien, the court in order to satisfy the lien may order the sale and removal of the improvement from the land which is subject to the lien~~((, from the land))~~.

**Sec. 6.** RCW 60.04.081 and 1991 c 281 s 8 are each amended to read as follows:

(1) Any owner of real property subject to a recorded ~~((notice of))~~ claim of lien under this chapter, or ~~((the))~~ contractor ~~((or))~~ subcontractor, lender, or lien claimant who believes the claim of lien to be frivolous and made without reasonable cause, or clearly excessive may apply by motion to the superior court for the county where the property, or some part thereof is located, for an order directing the lien claimant to appear before the court at a time no earlier than six nor later than fifteen days following the date of service of the application and order on the lien claimant, and show cause, if any he or she has, why the ~~((lien claim))~~ relief requested should not be ~~((dismissed, with prejudice))~~ granted. The motion shall state the grounds upon which relief is asked, and shall be supported by the affidavit of the applicant or his or her attorney setting forth a concise statement of the facts upon which the motion is based.

(2) The order shall clearly state that if the lien claimant fails to appear at the time and place noted the lien ~~((claim))~~ shall be ~~((dismissed))~~ released, with prejudice ~~((,))~~, and that the lien claimant shall be ordered to pay the costs requested by the applicant including reasonable attorneys' fees.

(3) If no action to foreclose the lien claim has been filed, the clerk of the court shall assign a cause number to the application and obtain from the applicant a filing fee of thirty-five dollars. If an action has been filed to foreclose the lien claim, the application shall be made a part of that action.

(4) If, following a ~~((full))~~ hearing on the matter, the court determines that the lien ~~((claim))~~ is frivolous and made without reasonable cause, or clearly excessive, the court shall issue an order ~~((dismissing))~~ releasing the lien ~~((claim))~~ if frivolous and made without reasonable cause, or reducing the ~~((claim))~~ lien if clearly excessive, and awarding costs and reasonable attorneys' fees to the applicant to be paid by the lien claimant. If the court determines that the ~~((claim of))~~ lien is not frivolous and was made with reasonable cause, and is not clearly

excessive, the court shall issue ~~((and))~~ an order so stating and awarding costs and reasonable attorneys' fees to the lien claimant to be paid by the applicant.

(5) Proceedings under this section shall not affect other rights and remedies available to the parties under this chapter or otherwise.

Sec. 7. RCW 60.04.091 and 1991 c 281 s 9 are each amended to read as follows:

Every person claiming a lien under RCW 60.04.021 shall ~~((record))~~ file for recording, in the county where the subject property is located, a notice of claim of lien not later than ninety days after the person has ceased to furnish labor, professional services, materials, or equipment or the last date on which employee benefit contributions were due. The notice of claim of lien:

(1) Shall state in substance and effect:

(a) The name, phone number, and address of the claimant;

(b) The first and last date on which the labor, professional services, materials, or equipment was furnished or employee benefit contributions were due;

(c) The name of the person indebted to the claimant;

(d) The street address, legal description, or other description reasonably calculated to identify, for a person familiar with the area, the location of the real property to be charged with the lien;

(e) The name of the owner or reputed owner of the property, if known, and, if not known, that fact shall be stated; and

(f) The principal amount for which the lien is claimed.

(2) Shall be signed by the claimant or some person authorized to act on his or her behalf who shall affirmatively state they have read the notice of claim of lien and believe the notice of claim of lien to be true and correct under penalty of perjury, and shall be acknowledged pursuant to chapter 64.08 RCW. If the ~~((claim))~~ lien has been assigned, the name of the assignee shall be stated. Where an action to foreclose the lien has been commenced such notice of claim of lien may be amended as pleadings may be by order of the court insofar as the interests of third parties are not adversely affected by such amendment. A claim of lien substantially in the following form shall be sufficient:

#### CLAIM OF LIEN

....., claimant, vs ..... ~~((owner or reputed owner))~~ name of person indebted to claimant:

~~((Notice is hereby given that on the ... day of ..... (date of commencement of furnishing labor, professional services, materials, or equipment and the last date contributions to any type of employee benefit plan became due), ..... at the request of ..... commenced to (perform labor, furnish professional services, materials, or equipment) upon ..... (here describe property subject to the lien) of which property the owner, or reputed owner, is ..... (or if the~~

~~owner or reputed owner is not known, insert the word "unknown"), the (furnishing of labor, professional services, materials, or equipment) ceased on the . . . day of . . . . .; that said (labor, professional services, material, or equipment) was of the value of . . . . . dollars, for which the undersigned claims a lien upon the property herein described for the sum of . . . . . dollars. (In case the claim has been assigned, add the words "and . . . . . is assignee of said claim", or claims, if several are united.))~~ Notice is hereby given that the person named below claims a lien pursuant to chapter 64.04 RCW. In support of this lien the following information is submitted:

1. NAME OF LIEN CLAIMANT: . . . . .  
TELEPHONE NUMBER: . . . . .  
ADDRESS: . . . . .

2. DATE ON WHICH THE CLAIMANT BEGAN TO PERFORM LABOR, PROVIDE PROFESSIONAL SERVICES, SUPPLY MATERIAL OR EQUIPMENT OR THE DATE ON WHICH EMPLOYEE BENEFIT CONTRIBUTIONS BECAME DUE: . . . . .

3. NAME OF PERSON INDEBTED TO THE CLAIMANT: . . . . .

4. DESCRIPTION OF THE PROPERTY AGAINST WHICH A LIEN IS CLAIMED (Street address, legal description or other information that will reasonably describe the property): . . . . .  
. . . . .  
. . . . .  
. . . . .

5. NAME OF THE OWNER OR REPUTED OWNER (If not known state "unknown"): . . . . .

6. THE LAST DATE ON WHICH LABOR WAS PERFORMED; PROFESSIONAL SERVICES WERE FURNISHED; CONTRIBUTIONS TO AN EMPLOYEE BENEFIT PLAN WERE DUE; OR MATERIAL, OR EQUIPMENT WAS FURNISHED: . . . . .  
. . . . .

7. PRINCIPAL AMOUNT FOR WHICH THE LIEN IS CLAIMED IS: . . . . .

8. IF THE CLAIMANT IS THE ASSIGNEE OF THIS CLAIM SO STATE HERE: . . . . .  
. . . . .

....., Claimant  
.....  
.....  
(Phone number, address, city, and state of claimant)

STATE OF WASHINGTON, COUNTY OF

....., ss.

....., being sworn, says: I am the claimant (or attorney of the claimant, or administrator, representative, or agent of the trustees of an employee benefit plan) above named; I have read or heard the foregoing claim, read and know the contents thereof, and believe the same to be true and correct and that the claim of lien is not frivolous and is made with reasonable cause, and is not clearly excessive under penalty of perjury.

.....  
Subscribed and sworn to before me this . . . day of . . . . .  
.....

The period provided for recording the (~~notice~~) claim of lien is a period of limitation and no action to foreclose a (~~claim of~~) lien shall be maintained unless the (~~notice is recorded~~) claim of lien is filed for recording within the ninety-day period stated. The lien claimant shall give (~~notice of~~) a copy of the claim of lien to the owner or reputed owner by mailing it by certified or registered mail or by personal service within fourteen days of the time the claim of lien is (~~recorded~~) filed for recording. Failure to do so results in a forfeiture of any right the claimant may have to attorneys' fees and costs against the owner under RCW 60.04.181.

**Sec. 8.** RCW 60.04.141 and 1991 c 281 s 14 are each amended to read as follows:

No lien created by this chapter binds the property subject to the lien for a longer period than eight calendar months after the (~~notice of~~) claim of lien has been recorded unless an action is filed by the lien claimant within that time in the superior court in the county where the subject property is located to enforce the lien, and service is made upon the owner of the subject property within ninety days of the date of filing the action; or, if credit is given and the terms thereof are stated in the (~~notice of~~) claim of lien, then eight calendar months after the expiration of such credit; and in case the action is not prosecuted to judgment within two years after the commencement thereof, the court, in its discretion, may dismiss the action for want of prosecution, and the dismissal of the action or a judgment rendered thereon that no lien exists shall constitute a cancellation of the lien. This is a period of limitation, which shall be tolled by the filing of any petition seeking protection under Title Eleven, United States Code by an owner of any property subject to the lien established by this chapter.

**Sec. 9.** RCW 60.04.151 and 1991 c 281 s 15 are each amended to read as follows:

The lien claimant shall be entitled to recover upon the claim recorded the contract price after deducting all claims of other lien claimants to whom the claimant is liable, for furnishing labor, professional services, materials, or equipment; and in all cases where a (~~notice of~~) claim of lien shall be recorded under this chapter for labor, professional services, materials, or equipment supplied to any lien claimant, he or she shall defend any action brought thereupon at his or her own expense(~~(+and)~~). During the pendency of the action, the owner may withhold from the prime contractor the amount of money for which a claim is recorded by any subcontractor, supplier, or laborer(~~(+and)~~). In case of judgment against the owner or the owner's property, upon the lien, the owner shall be entitled to deduct from sums due to the prime contractor the principal amount of the judgment from any amount due or to become due from (~~him or her~~) the owner to the (~~lien claimant~~) prime contractor plus such costs, including interest and attorneys' fees, as the court deems just and equitable, and (~~he or she~~) the owner shall be entitled to recover back from the (~~lien claimant~~) prime contractor the amount for which (~~the~~) a lien (~~is~~) or liens are established in excess of any sum that may remain due from (~~him or her~~) the owner to the (~~lien claimant~~) prime contractor.

**Sec. 10.** RCW 60.04.161 and 1991 c 281 s 16 are each amended to read as follows:

Any owner of real property subject to a recorded (~~notice of~~) claim of lien under this chapter, or (~~the~~) contractor (~~(or)~~), subcontractor, lender, or lien claimant who disputes the correctness or validity of the (~~notice of~~) claim of lien may record, either before or after the commencement of an action to enforce the lien, in the office of the county recorder or auditor in the county where the (~~notice of~~) claim of lien was recorded, a bond issued by a surety company authorized to issue surety bonds in the state. The surety shall be listed in the latest federal department of the treasury list of surety companies acceptable on federal bonds, published in the Federal Register, as authorized to issue bonds on United States government projects with an underwriting limitation, including applicable reinsurance, equal to or greater than the amount of the bond to be recorded. The bond shall contain a description of the (~~notice of~~) claim of lien and real property involved, and be in an amount equal to the greater of five thousand dollars or two times the amount of the lien claimed if it is ten thousand dollars or less, and in an amount equal to or greater than one and one-half times the amount of the lien if it is in excess of ten thousand dollars. If the (~~notice of~~) claim of lien affects more than one parcel of real property and is segregated to each parcel, the bond may be segregated the same as in the (~~notice of~~) claim of lien. A separate bond shall be required for each (~~notice of~~) claim of lien made by separate claimants. However, a single bond may be used to guarantee payment of amounts claimed by more than one (~~lien~~) claim of lien by a single

claimant so long as the amount of the bond meets the requirements of this section as applied to the aggregate sum of all claims by such claimant. The condition of the bond shall be to guarantee payment of any judgment upon the lien in favor of the lien claimant entered in any action to recover the amount claimed in a (~~notice of~~) claim of lien, or on the claim asserted in the (~~notice of~~) claim of lien. The effect of recording a bond shall be to release the real property described in the notice of claim of lien from the lien and any action brought to recover the amount claimed. Unless otherwise prohibited by law, if no action is commenced to recover on a lien within the time specified in RCW 60.04.141, the surety shall be discharged from liability under the bond. If an action is timely commenced, then on payment of any judgment entered in the action or on payment of the full amount of the bond to the holder of the judgment, whichever is less, the surety shall be discharged from liability under the bond.

Nothing in this section shall in any way prohibit or limit the use of other methods, devised by the affected parties to secure the obligation underlying a claim of lien and to obtain a release of real property from a claim of lien.

**Sec. 11.** RCW 60.04.171 and 1991 c 281 s 17 are each amended to read as follows:

The lien provided by this chapter, for which claims of lien have been recorded, may be foreclosed and enforced by a civil action in the court having jurisdiction in the manner prescribed for the judicial foreclosure of a mortgage. The court shall have the power to order the sale of the property. In any action brought to foreclose a lien, the owner shall be joined as a party. The (~~lien claims of all~~) interest in the real property of any person(s) who, prior to the commencement of the action, (~~have legally~~) has a recorded (~~claims of lien against~~) interest in the (~~same~~) property, or any part thereof, shall not be foreclosed or affected unless they are joined as a party.

A person shall not begin an action to foreclose a lien upon any property while a prior action begun to foreclose another lien on the same property is pending, but if not made a party plaintiff or defendant to the prior action, he or she may apply to the court to be joined as a party thereto, and his or her lien may be foreclosed in the same action. The filing of such application shall toll the running of the period of limitation established by RCW 60.04.141 until disposition of the application or other time set by the court. The court shall grant the application for joinder unless to do so would create an undue delay or cause hardship which cannot be cured by the imposition of costs or other conditions as the court deems just. If a lien foreclosure action is filed during the pendency of another such action, the court may, on its own motion or the motion of any party, consolidate actions upon such terms and conditions as the court deems just, unless to do so would create an undue delay or cause hardship which cannot be cured by the imposition of costs or other conditions. If consolidation of actions is not permissible under this section, the lien foreclosure action filed

during the pendency of another such action shall not be dismissed if the filing was the result of mistake, inadvertence, surprise, excusable neglect, or irregularity. An action to foreclose a lien shall not be dismissed at the instance of a plaintiff therein to the prejudice of another party to the suit who claims a lien.

**Sec. 12.** RCW 60.04.181 and 1991 c 281 s 18 are each amended to read as follows:

(1) In every case in which different construction liens are claimed against the same property, the court shall declare the rank of such lien or class of liens, which liens shall be in the following order:

- (a) Liens for the performance of labor;
- (b) Liens for contributions owed to employee benefit plans;
- (c) Liens for furnishing material, supplies, or equipment;
- (d) Liens for subcontractors, including but not limited to their labor and materials; and
- (e) Liens for prime contractors, or for professional services.

(2) The proceeds of the sale of property must be applied to each lien or class of liens in order of its rank and, in an action brought to foreclose a lien, pro rata among each claimant in each separate priority class. A personal judgment may be rendered against any party personally liable for any debt for which the lien is claimed. If the lien is established, the judgment shall provide for the enforcement thereof upon the property liable as in the case of foreclosure of judgment liens. The amount realized by such enforcement of the lien shall be credited upon the proper personal judgment. The deficiency, if any, remaining unsatisfied, shall stand as a personal judgment, and may be collected by execution against any party liable therefor.

(3) The court may allow the prevailing party in the action, whether plaintiff or defendant, as part of the costs of the action, the moneys paid for recording the (~~notice of~~) claim of lien, costs of title report, bond costs, and attorneys' fees and necessary expenses incurred by the attorney in the superior court, court of appeals, supreme court, or arbitration, as the court or arbitrator deems reasonable. Such costs shall have the priority of the class of lien to which they are related, as established by subsection (1) of this section.

(4) Real property against which a lien under this chapter is enforced may be ordered sold by the court and the proceeds deposited into the registry of the clerk of the court, pending further determination respecting distribution of the proceeds of the sale.

**Sec. 13.** RCW 60.04.221 and 1991 c 281 s 22 are each amended to read as follows:

Any lender providing interim or construction financing where there is not a payment bond of at least fifty percent of the amount of construction financing shall observe the following procedures and the rights and liabilities of the lender and potential lien claimant shall be affected as follows:

(1) Any potential lien claimant who has not received a payment within five days after the date required by their contract, invoice, employee benefit plan agreement, or purchase order may within thirty-five days of the date required for payment of the contract, invoice, employee benefit plan agreement, or purchase order, ~~((file))~~ give a notice as provided in subsections (2) and (3) of this section of the sums due and to become due, for which a potential lien claimant may claim a lien under this chapter.

(2) The notice shall be signed by the potential lien claimant or some person authorized to act on his or her behalf ~~((who shall affirmatively state under penalty of perjury, they have read the notice and believe it to be true and correct))~~.

(3) The notice shall be ~~((filed))~~ given in writing ~~((with))~~ to the lender at the office administering the interim or construction financing, with a copy ~~((furnished))~~ given to the owner and appropriate prime contractor. The notice shall be given by:

(a) Mailing the notice by certified or registered mail to the lender, owner, and appropriate prime contractor; or

(b) Delivering or serving the notice personally and obtaining evidence of delivery in the form of a receipt or other acknowledgment signed by the lender, owner, and appropriate prime contractor, or an affidavit of service.

(4) The notice shall state in substance and effect as follows:

(a) The person, firm, trustee, or corporation filing the notice is entitled to receive contributions to any type of employee benefit plan or has furnished labor, professional services, materials, or equipment for which a ~~((right-of))~~ lien is given by this chapter.

(b) The name of the prime contractor, common law agent, or construction agent ordering the same.

(c) A common or street address of the real property being improved or the legal description of the real property.

(d) The name, business address, and telephone number of the lien claimant.

The notice to the lender may contain additional information but shall be in substantially the following form:

NOTICE TO REAL PROPERTY LENDER

(Authorized by RCW . . . . .)

TO: .....

(Name of Lender)

.....

(Administrative Office-Street Address)

.....

(City) (State) (Zip)

AND TO: .....

(Owner)

AND TO: .....  
(Prime Contractor-If Different Than Owner)

.....  
(Name of Laborer, Professional, Materials, or Equipment Supplier)  
whose business address is . . . . ., did at the property located at . . . . .  
(Check appropriate box) ( ) perform labor ( ) furnish professional services  
( ) provide materials ( ) supply equipment as follows:

.....  
.....  
.....  
which was ordered by .....  
(Name of Person)

whose address was stated to be .....  
.....

The amount owing to the undersigned according to contract or purchase order for labor, supplies, or equipment (as above mentioned) is the sum of . . . . . Dollars (\$ . . . . .). Said sums became due and owing as of

.....  
(State Date)

You are hereby required to withhold from any future draws on existing construction financing which has been made on the subject property (to the extent there remain undisbursed funds) the sum of . . . . . Dollars (\$ . . . . .).

**IMPORTANT**

Failure to comply with the requirements of this notice may subject the lender to a whole or partial compromise of any priority lien interest it may have pursuant to RCW 60.04.226.

DATE: .....

By: .....

Its: .....

((4)) (5) After the receipt of the notice, the lender shall withhold from the next and subsequent draws the amount claimed to be due as stated in the notice. Alternatively, the lender may obtain from the prime contractor or borrower a payment bond for the benefit of the potential lien claimant in an amount sufficient to cover the amount stated in the potential lien claimant's notice. The lender shall be obligated to withhold amounts only to the extent that sufficient interim or construction financing funds remain undisbursed as of the date the lender receives the notice.

~~((5))~~ (6) Sums so withheld shall not be disbursed by the lender, except by the written agreement of the potential lien claimant, owner, and prime contractor in such form as may be prescribed by the lender, or the order of a court of competent jurisdiction.

~~((6))~~ (7) In the event a lender fails to abide by the provisions of subsections (4) and (5) of this section, then the mortgage, deed of trust, or other encumbrance securing the lender (~~(with)~~) shall be subordinated to the lien of the potential lien claimant to the extent of the interim or construction financing wrongfully disbursed, but in no event more than the amount stated in the notice plus costs as fixed by the court, including reasonable attorneys' fees.

~~((7))~~ (8) Any potential lien claimant shall be liable for any loss, cost, or expense, including reasonable attorneys' fees and statutory costs, to a party injured thereby arising out of any unjust, excessive, or premature notice filed under purported authority of this section. "Notice" as used in this subsection does not include notice given by a potential lien claimant of the right to claim liens under this chapter where no actual claim is made.

~~((8))~~ (9)(a) Any owner of real property subject to a notice to real property lender under this section, or the contractor (~~(or)~~), subcontractor, lender, or lien claimant who believes the claim that underlies the notice is frivolous and made without reasonable cause, or is clearly excessive may apply by motion to the superior court for the county where the property, or some part thereof is located, for an order commanding the potential lien claimant who issued the notice to the real property lender to appear before the court at a time no earlier than six nor later than fifteen days from the date of service of the application and order on the potential lien claimant, and show cause, if any he or she has, why the notice to real property lender should not be declared void. The motion shall state the grounds upon which relief is asked and shall be supported by the affidavit of the applicant or his or her attorney setting forth a concise statement of the facts upon which the motion is based.

(b) The order shall clearly state that if the potential lien claimant fails to appear at the time and place noted, the notice to lender shall be declared void and that the potential lien claimant issuing the notice shall be ordered to pay the costs requested by the applicant including reasonable attorneys' fees.

(c) The clerk of the court shall assign a cause number to the application and obtain from the applicant a filing fee of thirty-five dollars.

(d) If, following a (~~(full)~~) hearing on the matter, the court determines that the claim upon which the notice to real property lender is based is frivolous and made without reasonable cause, or clearly excessive, the court shall issue an order declaring the notice to real property lender void if frivolous(~~;~~) and made without reasonable cause, or reducing the amount stated in the notice if clearly excessive, and awarding costs and reasonable attorneys' fees to the applicant to be paid by the person who issued the notice. If the court determines that the claim underlying the notice to real property lender is not frivolous and was made with reasonable cause, and is not clearly excessive, the court shall issue an order

so stating and awarding costs and reasonable attorneys' fees to the issuer of the notice to be paid by the applicant.

(e) Proceedings under this subsection shall not affect other rights and remedies available to the parties under this chapter or otherwise.

**Sec. 14.** RCW 60.04.902 and 1991 c 281 s 32 are each amended to read as follows:

This act shall take effect (~~(April)~~) June 1, 1992. Lien claims based on an improvement commenced by a potential lien claimant on or after (~~(April)~~) June 1, 1992, shall be governed by the provisions of this act.

**NEW SECTION. Sec. 15.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect June 1, 1992, except section 14 of this act which shall take effect immediately.

Passed the Senate March 12, 1992.

Passed the House March 11, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

## CHAPTER 127

[Substitute Senate Bill 6141]

### ANTI-HARASSMENT PETITIONS—VENUE FOR BRINGING ACTION

Effective Date: 6/11/92

AN ACT Relating to venue for antiharassment petitions; and amending RCW 10.14.160.

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

**Sec. 1.** RCW 10.14.160 and 1987 c 280 s 16 are each amended to read as follows:

For the purposes of this chapter an action may be brought in:

(1) (~~(Any)~~) The judicial district of the county in which the alleged acts of unlawful harassment occurred;

(2) (~~(Any)~~) The judicial district of the county where any respondent resides at the time the petition is filed; or

(3) (~~(Any)~~) The judicial district of the county where a respondent may be served if it is the same county or judicial district where a respondent resides.

Passed the Senate February 12, 1992.

Passed the House March 3, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

## CHAPTER 128

[Engrossed Senate Bill 6033]

EMERGENCY SERVICE MEDICAL PERSONNEL—  
REVISED CERTIFICATION REQUIREMENTS

Effective Date: 6/11/92

AN ACT Relating to emergency service medical personnel; amending RCW 18.71.205, 18.73.130, 18.73.140, 18.73.150, and 18.130.040; and adding a new section to chapter 18.73 RCW.

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

**Sec. 1.** RCW 18.71.205 and 1990 c 269 s 18 are each amended to read as follows:

(1) The secretary of the department of health, in conjunction with the advice and assistance of the emergency medical services licensing and certification advisory committee as prescribed in RCW 18.73.050, and the board of medical examiners, shall prescribe:

(a) Minimum standards and performance requirements for the certification and recertification of physician's trained intravenous therapy technicians, airway management technicians, and mobile intensive care paramedics; and

(b) Procedures for certification, recertification, and decertification of physician's trained intravenous therapy technicians, airway management technicians, and mobile intensive care paramedics.

(2) Initial certification shall be for a period of ~~((two))~~ three years.

(3) Recertification shall be granted upon proof of continuing satisfactory performance and education, and shall be for a period of ~~((two))~~ three years.

(4) As used in chapters 18.71 and 18.73 RCW, "approved medical program director" means a person who:

(a) Is licensed to practice medicine and surgery pursuant to chapter 18.71 RCW or osteopathy and surgery pursuant to chapter 18.57 RCW; and

(b) Is qualified and knowledgeable in the administration and management of emergency care and services; and

(c) Is so certified by the department of health for a county, group of counties, or cities with populations over four hundred thousand in coordination with the recommendations of the local medical community and local emergency medical services and trauma care council.

(5) The uniform disciplinary act, chapter 18.130 RCW, governs uncertified practice, the issuance and denial of certificates, and the disciplining of certificate holders under this section. The secretary shall be the disciplining authority under this section. Disciplinary action shall be initiated against a person credentialed under this chapter in a manner consistent with the responsibilities and duties of the medical program director under whom such person is responsible.

**Sec. 2.** RCW 18.73.130 and 1990 c 269 s 25 are each amended to read as follows:

An ambulance operator, ambulance director, aid vehicle operator or aid director may not operate a service in the state of Washington without holding a license for such operation, issued by the secretary when such operation is

consistent with the state-wide and regional emergency medical services and trauma care plans established pursuant to chapter 70.168 RCW, indicating the general area to be served and the number of vehicles to be used, with the following exceptions:

- (1) The United States government;
- (2) Ambulance operators and ambulance directors providing service in other states when bringing patients into this state;
- (3) Owners of businesses in which ambulance or aid vehicles are used exclusively on company property but occasionally in emergencies may transport patients to hospitals not on company property; and
- (4) Operators of vehicles pressed into service for transportation of patients in emergencies when licensed ambulances are not available or cannot meet overwhelming demand.

The license shall be valid for a period of (~~three~~) two years and shall be renewed on request provided the holder has consistently complied with the regulations of the department and the department of licensing and provided also that the needs of the area served have been met satisfactorily. The license shall not be transferable.

**Sec. 3.** RCW 18.73.140 and 1987 c 214 s 11 are each amended to read as follows:

The secretary shall issue an ambulance or aid vehicle license for each vehicle so designated. The license shall be for a period of (~~one~~) two years and may be reissued on expiration if the vehicle and its equipment meet requirements in force at the time of expiration of the license period. The license may be revoked if the ambulance or aid vehicle is found to be operating in violation of the regulations promulgated by the department or without required equipment. The license shall be terminated automatically if the vehicle is sold or transferred to the control of anyone not currently licensed as an ambulance or aid vehicle operator or director. The license number shall be prominently displayed on each vehicle.

**Sec. 4.** RCW 18.73.150 and 1979 ex.s. c 261 s 15 are each amended to read as follows:

Any ambulance operated as such shall operate with sufficient personnel for adequate patient care, at least one of whom shall be an emergency medical technician under standards promulgated by the secretary. The emergency medical technician shall have responsibility for its operation and for the care of patients both before they are placed aboard the vehicle and during transit. If there are two or more emergency medical technicians operating the ambulance, a nondriving medical technician shall be in command of the vehicle. The emergency medical technician in command of the vehicle shall be in the patient compartment and in attendance to the patient.

The driver of the ambulance shall have at least a certificate of advance first aid qualification recognized by the secretary pursuant to RCW 18.73.120 unless

there are at least two certified emergency medical technicians in attendance of the patient, in which case the driver shall not be required to have such certificate.

NEW SECTION. Sec. 5. A new section is added to chapter 18.73 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, shall govern the issuance and denial of credentials, unauthorized practice, and the discipline of persons credentialed under this chapter. The secretary shall act as the disciplinary authority under this chapter. Disciplinary action shall be initiated against a person credentialed under this chapter in a manner consistent with the responsibilities and duties of the medical program director under whom such person is responsible.

Sec. 6. RCW 18.130.040 and 1990 c 3 s 810 are each amended to read as follows:

(1) This chapter applies only to the secretary and the boards having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The secretary has authority under this chapter in relation to the following professions:

- (i) Dispensing opticians licensed under chapter 18.34 RCW;
- (ii) Naturopaths licensed under chapter 18.36A RCW;
- (iii) Midwives licensed under chapter 18.50 RCW;
- (iv) Ocularists licensed under chapter 18.55 RCW;
- (v) Massage operators and businesses licensed under chapter 18.108 RCW;
- (vi) Dental hygienists licensed under chapter 18.29 RCW;
- (vii) Acupuncturists certified under chapter 18.06 RCW;
- (viii) Radiologic technologists certified under chapter 18.84 RCW;
- (ix) Respiratory care practitioners certified under chapter 18.89 RCW;
- (x) Persons registered or certified under chapter 18.19 RCW;
- (xi) Persons registered as nursing pool operators;
- (xii) Nursing assistants registered or certified under chapter 18.52B RCW;
- (xiii) Dietitians and nutritionists certified under chapter 18.138 RCW; ~~((and))~~
- (xiv) Sex offender treatment providers certified under chapter 18.155 RCW;

and

(xv) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205.

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

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

(ii) The chiropractic disciplinary board as established in chapter 18.26 RCW governing licenses issued under chapter 18.25 RCW;

(iii) The dental disciplinary board as established in chapter 18.32 RCW;

(iv) The council on hearing aids as established in chapter 18.35 RCW;

(v) The board of funeral directors and embalmers as established in chapter 18.39 RCW;

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

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

(viii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapters 18.57 and 18.57A RCW;

(ix) The medical disciplinary board as established in chapter 18.72 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

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

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

(xii) The board of practical nursing as established in chapter 18.78 RCW;

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

(xiv) The board of nursing as established in chapter 18.88 RCW; and

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

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. However, the board of chiropractic examiners has authority over issuance and denial of licenses provided for in chapter 18.25 RCW, the board of dental examiners has authority over issuance and denial of licenses provided for in RCW 18.32.040, and the board of medical examiners has authority over issuance and denial of licenses and registrations provided for in chapters 18.71 and 18.71A RCW. This chapter also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered pursuant to RCW 18.130.160 by the disciplining authority.

Passed the Senate March 9, 1992.

Passed the House March 6, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

**CHAPTER 129**

[Substitute Senate Bill 6055]

**STATE CRIME LABORATORY REPORT AS  
EVIDENCE IN CONTROLLED SUBSTANCES PROSECUTIONS**

**Effective Date: 6/11/92**

AN ACT Relating to the crime laboratory system of the state patrol; adding new sections to chapter 43.43 RCW; and prescribing penalties.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 43.43 RCW to read as follows:

(1) In all prosecutions involving the analysis of a controlled substance or a sample of a controlled substance by the crime laboratory system of the state patrol, a certified copy of the analytical report signed by the supervisor of the state patrol's crime laboratory or the forensic scientist conducting the analysis is prima facie evidence of the results of the analytical findings.

(2) The defendant or a prosecutor may subpoena the forensic scientist who conducted the analysis of the substance to testify at the preliminary hearing and trial of the issue at no cost to the defendant, if the subpoena is issued at least ten days prior to the trial date.

**NEW SECTION. Sec. 2.** (1) When a person has been adjudged guilty of violating any criminal statute of this state and a crime laboratory analysis was performed by a state crime laboratory, in addition to any other disposition, penalty, or fine imposed, the court shall levy a crime laboratory analysis fee of one hundred dollars for each offense for which the person was convicted. Upon a verified petition by the person assessed the fee, the court may suspend payment of all or part of the fee if it finds that the person does not have the ability to pay the fee.

(2) When a minor has been adjudicated a juvenile offender for an offense which, if committed by an adult, would constitute a violation of any criminal statute of this state and a crime laboratory analysis was performed, in addition to any other disposition imposed, the court shall assess a crime laboratory analysis fee of one hundred dollars for each adjudication. Upon a verified petition by a minor assessed the fee, the court may suspend payment of all or part of the fee if it finds that the minor does not have the ability to pay the fee.

(3) All crime laboratory analysis fees assessed under this section shall be collected by the clerk of the court and forwarded to the state general fund, to be used only for crime laboratories. The clerk may retain five dollars to defray the costs of collecting the fees.

**NEW SECTION. Sec. 3.** Sections 1 and 2 of this act are each added to chapter 43.43 RCW.

Passed the Senate March 8, 1992.  
Passed the House March 3, 1992.  
Approved by the Governor March 31, 1992.  
Filed in Office of Secretary of State March 31, 1992.

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**CHAPTER 130**

[Substitute Senate Bill 6330]

**DRIVING WHILE SUSPENDED OR REVOKED IN THE THIRD DEGREE—REVISIONS****Effective Date: 3/31/92**

AN ACT Relating to driving while license suspended or revoked; amending RCW 46.20.342; and declaring an emergency.

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

**Sec. 1.** RCW 46.20.342 and 1991 c 293 s 6 are each amended to read as follows:

(1) It is unlawful for any person to drive a motor vehicle in this state while that person is in a suspended or revoked status or when his or her privilege to drive is suspended or revoked in this or any other state. Any person who has a valid Washington driver's license is not guilty of a violation of this section.

(a) A person found to be an habitual offender under chapter 46.65 RCW, who violates this section while an order of revocation issued under chapter 46.65 RCW prohibiting such operation is in effect, is guilty of driving while license suspended or revoked in the first degree, a gross misdemeanor. Upon the first such conviction, the person shall be punished by imprisonment for not less than ten days. Upon the second conviction, the person shall be punished by imprisonment for not less than ninety days. Upon the third or subsequent conviction, the person shall be punished by imprisonment for not less than one year. If the person is also convicted of the offense defined in RCW 46.61.502 or 46.61.504, when both convictions arise from the same event, the minimum sentence of confinement shall be not less than ninety days. The minimum sentence of confinement required shall not be suspended or deferred. A conviction under this subsection does not prevent a person from petitioning for reinstatement as provided by RCW 46.65.080.

(b) A person who violates this section while an order of suspension or revocation prohibiting such operation is in effect and while the person is not eligible to reinstate his or her driver's license or driving privilege, other than for a suspension for the reasons described in (c) of this subsection, is guilty of driving while license suspended or revoked in the second degree, a gross misdemeanor. This subsection applies when a person's driver's license or driving privilege has been suspended or revoked by reason of:

(i) A conviction of a felony in the commission of which a motor vehicle was used;

(ii) A previous conviction under this section;

(iii) A notice received by the department from a court or diversion unit as provided by RCW 46.20.265, relating to a minor who has committed, or who has entered a diversion unit concerning an offense relating to alcohol, legend drugs, controlled substances, or imitation controlled substances;

(iv) A conviction of RCW 46.20.410, relating to the violation of restrictions of an occupational driver's license;

(v) A conviction of RCW 46.20.420, relating to the operation of a motor vehicle with a suspended or revoked license;

(vi) A conviction of RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(vii) A conviction of RCW 46.61.024, relating to attempting to elude pursuing police vehicles;

(viii) A conviction of RCW 46.61.500, relating to reckless driving;

(ix) A conviction of RCW 46.61.502 or 46.61.504, relating to a person under the influence of intoxicating liquor or drugs;

(x) A conviction of RCW 46.61.520, relating to vehicular homicide;

(xi) A conviction of RCW 46.61.522, relating to vehicular assault;

(xii) A conviction of RCW 46.61.530, relating to racing of vehicles on highways;

(xiii) A conviction of RCW 46.61.685, relating to leaving children in an unattended vehicle with motor running;

(xiv) A conviction of RCW 46.64.048, relating to attempting, aiding, abetting, coercing, and committing crimes; or

(xv) An administrative action taken by the department under chapter 46.20 RCW.

(c) A person who violates this section when his or her driver's license or driving privilege is, at the time of the violation, suspended or revoked solely because (i) the person must furnish proof of satisfactory progress in a required alcoholism or drug treatment program, (ii) the person must furnish proof of financial responsibility for the future as provided by chapter 46.29 RCW, (iii) the person has failed to comply with the provisions of chapter 46.29 RCW relating to uninsured accidents, ~~((v))~~ (iv) the person has committed an offense in another state that, if committed in this state, would not be grounds for the suspension or revocation of the person's driver's license, or (v) the person has been suspended or revoked by reason of one or more of the items listed in (b) of this subsection, but was eligible to reinstate his or her driver's license or driving privilege at the time of the violation, or any combination of (i) through ~~((iv))~~ (v), is guilty of driving while license suspended or revoked in the third degree, a misdemeanor.

(2) Upon receiving a record of conviction of any person or upon receiving an order by any juvenile court or any duly authorized court officer of the conviction of any juvenile under this section, the department shall:

(a) For a conviction of driving while suspended or revoked in the first degree, as provided by subsection (1)(a) of this section, extend the period of

administrative revocation imposed under chapter 46.65 RCW for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(b) For a conviction of driving while suspended or revoked in the second degree, as provided by subsection (1)(b) of this section, not issue a new license or restore the driving privilege for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(c) Not extend the period of suspension or revocation if the conviction was under subsection (1)(c) of this section. If the conviction was under subsection (1) (a) or (b) of this section and the court recommends against the extension and the convicted person has obtained a valid driver's license, the period of suspension or revocation shall not be extended.

**NEW SECTION. Sec. 2.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate February 12, 1992.

Passed the House March 5, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

## CHAPTER 131

[Senate Bill 6357]

### SOLID WASTE AND RECYCLING LAWS—TECHNICAL AMENDMENTS

Effective Date: 6/11/92

AN ACT Relating to technical corrections to solid waste and recycling laws; amending RCW 70.95G.020, 70.95H.030, and 36.58.090; and reenacting and amending RCW 36.58.040.

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

**Sec. 1.** RCW 70.95G.020 and 1991 c 319 s 108 are each amended to read as follows:

The sum of the concentration levels of lead, cadmium, mercury, and hexavalent chromium present in any ((product,)) package((,)) or packaging component shall not exceed the following:

(1) Six hundred parts per million by weight effective July 1, 1993;

(2) Two hundred fifty parts per million by weight effective July 1, 1994; and

(3) One hundred parts per million by weight effective July 1, 1995 ((after May 21, 1994)).

This section shall apply only to lead, cadmium, mercury, and hexavalent chromium that has been intentionally introduced as an element during manufacturing or distribution.

**Sec. 2.** RCW 70.95H.030 and 1991 c 319 s 205 are each amended to read as follows:

The center shall:

- (1) Provide targeted business assistance to recycling businesses, including:
  - (a) Development of business plans;
  - (b) Market research and planning information;
  - (c) Access to financing programs;
  - (d) Referral and information on market conditions; and
  - (e) Information on new technology and product development;
- (2) Negotiate voluntary agreements with manufacturers to increase the use of recycled materials in product development;
- (3) Support and provide research and development to stimulate and commercialize new and existing technologies and products using recycled materials;
- (4) Undertake an integrated, comprehensive education effort directed to recycling businesses to promote processing, manufacturing, and purchase of recycled products, including:
  - (a) Provide information to recycling businesses on the availability and benefits of using recycled materials;
  - (b) Provide information and referral services on recycled material markets;
  - (c) Provide information on new research and technologies that may be used by local businesses and governments; and
  - (d) Participate in projects to demonstrate new market uses or applications for recycled products;
- (5) Assist the departments of ecology and general administration in the development of consistent definitions and standards on recycled content, product performance, and availability;
- (6) Undertake studies on the unmet capital needs of reprocessing and manufacturing firms using recycled materials;
- (7) Undertake and (~~participating~~) participate in marketing promotions for the purposes of achieving expanded market penetration for recycled content products;
- (8) Coordinate with the department of ecology to ensure that the education programs of both are mutually reinforcing, with the center acting as the lead entity with respect to recycling businesses, and the department as the lead entity with respect to the general public and retailers;
- (9) Develop an annual work plan. The plan shall describe actions and recommendations for developing markets for commodities comprising a significant percentage of the waste stream and having potential for use as an industrial or commercial feedstock. The initial plan shall address, but not be limited to, mixed waste paper, waste tires, yard and food waste, and plastics; and
- (10) Represent the state in regional and national market development issues.

**Sec. 3.** RCW 36.58.040 and 1989 c 431 s 28 and 1989 c 399 s 9 are each reenacted and amended to read as follows:

The legislative authority of a county may by ordinance provide for the establishment of a system or systems of solid waste handling for all unincorporated areas of the county or for portions thereof. A county may designate a disposal site or sites for all solid waste collected in the unincorporated areas pursuant to the provisions of a comprehensive solid waste plan adopted pursuant to chapter 70.95 RCW. However for any solid waste collected by a private hauler operating under a certificate granted by the Washington utilities and transportation commission under the provisions of chapter 81.77 RCW and which certificate is for collection in a geographic area lying in more than one county, such designation of disposal sites shall be pursuant to an interlocal agreement between the involved counties.

A county may construct, lease, purchase, acquire, add to, alter, or extend solid waste handling systems, plants, sites, or other facilities and shall have full jurisdiction and authority to manage, regulate, maintain, utilize, operate, control, and establish the rates and charges for those solid waste handling systems, plants, sites, or other facilities. A county may enter into agreements with public or private parties to: (1) Construct, purchase, acquire, lease, add to, alter, extend, maintain, manage, utilize, or operate publicly or privately owned or operated solid waste handling systems, plants, sites, or other facilities; (2) establish rates and charges for those systems, plants, sites, or other facilities; (3) designate particular publicly or privately owned or operated systems, plants, sites, or other facilities as disposal sites; (4) process, treat, or convert solid waste into other valuable or useful materials or products; and (5) sell the material or products of those systems, plants, or other facilities.

The legislative authority of a county may award contracts for solid waste handling that provide that a county provide for a minimum periodic fee or other method of compensation in consideration of the operational availability of those solid waste handling systems, plants, sites, or other facilities at a specified minimum level, without regard to the ownership of the systems, plants, sites or other facilities, or the amount of solid waste actually handled during all or any part of the contract. When a minimum level of solid waste is specified in a contract entered into under this section, there shall be a specific allocation of financial responsibility in the event the amount of solid waste handled falls below the minimum level provided in the contract. Solid waste handling systems, plants, sites, or other facilities constructed, purchased, acquired, leased, added to, altered, extended, maintained, managed, utilized, or operated pursuant to this section, whether publicly or privately owned, shall be in substantial compliance with the solid waste management plan applicable to the county adopted pursuant to chapter 70.95 RCW. Agreements relating to such solid waste handling systems, plans, sites, or other facilities may be for such term and

may contain such covenants, conditions, and remedies as the legislative authority of the county may deem necessary or appropriate.

As used in this chapter, the terms "solid waste" and "solid waste handling" shall be as defined in RCW 70.95.030.

The legislative authority of a county may:

(1) By ordinance award a contract to collect source separated recyclable materials from residences within unincorporated areas. The legislative authority has complete authority to manage, regulate, and fix the price of the source separated recyclable collection service. The contracts may provide that the county pay minimum periodic fees to a municipal entity or permit holder; or

(2) Notify the commission in writing to carry out and implement the provisions of the waste reduction and recycling element of the comprehensive solid waste management plan.

This election may be made by counties at any time after July 23, 1989. An initial election must be made no later than ninety days following approval of the local comprehensive waste management plan required by RCW 70.95.090.

Nothing in this section shall be construed to authorize the operation of a solid waste collection system by counties or to authorize counties to affect the authority of the utilities and transportation commission under RCW 81.77.020.

~~((The alternative selection process provided by this section may not be used in the selection of a person or entity to construct a publicly owned facility for the storage or transfer of solid waste or solid waste handling equipment unless the facility is either (a) privately operated pursuant to a contract greater than five years, or (b) an integral part of a solid waste processing facility located on the same site. Instead, the applicable provisions of RCW 36.32.250, and chapters 39.04 and 39.30 RCW shall be followed.))~~

**Sec. 4.** RCW 36.58.090 and 1989 c 399 s 10 are each amended to read as follows:

(1) Notwithstanding the provisions of any county charter or any law to the contrary, and in addition to any other authority provided by law, the legislative authority of a county may contract with one or more vendors for one or more of the design, construction, or operation of, or other service related to, the solid waste handling systems, plants, sites, or other facilities in accordance with the procedures set forth in this section. When a contract for design services is entered into separately from other services permitted under this section, procurement shall be in accord with chapter 39.80 RCW. For the purpose of this chapter, the term "legislative authority" shall mean the board of county commissioners or, in the case of a home rule charter county, the official, officials, or public body designated by the charter to perform the functions authorized therein.

(2) If the legislative authority of the county decides to proceed with the consideration of qualifications or proposals for services from vendors, the county shall publish notice of its requirements and request submission of qualifications

statements or proposals. The notice shall be published in the official newspaper of the county at least once a week for two weeks not less than sixty days before the final date for the submission of qualifications statements or proposals. The notice shall state in summary form (a) the general scope and nature of the design, construction, operation, or other service, (b) the name and address of a representative of the county who can provide further details, (c) the final date for the submission of qualifications statements or proposals, (d) an estimated schedule for the consideration of qualifications, the selection of vendors, and the negotiation of a contract or contracts for services, (e) the location at which a copy of any request for qualifications or request for proposals will be made available, and (f) the criteria established by the legislative authority to select a vendor or vendors, which may include but shall not be limited to the vendor's prior experience, including design, construction, or operation of other similar facilities; respondent's management capability, schedule availability and financial resources; cost of the services, nature of facility design proposed by the vendor; system reliability; performance standards required for the facilities; compatibility with existing service facilities operated by the public body or other providers of service to the public; project performance guarantees; penalty and other enforcement provisions; environmental protection measures to be used; consistency with the applicable comprehensive solid waste management plan; and allocation of project risks.

(3) If the legislative authority of the county decides to proceed with the consideration of qualifications or proposals, it may designate a representative to evaluate the vendors who submitted qualifications statements or proposals and conduct discussions regarding qualifications or proposals with one or more vendors. The legislative authority or representative may request submission of qualifications statements and may later request more detailed proposals from one or more vendors who have submitted qualifications statements, or the representative may request detailed proposals without having first received and evaluated qualifications statements. The representative shall evaluate the qualifications or proposals, as applicable. If two or more vendors submit qualifications or proposals that meet the criteria established by the legislative authority of the county, discussions and interviews shall be held with at least two vendors. Any revisions to a request for qualifications or request for proposals shall be made available to all vendors then under consideration by the city or town and shall be made available to any other person who has requested receipt of that information.

(4) Based on criteria established by the legislative authority of the county, the representative shall recommend to the legislative authority a vendor or vendors that are initially determined to be the best qualified to provide one or more of the design, construction, or operation of, or other service related to, the proposed project or services. The legislative authority may select one or more

qualified vendors for one or more of the design, construction, or operation of, or other service related to, the proposed project or services.

(5) The legislative authority or its representative may attempt to negotiate a contract with the vendor or vendors selected for one or more of the design, construction, or operation of, or other service related to, the proposed project or services on terms that the legislative authority determines to be fair and reasonable and in the best interest of the county. If the legislative authority or its representative is unable to negotiate such a contract with any one or more of the vendors first selected on terms that it determines to be fair and reasonable and in the best interest of the county, negotiations with any one or more of the vendors shall be terminated or suspended and another qualified vendor or vendors may be selected in accordance with the procedures set forth in this section. If the legislative authority decides to continue the process of selection, negotiations shall continue with a qualified vendor or vendors in accordance with this section at the sole discretion of the legislative authority until an agreement is reached with one or more qualified vendors, or the process is terminated by the legislative authority. The process may be repeated until an agreement is reached.

(6) Prior to entering into a contract with a vendor, the legislative authority of the county shall make written findings, after holding a public hearing on the proposal, that it is in the public interest to enter into the contract, that the contract is financially sound, and that it is advantageous for the county to use this method for awarding contracts compared to other methods.

(7) Each contract shall include a project performance bond or bonds or other security by the vendor that in the judgment of the legislative authority of the county is sufficient to secure adequate performance by the vendor.

(8) The provisions of chapters 39.12, 39.19, and 39.25 RCW shall apply to a contract entered into under this section to the same extent as if the systems and plants were owned by a public body.

(9) The vendor selection process permitted by this section shall be supplemental to and shall not be construed as a repeal of or limitation on any other authority granted by law.

(10) The alternative selection process provided by this section may not be used in the selection of a person or entity to construct a publicly owned facility for the storage or transfer of solid waste or solid waste handling equipment unless the facility is either (a) privately operated pursuant to a contract greater than five years, or (b) an integral part of a solid waste processing facility located on the same site. Instead, the applicable provisions of RCW 36.32.250 and chapters 39.04 and 39.30 RCW shall be followed.

Passed the Senate February 12, 1992.

Passed the House March 3, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

## CHAPTER 132

[Substitute Senate Bill 6386]

## RADON TESTING OF NEW RESIDENCES

Effective Date: 3/31/92

AN ACT Relating to radon testing required by the state building code council; amending RCW 4.24.560; adding a new section to chapter 19.27 RCW; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 19.27 RCW to read as follows:

(1) Beginning July 1, 1992, at the time of final inspection of a new single-family residence or each ground floor unit in a multifamily residential building, the building inspector shall deliver to each residence and each ground floor unit a three-month etched track radon measurement device that is listed on a current federal environmental protection agency radon measurement proficiency list. Postage to the testing facility and the cost of testing and notification to the homeowner shall be included with the device. The device, the instructions included with the device, and the instructions provided by the state building code council pursuant to subsection (2) of this section shall be placed in a conspicuous location. The device shall be provided to the building inspector by the local government.

(2) Not later than June 15, 1992, in consultation with the department of health and the Washington state association of building code officials, the state building code council shall:

(a) Develop instructions for use by the owner or occupant on the proper means of installation, maintenance and removal of the radon measurement device provided for in subsection (1) of this section and distribute the instructions to all affected county and city building departments; and

(b) Distribute to all affected county and city building departments the current federal environmental protection agency radon measurement proficiency list and known sources for the devices.

(3) The owner of a new single-family residence or of a multifamily residential building shall be responsible for returning the radon measurement device left by a building inspector pursuant to this section to the appropriate testing laboratory in accordance with the instructions left with the device by the building inspector.

(4) The building inspector's approval of the final inspection on the final inspection record card shall be prima facie evidence that the building inspector left the radon measurement device and instructions as required by this section.

(5) The building inspector responsible for the final inspection, the building inspector's employer, and the county or city within which a single-family residence or multifamily residential building is located shall not be liable for injuries caused by:

(a) The failure of the occupant or owner of the residence or building to properly install, monitor, or send a radon measurement device to the testing laboratory; or

(b) Radon entering into any single-family residence or multifamily residential building.

(6) This section shall expire June 30, 1995.

**Sec. 2.** RCW 4.24.560 and 1990 c 2 s 8 are each amended to read as follows:

It is a defense in a civil action brought for damages for injury caused by indoor air pollutants in a residential structure on which construction was begun on or after July 1, 1991, that the builder or design professional complied in good faith, without negligence or misconduct, with:

(1) Building product safety standards, including labeling;

(2) Restrictions on the use of building materials known or believed to contain substances that contribute to indoor air pollution; and

(3) The ventilation and radon resistive construction requirements adopted under RCW 19.27.190.

NEW SECTION. **Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate February 18, 1992.

Passed the House March 5, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

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**CHAPTER 133**

[Engrossed House Bill 1185]

**RECORDING OF FEDERAL LIENS**

**Effective Date:** 7/1/92

AN ACT Relating to the recording of federal liens; amending RCW 60.68.015, 60.68.035, and 60.68.045; providing an effective date; and declaring an emergency.

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

**Sec. 1.** RCW 60.68.015 and 1988 c 73 s 2 are each amended to read as follows:

(1) Notices of liens, certificates, and other notices affecting federal tax liens or other federal liens must be recorded for record in accordance with this chapter.

(2) Notices of liens upon real property for obligations payable to the United States and certificates and notices affecting the liens shall be recorded in the office of the recorder of the county in which the real property subject to the liens is situated.

(3) Notices of federal liens upon personal property, whether tangible or intangible, for obligations payable to the United States and certificates and notices affecting the liens shall be ~~((recorded or))~~ filed ~~((as follows:~~

~~(a)) with the department of licensing ((if the person against whose interest the lien applies is a corporation or a partnership, as defined under federal internal revenue laws, whose principal executive office is in Washington;~~

~~(b) In all other cases, with the recorder of the county where the person against whose interest the lien applies resides at the time of recording of the notice of lien)).~~

**Sec. 2.** RCW 60.68.035 and 1988 c 73 s 4 are each amended to read as follows:

(1) The fee for recording a lien on ~~((personal property or))~~ real estate with the county auditor shall be as set forth in RCW 36.18.010.

(2) The fee for filing liens of personal property with the department of licensing of the state of Washington shall be as determined by the department.

(3) The recording or filing officer shall bill the district directors of the internal revenue service or other appropriate federal officials on a monthly basis for fees for documents filed for record by them.

**Sec. 3.** RCW 60.68.045 and 1988 c 73 s 5 are each amended to read as follows:

(1) When a notice of ((such)) a tax lien is recorded under RCW 60.68.015(2), the county auditor shall forthwith enter it in an alphabetical tax lien index to be provided by the board of county commissioners showing on one line the name and residence of the taxpayer named in the notice, the collector's serial number of the notice, the date and hour of recording, and the amount of tax and penalty assessed.

(2) When a notice of a tax lien is filed under RCW 60.68.015(3), the department of licensing shall enter it in the uniform commercial code filing system showing the name and address of the taxpayer as the debtor, and the internal revenue service as a secured party, and include the collector's serial number of the notice, the date and hour of filing, and the amount of tax and penalty assessed.

**NEW SECTION. Sec. 4.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1992.

Passed the House March 11, 1992.

Passed the Senate March 10, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

CHAPTER 134

[Substitute House Bill 2299]

LEASE-PURCHASE AGREEMENT ACT

Effective Date: 6/11/92

AN ACT Relating to lease-purchase agreements; amending RCW 62A.1-201, 63.10.020, and 63.14.010; reenacting and amending RCW 19.52.010; and adding a new chapter to Title 63 RCW.

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

NEW SECTION. Sec. 1. This act may be known and cited as the Washington lease-purchase agreement act.

NEW SECTION. Sec. 2. As used in this chapter, unless the context otherwise requires:

(1) "Advertisement" means a commercial message in any medium that aids, promotes, or assists, directly or indirectly, a lease-purchase agreement.

(2) "Cash price" means the price at which the lessor would have sold the property to the consumer for cash on the date of the lease-purchase agreement.

(3) "Consumer" means a natural person who rents personal property under a lease-purchase agreement to be used primarily for personal, family, or household purposes.

(4) "Consummation" means the time a consumer becomes contractually obligated on a lease-purchase agreement.

(5) "Lease-purchase agreement" means an agreement for the use of personal property by a natural person primarily for personal, family, or household purposes, for an initial period of four months or less that is automatically renewable with each payment after the initial period, but does not obligate or require the consumer to continue leasing or using the property beyond the initial period, and that permits the consumer to become the owner of the property.

(6) "Lessor" means a person who regularly provides the use of property through lease-purchase agreements and to whom lease payments are initially payable on the face of the lease-purchase agreement.

NEW SECTION. Sec. 3. (1) Lease-purchase agreements that comply with this chapter are not governed by the laws relating to:

(a) A consumer lease as defined in chapter 63.10 RCW;

(b) A retail installment sale of goods or services as regulated under chapter 63.14 RCW;

(c) A security interest as defined in Title 62A RCW; or

(d) Loans, forbearances of money, goods, or things in action as governed by chapter 19.52 RCW.

(2) This chapter does not apply to the following:

(a) Lease-purchase agreements primarily for business, commercial, or agricultural purposes, or those made with governmental agencies or instrumentalities or with organizations;

(b) A lease of a safe deposit box;

(c) A lease or bailment of personal property that is incidental to the lease of real property, and that provides that the consumer has no option to purchase the leased property; or

(d) A lease of an automobile.

**NEW SECTION. Sec. 4.** (1) The lessor shall disclose to the consumer the information required under this chapter. In a transaction involving more than one lessor, only one lessor need make the disclosures, but all lessors shall be bound by such disclosures.

(2) The disclosure shall be made at or before consummation of the lease-purchase agreement.

(3) The disclosure shall be made clearly and conspicuously in writing and a copy of the lease-purchase agreement provided to the consumer. The disclosures required under section 5(1) of this act shall be made on the face of the contract above the line for the consumer's signature.

(4) If a disclosure becomes inaccurate as the result of any act, occurrence, or agreement by the consumer after delivery of the required disclosures, the resulting inaccuracy is not a violation of this chapter.

**NEW SECTION. Sec. 5.** (1) For each lease-purchase agreement, the lessor shall disclose in the agreement the following items, as applicable:

(a) The total number, total amount, and timing of all payments necessary to acquire ownership of the property;

(b) A statement that the consumer will not own the property until the consumer has made the total payment necessary to acquire ownership;

(c) A statement that the consumer is responsible for the fair market value of the property if, and as of the time, it is lost, stolen, damaged, or destroyed;

(d) A brief description of the leased property, sufficient to identify the property to the consumer and the lessor, including an identification number, if applicable, and a statement indicating whether the property is new or used, but a statement that indicates new property is used is not a violation of this chapter;

(e) A brief description of any damage to the leased property;

(f) A statement of the cash price of the property. Where the agreement involves a lease of five or more items as a set, in one agreement, a statement of the aggregate cash price of all items shall satisfy this requirement;

(g) The total of initial payments paid or required at or before consummation of the agreement or delivery of the property, whichever is later;

(h) A statement that the total of payments does not include other charges, such as late payment, default, pickup, and reinstatement fees, which fees shall be separately disclosed in the contract;

(i) A statement clearly summarizing the terms of the consumer's option to purchase, including a statement that the consumer has the right to exercise an early purchase option and the price, formula, or method for determining the price at which the property may be so purchased;

(j) A statement identifying the party responsible for maintaining or servicing the property while it is being leased, together with a description of that responsibility, and a statement that if any part of a manufacturer's express warranty covers the lease property at the time the consumer acquires ownership of the property, it shall be transferred to the consumer, if allowed by the terms of the warranty;

(k) The date of the transaction and the identities of the lessor and consumer;

(l) A statement that the consumer may terminate the agreement without penalty by voluntarily surrendering or returning the property in good repair upon expiration of any lease term along with any past due rental payments; and

(m) Notice of the right to reinstate an agreement as herein provided.

(2) With respect to matters specifically governed by the federal consumer credit protection act, compliance with the act satisfies the requirements of this section.

**NEW SECTION. Sec. 6.** A lease-purchase agreement may not contain:

(1) A confession of judgment;

(2) A negotiable instrument;

(3) A security interest or any other claim of a property interest in any goods except those goods delivered by the lessor pursuant to the lease-purchase agreement;

(4) A wage assignment;

(5) A waiver by the consumer of claims or defenses; or

(6) A provision authorizing the lessor or a person acting on the lessor's behalf to enter upon the consumer's premises or to commit any breach of the peace in the repossession of goods.

**NEW SECTION. Sec. 7.** (1) A consumer who fails to make a timely rental payment may reinstate the agreement, without losing any rights or options that exist under the agreement, by the payment of:

(a) All past due rental charges;

(b) If the property has been picked up, the reasonable costs of pickup and redelivery; and

(c) Any applicable late fee, within ten days of the renewal date if the consumer pays monthly, or within five days of the renewal date if the consumer pays more frequently than monthly.

(2) In the case of a consumer who has paid less than two-thirds of the total of payments necessary to acquire ownership and where the consumer has returned or voluntarily surrendered the property, other than through judicial process, during the applicable reinstatement period set forth in subsection (1) of this section, the consumer may reinstate the agreement during a period of not less than twenty-one days after the date of the return of the property.

(3) In the case of a consumer who has paid two-thirds or more of the total of payments necessary to acquire ownership, and where the consumer has

returned or voluntarily surrendered the property, other than through judicial process, during the applicable period set forth in subsection (1) of this section, the consumer may reinstate the agreement during a period of not less than forty-five days after the date of the return of the property.

(4) Nothing in this section shall prevent a lessor from attempting to repossess property during the reinstatement period, but such a repossession shall not affect the consumer's right to reinstate. Upon reinstatement, the lessor shall provide the consumer with the same property or substitute property of comparable quality and condition.

**NEW SECTION. Sec. 8.** A lessor shall provide the consumer a written receipt for each payment made by cash or money order.

**NEW SECTION. Sec. 9.** (1) A renegotiation shall occur when an existing lease-purchase agreement is satisfied and replaced by a new agreement undertaken by the same lessor and consumer. A renegotiation shall be considered a new agreement requiring new disclosures. However, events such as the following shall not be treated as renegotiations:

(a) The addition or return of property in a multiple-item agreement or the substitution of the lease property, if in either case the average payment allocable to a payment period is not changed by more than twenty-five percent;

(b) A deferral or extension of one or more periodic payments, or portions of a periodic payment;

(c) A reduction in charges in the lease or agreement; and

(d) A lease or agreement involved in a court proceeding.

(2) No disclosures are required for any extension of a lease-purchase agreement.

**NEW SECTION. Sec. 10.** (1) If an advertisement for a lease-purchase agreement refers to or states the dollar amount of any payment and the right to acquire ownership for any one specific item, the advertisement shall also clearly and conspicuously state the following items, as applicable:

(a) That the transaction advertised is a lease-purchase agreement;

(b) The total of payments necessary to acquire ownership; and

(c) That the consumer acquires no ownership rights if the total amount necessary to acquire ownership is not paid.

(2) Any owner or personnel of any medium in which an advertisement appears or through which it is disseminated shall not be liable under this section.

(3) The provisions of subsection (1) of this section shall not apply to an advertisement that does not refer to or state the amount of any payment, or which is published in the yellow pages of a telephone directory or in any similar directory of business.

**NEW SECTION. Sec. 11.** Upon the return of leased upholstered furniture or bedding, the lessor shall sanitize the property. A lessor shall not lease used upholstered furniture or bedding that has not been sanitized.

**NEW SECTION. Sec. 12.** The Washington lease-purchase agreement act is a matter affecting the public interest for the purpose of applying chapter 19.86 RCW. The violation of this chapter is not reasonable in relation to the development and preservation of business. A violation of this chapter constitutes an unfair or deceptive act or practice in trade or commerce for the purpose of applying chapter 19.86 RCW.

**Sec. 13.** RCW 19.52.010 and 1983 c 309 s 1 and 1983 c 158 s 6 are each reenacted and amended to read as follows:

(1) Every loan or forbearance of money, goods, or thing in action shall bear interest at the rate of twelve percent per annum where no different rate is agreed to in writing between the parties: PROVIDED, That with regard to any transaction heretofore or hereafter entered into subject to this section, if an agreement in writing between the parties evidencing such transaction provides for the payment of money at the end of an agreed period of time or in installments over an agreed period of time, then such agreement shall constitute a writing for purposes of this section and satisfy the requirements thereof. The discounting of commercial paper, where the borrower makes himself liable as maker, guarantor, or indorser, shall be considered as a loan for the purposes of this chapter.

(2) A lease shall not be considered a loan or forbearance for the purposes of this chapter if:

(a) It constitutes a "consumer lease" as defined in RCW 63.10.020; ~~((or))~~

(b) It constitutes a lease-purchase agreement under chapter 63.-- RCW (sections 1 through 12 of this act); or

(c) It would constitute such "consumer lease" but for the fact that:

(i) The lessee was not a natural person;

(ii) The lease was not primarily for personal, family, or household purposes;

or

(iii) The total contractual obligation exceeded twenty-five thousand dollars.

**Sec. 14.** RCW 62A.1-201 and 1990 c 228 s 1 are each amended to read as follows:

Subject to additional definitions contained in the subsequent Articles of this Title which are applicable to specific Articles or Parts thereof, and unless the context otherwise requires, in this Title:

(1) "Action" in the sense of a judicial proceeding includes recoupment, counterclaim, set-off, suit in equity and any other proceedings in which rights are determined.

(2) "Aggrieved party" means a party entitled to resort to a remedy.

(3) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this Title (RCW 62A.1-205 and RCW 62A.2-208). Whether an agreement has legal consequences

is determined by the provisions of this Title, if applicable; otherwise by the law of contracts (RCW 62A.1-103). (Compare "Contract".)

(4) "Bank" means any person engaged in the business of banking.

(5) "Bearer" means the person in possession of an instrument, document of title, or certificated security payable to bearer or indorsed in blank.

(6) "Bill of lading" means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and includes an airbill. "Airbill" means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill.

(7) "Branch" includes a separately incorporated foreign branch of a bank.

(8) "Burden of establishing" a fact means the burden of persuading the triers of fact that the existence of the fact is more probable than its non-existence.

(9) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him is in violation of the ownership rights or security interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. All persons who sell minerals or the like (including oil and gas) at wellhead or minehead shall be deemed to be persons in the business of selling goods of that kind. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(10) "Conspicuous": A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printed heading in capitals (as: NON-NEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a form is "conspicuous" if it is in larger or other contrasting type or color. But in a telegram any stated term is "conspicuous". Whether a term or clause is "conspicuous" or not is for decision by the court.

(11) "Contract" means the total legal obligation which results from the parties' agreement as affected by this Title and any other applicable rules of law. (Compare "Agreement".)

(12) "Creditor" includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity and an executor or administrator of an insolvent debtor's or assignor's estate.

(13) "Defendant" includes a person in the position of defendant in a cross-action or counterclaim.

(14) "Delivery" with respect to instruments, documents of title, chattel paper, or certificated securities means voluntary transfer of possession.

(15) "Document of title" includes bill of lading, dock warrant, dock receipt, warehouse receipt or order for the delivery of goods, and also any other

document which in the regular course of business or financing is treated as adequately evidencing that the person in possession of it is entitled to receive, hold and dispose of the document and the goods it covers. To be a document of title a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.

(16) "Fault" means wrongful act, omission or breach.

(17) "Fungible" with respect to goods or securities means goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Goods which are not fungible shall be deemed fungible for the purposes of this Title to the extent that under a particular agreement or document unlike units are treated as equivalents.

(18) "Genuine" means free of forgery or counterfeiting.

(19) "Good faith" means honesty in fact in the conduct or transaction concerned.

(20) "Holder" with respect to an instrument, certificated security, or document of title means the person in possession if (a) in the case of an instrument, it is payable to bearer or to the order of the person in possession, (b) in the case of a security, the person in possession is the registered owner, or the security has been indorsed to the person in possession by the registered owner, or the security is in bearer form, or (c) in the case of a document of title, the goods are deliverable to bearer or to the order of the person in possession.

(21) To "honor" is to pay or to accept and pay, or where a credit so engages to purchase or discount a draft complying with the terms of the credit.

(22) "Insolvency proceedings" includes any assignment for the benefit of creditors or other proceedings intended to liquidate or rehabilitate the estate of the person involved.

(23) A person is "insolvent" who either has ceased to pay his debts in the ordinary course of business or cannot pay his debts as they become due or is insolvent within the meaning of the federal bankruptcy law.

(24) "Money" means a medium of exchange authorized or adopted by a domestic or foreign government or intergovernmental organization.

(25) A person has "notice" of a fact when

(a) he has actual knowledge of it; or

(b) he has received a notice or notification of it; or

(c) from all the facts and circumstances known to him at the time in question he has reason to know that it exists.

A person "knows" or has "knowledge" of a fact when he has actual knowledge of it. "Discover" or "learn" or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this Title.

(26) A person "notifies" or "gives" a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course whether or not such other actually comes to know of it. A person "receives" a notice or notification when

(a) it comes to his attention; or

(b) it is duly delivered at the place of business through which the contract was made or at any other place held out by him as the place for receipt of such communications.

(27) Notice, knowledge or a notice or notification received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction, and in any event from the time when it would have been brought to his attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of his regular duties or unless he has reason to know of the transaction and that the transaction would be materially affected by the information.

(28) "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(29) "Party", as distinct from "third party", means a person who has engaged in a transaction or made an agreement within this Title.

(30) "Person" includes an individual or an organization (See RCW 62A.1-102).

(31) "Presumption" or "presumed" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(32) "Purchase" includes taking by sale, discount, negotiation, mortgage, pledge, lien, issue or re-issue, gift or any other voluntary transaction creating an interest in property.

(33) "Purchaser" means a person who takes by purchase.

(34) "Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.

(35) "Representative" includes an agent, an officer of a corporation or association, and a trustee, executor or administrator of an estate, or any other person empowered to act for another.

(36) "Rights" includes remedies.

(37) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation, except for lease-purchase agreements under chapter 63.-- RCW (sections 1 through 12 of this

act). The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (RCW 62A.2-401) is limited in effect to a reservation of a "security interest". The term also includes any interest of a buyer of accounts or chattel paper which is subject to Article 9. The special property interest of a buyer of goods on identification of such goods to a contract for sale under RCW 62A.2-401 is not a "security interest", but a buyer may also acquire a "security interest" by complying with Article 9. Unless a lease or consignment is intended as security, reservation of title thereunder is not a "security interest" but a consignment is in any event subject to the provisions on consignment sales (RCW 62A.2-326). Whether a lease is intended as security is to be determined by the facts of each case; however, (a) the inclusion of an option to purchase does not of itself make the lease one intended for security, and (b) an agreement that upon compliance with the terms of the lease the lessee shall become or has the option to become the owner of the property for no additional consideration or for a nominal consideration does make the lease one intended for security.

(38) "Send" in connection with any writing or notice means to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and in the case of an instrument to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances. The receipt of any writing or notice within the time at which it would have arrived if properly sent has the effect of a proper sending.

(39) "Signed" includes any symbol executed or adopted by a party with present intention to authenticate a writing.

(40) "Surety" includes guarantor.

(41) "Telegram" includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.

(42) "Term" means that portion of an agreement which relates to a particular matter.

(43) "Unauthorized" signature means one made without actual, implied or apparent authority and includes a forgery.

(44) "Value". Except as otherwise provided with respect to negotiable instruments and bank collections (RCW 62A.3-303, RCW 62A.4-208 and RCW 62A.4-209) a person gives "value" for rights if he acquires them

(a) in return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection; or

(b) as security for or in total or partial satisfaction of a preexisting claim;  
or

(c) by accepting delivery pursuant to a pre-existing contract for purchase;  
or

(d) generally, in return for any consideration sufficient to support a simple contract.

(45) "Warehouse receipt" means a receipt issued by a person engaged in the business of storing goods for hire.

(46) "Written" or "writing" includes printing, typewriting or any other intentional reduction to tangible form.

**Sec. 15.** RCW 63.10.020 and 1983 c 158 s 2 are each amended to read as follows:

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

(1) The term "consumer lease" means a contract of lease or bailment for the use of personal property by a natural person for a period of time exceeding four months, and for a total contractual obligation not exceeding twenty-five thousand dollars, primarily for personal, family, or household purposes, whether or not the lessee has the option to purchase or otherwise become the owner of the property at the expiration of the lease, except that such term shall not include any lease which meets the definition of a retail installment contract under RCW 63.14.010 or the definition of a lease-purchase agreement under chapter 63.-- RCW (sections 1 through 12 of this act). The inclusion in a lease of a provision whereby the lessee's or lessor's liability, at the end of the lease period or upon an earlier termination, is based on the value of the leased property at that time, shall not be deemed to make the transaction other than a consumer lease. The term "consumer lease" does not include a lease for agricultural, business, or commercial purposes, or to a government or governmental agency or instrumentality, or to an organization.

(2) The term "lessee" means a natural person who leases or is offered a consumer lease.

(3) The term "lessor" means a person who is regularly engaged in leasing, offering to lease, or arranging to lease under a consumer lease.

**Sec. 16.** RCW 63.14.010 and 1984 c 280 s 1 are each amended to read as follows:

In this chapter, unless the context otherwise requires:

(1) "Goods" means all chattels personal when purchased primarily for personal, family, or household use and not for commercial or business use, but not including money or, except as provided in the next sentence, things in action. The term includes but is not limited to merchandise certificates or coupons, issued by a retail seller, to be used in their face amount in lieu of cash in exchange for goods or services sold by such a seller and goods which, at the time of sale or subsequently, are to be so affixed to real property as to become a part thereof, whether or not severable therefrom;

(2) "Lender credit card" means a card or device under a lender credit card agreement pursuant to which the issuer gives to a cardholder residing in this state the privilege of obtaining credit from the issuer or other persons in purchasing or leasing property or services, obtaining loans, or otherwise, and the issuer of

which is not: (a) Principally engaged in the business of selling goods; or (b) a financial institution;

(3) "Lender credit card agreement" means an agreement entered into or performed in this state prescribing the terms of retail installment transactions pursuant to which the issuer may, with the buyer's consent, purchase or acquire one or more retail sellers' indebtedness of the buyer under a sales slip or memorandum evidencing the purchase, lease, loan, or otherwise to be paid in accordance with the agreement. The issuer of a lender credit card agreement shall not be principally engaged in the business of selling goods or be a financial institution;

(4) "Financial institution" means any bank or trust company, mutual savings bank, credit union, or savings and loan association organized pursuant to the laws of any one of the United States of America or the United States of America, or the laws of a foreign country if also qualified to conduct business in any one of the United States of America or pursuant to the laws of the United States of America;

(5) "Services" means work, labor, or services of any kind when purchased primarily for personal, family, or household use and not for commercial or business use whether or not furnished in connection with the delivery, installation, servicing, repair, or improvement of goods and includes repairs, alterations, or improvements upon or in connection with real property, but does not include services for which the price charged is required by law to be determined or approved by or to be filed, subject to approval or disapproval, with the United States or any state, or any department, division, agency, officer, or official of either as in the case of transportation services;

(6) "Retail buyer" or "buyer" means a person who buys or agrees to buy goods or obtain services or agrees to have services rendered or furnished, from a retail seller;

(7) "Retail seller" or "seller" means a person engaged in the business of selling goods or services to retail buyers;

(8) "Retail installment transaction" means any transaction in which a retail buyer purchases goods or services from a retail seller pursuant to a retail installment contract, a retail charge agreement, or a lender credit card agreement, as defined in this section, which provides for a service charge, as defined in this section, and under which the buyer agrees to pay the unpaid balance in one or more installments or which provides for no service charge and under which the buyer agrees to pay the unpaid balance in more than four installments;

(9) "Retail installment contract" or "contract" means a contract, other than a retail charge agreement, a lender credit card agreement, or an instrument reflecting a sale made pursuant thereto, entered into or performed in this state for a retail installment transaction. The term "retail installment contract" may include a chattel mortgage, a conditional sale contract, and a contract in the form of a bailment or a lease if the bailee or lessee contracts to pay as compensation

for their use a sum substantially equivalent to or in excess of the value of the goods sold and if it is agreed that the bailee or lessee is bound to become, or for no other or a merely nominal consideration, has the option of becoming the owner of the goods upon full compliance with the provisions of the bailment or lease. The term "retail installment contract" does not include: (a) A "consumer lease," heretofore or hereafter entered into, as defined in RCW 63.10.020; ((e)) (b) a lease which would constitute such "consumer lease" but for the fact that: (i) It was entered into before April 29, 1983; (ii) the lessee was not a natural person; (iii) the lease was not primarily for personal, family, or household purposes; or (iv) the total contractual obligations exceeded twenty-five thousand dollars; or (c) a lease-purchase agreement under chapter 63.-- RCW (sections 1 through 12 of this act);

(10) "Retail charge agreement," "revolving charge agreement," or "charge agreement" means an agreement entered into or performed in this state prescribing the terms of retail installment transactions which may be made thereunder from time to time and under the terms of which a service charge, as defined in this section, is to be computed in relation to the buyer's unpaid balance from time to time;

(11) "Service charge" however denominated or expressed, means the amount which is paid or payable for the privilege of purchasing goods or services to be paid for by the buyer in installments over a period of time. It does not include the amount, if any, charged for insurance premiums, delinquency charges, attorneys' fees, court costs, or official fees;

(12) "Sale price" means the price for which the seller would have sold or furnished to the buyer, and the buyer would have bought or obtained from the seller, the goods or services which are the subject matter of a retail installment transaction. The sale price may include any taxes, registration and license fees, and charges for transferring vehicle titles, delivery, installation, servicing, repairs, alterations, or improvements;

(13) "Official fees" means the amount of the fees prescribed by law for filing, recording, or otherwise perfecting, and releasing or satisfying, a retained title, lien, or other security interest created by a retail installment transaction;

(14) "Time balance" means the principal balance plus the service charge;

(15) "Principal balance" means the sale price of the goods or services which are the subject matter of a retail installment contract less the amount of the buyer's down payment in money or goods or both, plus the amounts, if any, included therein, if a separate identified charge is made therefor and stated in the contract, for insurance and official fees;

(16) "Person" means an individual, partnership, joint venture, corporation, association, or any other group, however organized;

(17) "Rate" means the percentage which, when multiplied times the outstanding balance for each month or other installment period, yields the amount of the service charge for such month or period.

NEW SECTION. Sec. 17. Sections 1 through 12 of this act shall constitute a new chapter in Title 63 RCW.

NEW SECTION. Sec. 18. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House February 11, 1992.

Passed the Senate March 6, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

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**CHAPTER 135**

[Substitute House Bill 2302]

**PUBLIC WORKS BOARD—APPROPRIATIONS FOR PROJECTS  
RECOMMENDED BY BOARD**

**Effective Date: 3/31/92**

AN ACT Relating to appropriations for projects recommended by the public works board; creating a new section; and declaring an emergency.

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

NEW SECTION. Sec. 1. Pursuant to chapter 43.155 RCW, the following project loans recommended by the public works board are authorized to be made with funds previously appropriated from the public works assistance account:

- (1) City of Almira—water project—install 185 new remote readout meters in curbside meter boxes . . . . . \$93,969
- (2) Asotin County PUD No. 1—water project—replace telemetry system and 9,500 lineal feet of steel water lines . . . . . \$1,027,838
- (3) Bryn Mawr-Lakeridge Water & Sewer District—sanitary sewer project—replace 1/2 mile of sewer pipe . . . . . \$450,000
- (4) Bryn Mawr-Lakeridge Water & Sewer District—water project—replace 3,600 lineal feet of 8 inch ductile iron pipe . . . . . \$360,000
- (5) City of Buckley—CIP project—develop a capital improvement plan which covers roads, sanitary sewer, and storm sewer systems . . . . . \$30,000
- (6) Cape San Juan Water District—water project—develop a new metered well and laying 1,200 feet of water pipe . . . . . \$41,294
- (7) City of Chehalis—sanitary sewer project—replace 21,218 lineal feet of sewer line, 74 manholes, and 426 side sewers . . . . . \$845,213
- (8) City of Cheney—sanitary sewer project—replace treatment plant components and sludge composting equipment . . . . . \$2,175,000

- (9) Clark County—sanitary sewer project—provide additional capacity at the Salmon Creek Wastewater Treatment Plant . . . . . \$2,550,000
- (10) City of Cle Elum—sanitary sewer project—replace 5,250 lineal feet of collector and 2,400 lineal feet of interceptor . . . . . \$563,000
- (11) City of Cosmopolis—CIP project—develop a capital improvement plan which covers roads, water, sanitary sewer, and storm sewer systems \$15,000
- (12) City of Deer Park—CIP project—develop a capital improvement plan which covers sanitary sewer system . . . . . \$30,000
- (13) City of Ephrata—sanitary sewer project—replace lift station, 10,600 lineal feet of pipe, and 25 manholes . . . . . \$765,000
- (14) City of Everson—water project—drill two wells, build a 300,000 gallon reservoir, and install 7,000 lineal feet of pipes . . . . . \$1,256,400
- (15) City of Grand Coulee—water project—reconstruct water treatment plant, pipe, and, a 500,000 gallon reservoir . . . . . \$430,000
- (16) City of Kennewick—road project—realign and reconstruct Ely Street and link Zintel Canyon bridge span . . . . . \$3,500,000
- (17) King County Water District No. 107—sanitary sewer project—replace lift station, vault, and telemetry systems . . . . . \$210,994
- (18) Kitsap County Sewer District No. 5—sanitary sewer project—install 14,000 lineal feet of lined concrete pipe . . . . . \$585,000
- (19) City of Lacey—sanitary sewer project—install 4,300 lineal feet of PVC pipe, manholes, and street patching . . . . . \$424,274
- (20) Lake Chelan Reclamation District—CIP project—develop a capital improvement plan which covers sanitary sewer and water systems . . \$11,250
- (21) City of Mercer Island—sanitary sewer project—install pump motor controllers and lift station telemetry controls . . . . . \$409,583
- (22) City of Morton—water project—modify intake structure, reroute pipeline, and construct a water filtration plant . . . . . \$1,666,143
- (23) City of Moses Lake—water project—install a deep well vertical turbine pump, a pump house, and connections . . . . . \$434,700
- (24) Northeast Lake Washington Sewer & Water District—water project—replace 55,330 lineal feet of water mains . . . . . \$2,205,000
- (25) Town of Oakesdale—CIP project—develop a capital improvement plan which covers bridges, roads, water, sanitary sewer, and storm sewer systems . . . . . \$7,500
- (26) Olympic View Water & Sewer District—water project—replace 5,670 lineal feet of water mains . . . . . \$252,315
- (27) Pierce County—road project—replace a county ferry . . . . . \$3,500,000

(28) City of Port Angeles—road project—reconstruct 3,500 lineal feet of Marine Drive . . . . .	\$702,000
(29) City of Port Angeles—road project—realign 275 feet of culverts and install headwalls to maintain hydraulic capacity . . . . .	\$86,400
(30) City of Renton—sanitary sewer project—install 5,500 lineal feet of sewer mains and associated street restoration . . . . .	\$987,180
(31) Rose Hill Water District—water project—replace 4,660 lineal feet of asbestos concrete mains, replace 3,115 lineal feet of pipe, and construct two pressure reducing stations . . . . .	\$635,850
(32) City of Seattle—road project—reconstruct .68 miles of South Graham Street . . . . .	\$2,150,000
(33) City of Seattle—road project—improve traffic control systems on Martin Luther King Jr. Way South . . . . .	\$1,350,000
(34) City of Shelton—sanitary sewer project—install 36,000 lineal feet of pipe, 65 manholes, and street restoration . . . . .	\$3,465,000
(35) Snohomish County PUD No. 1—water project—construct a 2 million gallon reservoir and install 38,700 lineal feet of mains . . . . .	\$3,500,000
(36) City of Spokane—bridge project—replace the existing damaged T.J. Meenach Drive Bridge . . . . .	\$708,000
(37) Stevens County PUD No. 1—water project—replace 8,000 lineal feet of mains and reservoir in Willow-Beaver Park area . . . . .	\$194,445
(38) Stevens County PUD No. 1—water project—replace 8,000 lineal feet of mains and water supply systems in Larson Beach-Cedar Beau Bay area . . . . .	\$179,760
(39) City of Tumwater—water project—investigate Palermo well field and construct a new well . . . . .	\$140,400
(40) City of Vancouver—road project—widen 700 feet of Andersen Road and improve 15,900 lineal feet of road surface . . . . .	\$1,000,000
(41) City of Wapato—CIP project—develop a capital improvement plan which covers roads, water, sanitary sewer, and storm sewer systems . . . . .	\$30,000
(42) City of Waterville—water project—redevelop water supply systems including wells, pumps, lines, and reservoir . . . . .	\$1,049,000
(43) City of West Richland—CIP project—develop a capital improvement plan which covers roads, water, sanitary sewer, and storm sewer systems . . . . .	\$30,000
(44) Whatcom County Water District No. 10—sanitary sewer project—replace 20,993 lineal feet of pipes and systems upgrade . . . . .	\$1,489,500
(45) City of Winthrop—CIP project—develop a capital improvement plan which covers roads, water, sanitary sewer, and storm sewer systems . . . . .	\$30,000

(46) City of Yakima—sanitary sewer project—replace 17,324 lineal feet of pipe . . . . .	\$1,120,000
(47) Emergency public works loans—as authorized by RCW 43.155.065 . . . . .	\$1,000,000
Total approved list . . . . .	\$43,678,008

**NEW SECTION. Sec. 2.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House February 11, 1992.  
Passed the Senate March 6, 1992.  
Approved by the Governor March 31, 1992.  
Filed in Office of Secretary of State March 31, 1992.

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**CHAPTER 136**

[House Bill 2350]

**PUBLIC ASSISTANCE—COORDINATION AMONG PROGRAMS—  
REVISED REQUIREMENTS**

**Effective Date:** 6/11/92

AN ACT Relating to coordination between public assistance programs; amending RCW 74.04.005 and 74.12.010; and repealing RCW 74.12.245.

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

**Sec. 1.** RCW 74.04.005 and 1991 sp.s. c 10 s 1 are each amended to read as follows:

For the purposes of this title, unless the context indicates otherwise, the following definitions shall apply:

(1) "Public assistance" or "assistance"—Public aid to persons in need thereof for any cause, including services, medical care, assistance grants, disbursing orders, work relief, general assistance and federal-aid assistance.

(2) "Department"—The department of social and health services.

(3) "County or local office"—The administrative office for one or more counties or designated service areas.

(4) "Director" or "secretary" means the secretary of social and health services.

(5) "Federal-aid assistance"—The specific categories of assistance for which provision is made in any federal law existing or hereafter passed by which payments are made from the federal government to the state in aid or in respect to payment by the state for public assistance rendered to any category of needy persons for which provision for federal funds or aid may from time to time be made, or a federally administered needs-based program.

(6)(a) "General assistance"—Aid to persons in need who:

(i) Are not eligible to receive federal-aid assistance, other than food stamps and medical assistance; however, an individual who refuses or fails to cooperate in obtaining federal-aid assistance, without good cause, is not eligible for general assistance;

(ii) ~~(Are either)~~ Meet one of the following conditions:

(A) Pregnant: PROVIDED, That need is based on the current income and resource requirements of the federal aid to families with dependent children program: PROVIDED FURTHER, That during any period in which an aid for dependent children employable program is not in operation, only those pregnant women who are categorically eligible for medicaid are eligible for general assistance; or

(B) Incapacitated from gainful employment by reason of bodily or mental infirmity that will likely continue for a minimum of ninety days as determined by the department. Persons who are unemployable due to alcohol or drug addiction are not eligible for general assistance. Persons receiving general assistance on July 26, 1987, or becoming eligible for such assistance thereafter, due to an alcohol or drug-related incapacity, shall be referred to appropriate assessment, treatment, shelter, or supplemental security income referral services as authorized under chapter 74.50 RCW. Referrals shall be made at the time of application or at the time of eligibility review. Alcoholic and drug addicted clients who are receiving general assistance on July 26, 1987, may remain on general assistance if they otherwise retain their eligibility until they are assessed for services under chapter 74.50 RCW. This subsection (6)(a)(ii)(B) shall not be construed to prohibit the department from granting general assistance benefits to alcoholics and drug addicts who are incapacitated due to other physical or mental conditions that meet the eligibility criteria for the general assistance program;

(iii) Are citizens or aliens lawfully admitted for permanent residence or otherwise residing in the United States under color of law; and

(iv) Have furnished the department their social security account number. If the social security account number cannot be furnished because it has not been issued or is not known, an application for a number shall be made prior to authorization of assistance, and the social security number shall be provided to the department upon receipt.

(b) Notwithstanding the provisions of subsection (6)(a)(i), (ii), and (c) of this section, general assistance shall be provided to the following recipients of federal-aid assistance:

(i) Recipients of supplemental security income whose need, as defined in this section, is not met by such supplemental security income grant because of separation from a spouse; or

(ii) To the extent authorized by the legislature in the biennial appropriations act, to recipients of aid to families with dependent children whose needs are not being met because of a temporary reduction in monthly income below the entitled benefit payment level caused by loss or reduction of wages or

unemployment compensation benefits or some other unforeseen circumstances. The amount of general assistance authorized shall not exceed the difference between the entitled benefit payment level and the amount of income actually received.

(c) General assistance shall be provided only to persons who are not members of assistance units receiving federal aid assistance, except as provided in subsection (6)(a)(ii)(A) and (b) of this section, and will accept available services which can reasonably be expected to enable the person to work or reduce the need for assistance unless there is good cause to refuse. Failure to accept such services shall result in termination until the person agrees to cooperate in accepting such services and subject to the following maximum periods of ineligibility after reapplication:

(i) First failure: One week;

(ii) Second failure within six months: One month;

(iii) Third and subsequent failure within one year: Two months.

(d) Persons found eligible for general assistance based on incapacity from gainful employment may, if otherwise eligible, receive general assistance pending application for federal supplemental security income benefits. Any general assistance that is subsequently duplicated by the person's receipt of supplemental security income for the same period shall be considered a debt due the state and shall by operation of law be subject to recovery through all available legal remedies.

(e) The department shall adopt by rule medical criteria for general assistance eligibility to ensure that eligibility decisions are consistent with statutory requirements and are based on clear, objective medical information.

~~((e))~~ (f) The process implementing the medical criteria shall involve consideration of opinions of the treating or consulting physicians or health care professionals regarding incapacity, and any eligibility decision which rejects uncontroverted medical opinion must set forth clear and convincing reasons for doing so.

~~((f))~~ (g) Recipients of general assistance based upon a finding of incapacity from gainful employment who remain otherwise eligible shall not have their benefits terminated absent a clear showing of material improvement in their medical or mental condition or specific error in the prior determination that found the recipient eligible by reason of incapacitation. Recipients of general assistance based upon pregnancy who relinquish their child for adoption, remain otherwise eligible, and are not eligible to receive benefits under the federal aid to families with dependent children program shall not have their benefits terminated until the end of the month in which the period of six weeks following the birth of the recipient's child falls. Recipients of the federal aid to families with dependent children program who lose their eligibility solely because of the birth and relinquishment of the qualifying child may receive general assistance

through the end of the month in which the period of six weeks following the birth of the child falls.

(7) "Applicant"—Any person who has made a request, or on behalf of whom a request has been made, to any county or local office for assistance.

(8) "Recipient"—Any person receiving assistance and in addition those dependents whose needs are included in the recipient's assistance.

(9) "Standards of assistance"—The level of income required by an applicant or recipient to maintain a level of living specified by the department.

(10) "Resource"—Any asset, tangible or intangible, owned by or available to the applicant at the time of application, which can be applied toward meeting the applicant's need, either directly or by conversion into money or its equivalent: PROVIDED, That an applicant may retain the following described resources and not be ineligible for public assistance because of such resources.

(a) A home, which is defined as real property owned and used by an applicant or recipient as a place of residence, together with a reasonable amount of property surrounding and contiguous thereto, which is used by and useful to the applicant. Whenever a recipient shall cease to use such property for residential purposes, either for himself or his dependents, the property shall be considered as a resource which can be made available to meet need, and if the recipient or his dependents absent themselves from the home for a period of ninety consecutive days such absence, unless due to hospitalization or health reasons or a natural disaster, shall raise a rebuttable presumption of abandonment: PROVIDED, That if in the opinion of three physicians the recipient will be unable to return to the home during his lifetime, and the home is not occupied by a spouse or dependent children or disabled sons or daughters, such property shall be considered as a resource which can be made available to meet need.

(b) Household furnishings and personal effects and other personal property having great sentimental value to the applicant or recipient, as limited by the department consistent with limitations on resources and exemptions for federal aid assistance.

(c) A motor vehicle, other than a motor home, used and useful having an equity value not to exceed one thousand five hundred dollars.

(d) All other resources, including any excess of values exempted, not to exceed one thousand dollars or other limit as set by the department, to be consistent with limitations on resources and exemptions necessary for federal aid assistance.

(e) Applicants for or recipients of general assistance (~~may retain the following described resources in addition to exemption for a motor vehicle or home and not be ineligible for public assistance because of such resources:~~

~~(i) Household furnishings, personal effects, and other personal property having great sentimental value to the applicant or recipient;~~

~~(ii) Term and burial insurance for use of the applicant or recipient;~~

~~(iii) Life insurance having a cash surrender value not exceeding one thousand five hundred dollars; and~~

~~(iv) Cash, marketable securities, and any excess of values above one thousand five hundred dollars equity in a vehicle and above one thousand five hundred dollars in cash surrender value of life insurance, not exceeding one thousand five hundred dollars for a single person or two thousand two hundred fifty dollars for a family unit of two or more. The one thousand dollar limit in subsection (10)(d) of this section does not apply to recipients of or applicants for general assistance)) shall have their eligibility based on resource limitations consistent with the aid to families with dependent children program rules adopted by the department.~~

(f) If an applicant for or recipient of public assistance possesses property and belongings in excess of the ceiling value, such value shall be used in determining the need of the applicant or recipient, except that: (i) The department may exempt resources or income when the income and resources are determined necessary to the applicant's or recipient's restoration to independence, to decrease the need for public assistance, or to aid in rehabilitating the applicant or recipient or a dependent of the applicant or recipient; and (ii) the department may provide grant assistance for a period not to exceed nine months from the date the agreement is signed pursuant to this section to persons who are otherwise ineligible because of excess real property owned by such persons when they are making a good faith effort to dispose of that property: PROVIDED, That:

(A) The applicant or recipient signs an agreement to repay the lesser of the amount of aid received or the net proceeds of such sale;

(B) If the owner of the excess property ceases to make good faith efforts to sell the property, the entire amount of assistance may become an overpayment and a debt due the state and may be recovered pursuant to RCW 43.20B.630;

(C) Applicants and recipients are advised of their right to a fair hearing and afforded the opportunity to challenge a decision that good faith efforts to sell have ceased, prior to assessment of an overpayment under this section; and

(D) At the time assistance is authorized, the department files a lien without a sum certain on the specific property.

(11) "Income"—(a) All appreciable gains in real or personal property (cash or kind) or other assets, which are received by or become available for use and enjoyment by an applicant or recipient during the month of application or after applying for or receiving public assistance. The department may by rule and regulation exempt income received by an applicant for or recipient of public assistance which can be used by him to decrease his need for public assistance or to aid in rehabilitating him or his dependents, but such exemption shall not, unless otherwise provided in this title, exceed the exemptions of resources granted under this chapter to an applicant for public assistance. In determining the amount of assistance to which an applicant or recipient of aid to families

with dependent children is entitled, the department is hereby authorized to disregard as a resource or income the earned income exemptions consistent with federal requirements. The department may permit the above exemption of earnings of a child to be retained by such child to cover the cost of special future identifiable needs even though the total exceeds the exemptions or resources granted to applicants and recipients of public assistance, but consistent with federal requirements. In formulating rules and regulations pursuant to this chapter, the department shall define income and resources and the availability thereof, consistent with federal requirements. All resources and income not specifically exempted, and any income or other economic benefit derived from the use of, or appreciation in value of, exempt resources, shall be considered in determining the need of an applicant or recipient of public assistance.

(b) If, under applicable federal requirements, the state has the option of considering property in the form of lump sum compensatory awards or related settlements received by an applicant or recipient as income or as a resource, the department shall consider such property to be a resource.

(12) "Need"—The difference between the applicant's or recipient's standards of assistance for himself and the dependent members of his family, as measured by the standards of the department, and value of all nonexempt resources and nonexempt income received by or available to the applicant or recipient and the dependent members of his family.

(13) For purposes of determining eligibility for public assistance and participation levels in the cost of medical care, the department shall exempt restitution payments made to people of Japanese and Aleut ancestry pursuant to the Civil Liberties Act of 1988 and the Aleutian and Pribilof Island Restitution Act passed by congress, P.L. 100-383, including all income and resources derived therefrom.

(14) In the construction of words and phrases used in this title, the singular number shall include the plural, the masculine gender shall include both the feminine and neuter genders and the present tense shall include the past and future tenses, unless the context thereof shall clearly indicate to the contrary.

**Sec. 2.** RCW 74.12.010 and 1983 1st ex.s. c 41 s 40 are each amended to read as follows:

For the purposes of the administration of aid to families with dependent children assistance, the term "dependent child" means any child in need under the age of eighteen years who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of the parent, and who is living with ((his father, mother, grandmother, grandfather, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece)) a relative as specified under federal aid to families with dependent children program requirements, in a place of residence maintained by one or more of such relatives as his or their homes. The term a "dependent child" shall, notwithstanding the foregoing, also include

a child who would meet such requirements except for his removal from the home of a relative specified above as a result of a judicial determination that continuation therein would be contrary to the welfare of such child, for whose placement and care the state department of social and health services or the county office is responsible, and who has been placed in a licensed or approved child care institution or foster home as a result of such determination and who: (1) Was receiving an aid to families with dependent children grant for the month in which court proceedings leading to such determination were initiated; or (2) would have received aid to families with dependent children for such month if application had been made therefor; or (3) in the case of a child who had been living with a specified relative within six months prior to the month in which such proceedings were initiated, would have received aid to families with dependent children for such month if in such month he had been living with such a relative and application had been made therefor, as authorized by the Social Security Act: PROVIDED, That to the extent authorized by the legislature in the biennial appropriations act and to the extent that matching funds are available from the federal government, aid to families with dependent children assistance shall be available to any child in need who has been deprived of parental support or care by reason of the unemployment of a parent or stepparent liable under this chapter for support of the child.

"Aid to families with dependent children" means money payments, services, and remedial care with respect to a dependent child or dependent children and the needy parent or relative with whom the child lives and may include ~~((the spouse of such relative if living with him and if such relative is the child's))~~ another parent or stepparent of the dependent child if living with the parent and if the child is a dependent child by reason of the physical or mental incapacity or unemployment of a parent or stepparent liable under this chapter for the support of such child.

NEW SECTION. Sec. 3. RCW 74.12.245 and 1988 c 170 s 2 are each repealed.

Passed the House February 11, 1992.

Passed the Senate March 6, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

## CHAPTER 137

[Substitute House Bill 2359]

## INTEGRATION OF VOCATIONAL AND ACADEMIC CURRICULA

Effective Date: 3/31/92

AN ACT Relating to academic, vocational, and technological education; adding new sections to chapter 28A.630 RCW; creating a new section; providing an expiration date; and declaring an emergency.

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

**NEW SECTION. Sec. 1.** (1) The legislature finds that improving the quality of education is essential to improving the ability of students to prosper in a changing work force. Today's employers have a tremendous need for technically skilled people whether they are graduating from high school, a community college, a four-year university, or a technical college.

(2) The legislature further finds that student motivation can be greatly increased by demonstration of practical application of course work content and relevancy to student career interests.

(3) The legislature further finds that our rapidly changing work force demands improving basic competencies and skills by challenging and motivating our students to compete in a global economy.

(4) The legislature further finds that students should have access to both academic and vocational education in accordance with their interests, needs, and abilities. The elimination of rigid tracking into educational programs will increase students post high school options and expose students to a wide range of vocational and academic opportunities.

(5) The purpose of sections 2 through 12 of this act is to equip students with increased academic and vocational education opportunities through the establishment of academic and vocational integration development projects geographically distributed throughout the state.

**NEW SECTION. Sec. 2.** There is established in the office of the superintendent of public instruction an academic and vocational integration development program which shall fund and coordinate pilot projects to develop model secondary school projects. The projects shall combine academic and vocational education into a single instructional system that is responsive to the educational needs of all students in secondary schools. Goals of the projects within the program shall include at a minimum:

(1) Integration of vocational and academic instructional curriculum into a single curriculum;

(2) Emphasis on increased vocational, personal, and academic guidance and counseling for students as an essential component of the student's high school experience;

(3) Active participation of educators in the planning, implementation, and operation of the project, including increased opportunities for professional development and in-service training; and

(4) Active participation by employers, private and public community service providers, parents, and community members in the development and operation of the project.

**NEW SECTION. Sec. 3.** The superintendent of public instruction shall develop a process for schools or school districts to apply to participate in the academic and vocational integration development program. The office of the superintendent of public instruction shall review and select projects for grant awards, and monitor and evaluate the academic and vocational integration development program.

**NEW SECTION. Sec. 4.** The superintendent of public instruction shall appoint a ten-member task force on academic and vocational integration. The task force shall include at least one representative from the work force training and education coordinating board. The task force shall advise the superintendent of public instruction in the development of the process for applying to participate in the academic and vocational integration development program, in the review and selection of projects under section 3 of this act, and the monitoring and evaluation of the projects.

**\*NEW SECTION. Sec. 5.** *Initial applications to participate in the academic and vocational integration development program shall be submitted by the school district board of directors to the superintendent of public instruction not later than June 1, 1992. Subject to available funding, additional applications may be submitted for consideration by November 1 of subsequent years. The superintendent of public instruction shall distribute the initial award grants by July 30, 1992. The initial academic and vocational integration development projects shall commence with the 1992-93 school year. Each application shall include a proposed plan that:*

*(1) Enumerates specific activities to be carried out as part of the pilot school's project;*

*(2) Commits all parties to work cooperatively during the term of the pilot project;*

*(3) Includes budget plans for the project and additional anticipated sources of funding, including private grants and contributions, if any;*

*(4) Identifies the evaluation and accountability processes to be used to measure school-wide student and project performance;*

*(5) Identifies and justifies any request for waiver of specific state statutes or administrative rules;*

*(6) Includes a written statement that school directors and administrators are willing to exempt the school or schools from specifically identified local rules, as needed;*

*(7) Includes a written statement that the school directors and the local bargaining agents will modify those portions of their local agreements as applicable for the schools' projects; and*

*(8) Includes evidence that the school district employs a certified vocational education administrator.*

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

**NEW SECTION. Sec. 6.** (1) The superintendent of public instruction shall administer sections 1 through 12 of this act.

(2) The academic and vocational integration development projects may be conducted for up to six years, if funds are provided.

**NEW SECTION. Sec. 7.** (1) The superintendent of public instruction may accept, receive, and administer for the purposes of sections 1 through 12 of this act such gifts, grants, and contributions as may be provided from public and private sources for the purposes of sections 1 through 12 of this act.

(2) The academic and vocational integration development program account is hereby established in the custody of the state treasurer. The superintendent of public instruction shall deposit in the account all moneys received under this section. Moneys in the account may be spent only for the purposes of sections 1 through 12 of this act. Disbursements from this account shall be on the authorization of the superintendent of public instruction or the superintendent's designee. The account is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements.

**NEW SECTION. Sec. 8.** (1) The state board of education, where appropriate, or the superintendent of public instruction, where appropriate, may grant waivers to pilot project districts consistent with law if necessary to implement a pilot project proposal.

(2) State rules dealing with public health, safety, and civil rights, including accessibility by the handicapped, shall not be waived. A school district may request the state board of education or the superintendent of public instruction to ask the United States department of education or other federal agencies to waive certain federal regulations necessary to fully implement the proposed pilot project.

**NEW SECTION. Sec. 9.** (1) The superintendent of public instruction, in coordination with the state board for community and technical colleges, the work force training and education coordinating board, and the higher education coordinating board, shall provide technical assistance to selected schools and shall develop a process that coordinates and facilitates linkages among participating school districts, technical colleges, and colleges and universities.

(2) The superintendent of public instruction and the state board of education may adopt rules under chapter 34.05 RCW as necessary to implement its duties under sections 1 through 12 of this act.

**NEW SECTION. Sec. 10.** (1) The superintendent of public instruction shall report to the legislature on the progress of the schools for the academic and vocational integration development program by December 15 of each odd-numbered year.

(2) Each school district selected to participate in the academic and vocational integration development program shall submit an annual report to the superintendent of public instruction on the progress of the pilot project as a condition of receipt of continued funding.

**NEW SECTION. Sec. 11.** The superintendent of public instruction, through the state clearinghouse for education information, shall collect and disseminate to all school districts and other interested parties information about the academic and vocational integration development pilot projects.

**NEW SECTION. Sec. 12.** Sections 1 through 12 of this act may be known and cited as the academic and vocational integration development program.

**NEW SECTION. Sec. 13.** Sections 1 through 12 of this act are each added to chapter 28A.630 RCW.

**NEW SECTION. Sec. 14.** Sections 1 through 12 of this act shall expire June 30, 1999.

**NEW SECTION. Sec. 15.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 16.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. The rules under this act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

**NEW SECTION. Sec. 17.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 7, 1992.

Passed the Senate March 3, 1992.

Approved by the Governor March 31, 1992, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State March 31, 1992.

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

"I am returning herewith, without my approval as to section 5, Substitute House Bill No. 2359 entitled:

"AN ACT Relating to academic, vocational, and technological education."

Substitute House Bill No. 2359 establishes pilot projects to integrate vocational and academic education in secondary schools. Section 5 would set certain requirements for the pilot project applications submitted to the Superintendent of Public Instruction. Section 5 references requests for waivers even though the original language specifying

such waivers does not appear in the substitute bill. A veto of this section is necessary to eliminate confusion with waivers.

For this reason, I have vetoed section 5 of Substitute House Bill No. 2359.

With the exception of section 5, Substitute House Bill No. 2359 is approved."

## CHAPTER 138

[Substitute House Bill 2479]

### MEDICARE SUPPLEMENTAL INSURANCE— CONFORMANCE TO FEDERAL LAW REQUIRED

Effective Date: 6/11/92

AN ACT Relating to making medicare supplement insurance conform to federal law; amending RCW 48.66.020, 48.66.030, 48.66.041, 48.66.050, 48.66.090, 48.66.100, 48.66.110, and 48.66.130; and adding a new section to chapter 48.66 RCW.

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

**Sec. 1.** RCW 48.66.020 and 1981 c 153 s 2 are each amended to read as follows:

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

(1) "Medicare supplemental insurance" or "medicare supplement insurance policy" refers to a group or individual policy of disability insurance or a subscriber contract of a health care service contractor, a health maintenance organization, or a fraternal benefit society, which relates its benefits to medicare, or which is advertised, marketed, or designed primarily as a supplement to reimbursements under medicare for the hospital, medical, or surgical expenses of persons eligible for medicare (~~by reason of age~~). Such term does not include:

(a) A policy or contract of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organizations; or

(b) A policy (~~or contract of any professional, trade, or occupational association for its members or former or retired members, or combination thereof, if such association:~~

(i) ~~Is composed of individuals all of whom are actively engaged in the same profession, trade, or occupation;~~

(ii) ~~Has been maintained in good faith for purposes other than obtaining insurance; and~~

(iii) ~~Has been in existence for at least two years prior to the date of its initial offering of such policy or plan to its members)~~ issued pursuant to a contract under Section 1876 or Section 1833 of the federal social security act (42

U.S.C. Sec. 1395 et seq.), or an issued policy under a demonstration project authorized pursuant to amendments to the federal social security act; or

~~(c) ((Individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of group or individual insurance when such group or individual policy or contract includes provisions which are inconsistent with the requirements of this chapter; or policies issued to employees or members as additions to franchise plans in existence on January 1, 1982))~~  
Insurance policies or health care benefit plans, including group conversion policies, provided to medicare eligible persons, that are not marketed or held to be medicare supplement policies or benefit plans.

(2) "Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the Social Security Amendments of 1965, as then constituted or later amended.

(3) "Medicare eligible expenses" means health care expenses of the kinds covered by medicare, to the extent recognized as reasonable and medically necessary by medicare. ~~((Payment of benefits by insurers for medicare eligible expenses may be conditioned upon the same or less restrictive payment conditions, including determinations of medical necessity, as are applicable to medicare claims.))~~

(4) "Applicant" means:

(a) In the case of an individual medicare supplement insurance policy or subscriber contract, the person who seeks to contract for insurance benefits; and

(b) In the case of a group medicare supplement insurance policy or subscriber contract, the proposed certificate holder.

(5) "Certificate" means any certificate delivered or issued for delivery in this state under a group medicare supplement insurance policy ~~((, which policy has been delivered or issued for delivery in this state))~~.

(6) "Loss ratio" means the incurred claims as a percentage of the earned premium computed under rules adopted by the insurance commissioner.

(7) "Preexisting condition" means a covered person's medical condition that caused that person to have received medical advice or treatment during a specified time period immediately prior to the effective date of coverage.

(8) "Disclosure form" means the form designated by the insurance commissioner which discloses medicare benefits, the supplemental benefits offered by the insurer, and the remaining amount for which the insured will be responsible.

(9) "Issuer" includes insurance companies, health care service contractors, health maintenance organizations, fraternal benefit societies, and any other entity delivering or issuing for delivery in this state medicare supplement policies or certificates.

Sec. 2. RCW 48.66.030 and 1981 c 153 s 3 are each amended to read as follows:

~~(1) (Medicare supplement insurance policies must include a renewal, continuation, or nonrenewal provision. The language or specifications of such provision must be consistent with the type of contract to be issued. Such provision must be appropriately captioned, appear on the first page of the policy, and clearly state the duration, where limited, of renewability and the duration of the term of coverage for which the policy is issued and for which it may be renewed.~~

~~(2)) A medicare supplement insurance policy which provides for the payment of benefits may not be based on standards described as "usual and customary," "reasonable and customary," or words of similar import (~~must include a definition of such terms and an explanation of such terms in its accompanying outline of coverage~~)).~~

~~((3))~~ (2) Limitations on benefits, such as policy exclusions or waiting periods, shall be labeled in a separate section of the policy or placed with the benefit provisions to which they apply, rather than being included in other sections of the policy, rider, or endorsement.

NEW SECTION. **Sec. 3.** A new section is added to chapter 48.66 RCW to read as follows:

(1) A medicare supplement insurance policy or certificate form or application form, rider, or endorsement shall not be issued, delivered, or used unless it has been filed with and approved by the commissioner.

(2) Rates, or modification of rates, for medicare supplement policies or certificates shall not be used until filed with and approved by the commissioner.

(3) Every filing shall be received not less than thirty days in advance of any such issuance, delivery, or use. At the expiration of such thirty days the form or rate so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner. The commissioner may extend by not more than an additional fifteen days the period within which he or she may affirmatively approve or disapprove any such form or rate, by giving notice of such extension before expiration of the initial thirty-day waiting period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form or rate shall be deemed approved. A filing of a form or rate or modification thereto may not be deemed approved unless the filing contains all required documents prescribed by the commissioner. The commissioner may withdraw any such approval at any time for cause. By approval of any such form or rate for immediate use, the commissioner may waive any unexpired portion of such initial thirty-day waiting period.

(4) The commissioner's order disapproving any such form or rate or withdrawing a previous approval shall state the grounds therefor.

(5) A form or rate shall not knowingly be issued, delivered, or used if the commissioner's approval does not then exist.

**Sec. 4.** RCW 48.66.041 and 1982 c 200 s 1 are each amended to read as follows:

(1) The insurance commissioner shall adopt rules to establish minimum standards for benefits in medicare supplement insurance policies and certificates.

(2) The commissioner shall adopt rules to establish specific standards for medicare supplement insurance policy or certificate provisions. These rules may include but are not limited to:

(a) Terms of renewability;

(b) Nonduplication of coverage;

(c) Benefit limitations, exceptions, and reductions; ~~((and))~~

(d) Definitions of terms;

(e) Requiring refunds or credits if the policies or certificates do not meet loss ratio requirements;

(f) Establishing uniform methodology for calculating and reporting loss ratios;

(g) Assuring public access to policies, premiums, and loss ratio information of an issuer of medicare supplement insurance;

(h) Establishing a process for approving or disapproving proposed premium increases; and

(i) Establishing standards for medicare SELECT policies and certificates.

(3) The insurance commissioner may adopt rules that establish disclosure standards for replacement of policies or certificates by persons eligible for medicare by reason of age.

(4) The insurance commissioner may by rule prescribe that an informational brochure, designed to improve the buyer's understanding of medicare and ability to select the most appropriate coverage, be provided to persons eligible for medicare by reason of age. The commissioner may require that the brochure be provided to applicants concurrently with delivery of the outline of coverage, except with respect to direct response insurance, when the brochure may be provided upon request but no later than the delivery of the policy.

(5) In the case of a state or federally qualified health maintenance organization, the commissioner may waive compliance with one or all provisions of this section until January 1, 1983.

**Sec. 5.** RCW 48.66.050 and 1981 c 153 s 5 are each amended to read as follows:

(1) The insurance commissioner may issue reasonable rules that specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unfair, unjust, or unfairly discriminatory to any person insured or proposed ~~((for coverage))~~ to be insured under a medicare supplement insurance policy or certificate.

(2) No medicare supplement insurance policy may use waivers to exclude, limit, or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions.

**Sec. 6.** RCW 48.66.090 and 1981 c 153 s 9 are each amended to read as follows:

All medicare supplement policies must be guaranteed renewable and a medicare supplement insurance policy may not provide that the policy may be cancelled or nonrenewed by the insurer solely on the grounds of deterioration of health. The issuer shall not cancel or nonrenew the policy for any reason other than nonpayment of premium or material misrepresentation. All medicare supplement policies and certificates must include a renewal or continuation provision. The language or specifications of such provision must be appropriately captioned, appear on the first page of the policy, and shall include any reservation by the issuer or a right to change premium.

**Sec. 7.** RCW 48.66.100 and 1982 c 200 s 2 are each amended to read as follows:

(1) ~~((Commencing with reports for the accounting periods beginning on or after January 1, 1982,))~~ Medicare supplement insurance policies shall ((be expected to)) return to policyholders in the form of aggregate ((loss ratio)) benefits under the policy, for the entire period for which rates are computed to provide coverage, loss ratios of:

(a) At least seventy-five percent of the ((earned)) aggregate amount of premiums earned in the case of group policies; and

(b) At least ~~((sixty))~~ sixty-five percent of the ((earned)) aggregate amount of premiums earned in the case of individual policies.

(2) For the purpose of this section, medicare supplement insurance policies issued as a result of solicitation of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be treated as individual policies.

(3) ~~((By January 1, 1982,))~~ The insurance commissioner ((shall)) may adopt rules sufficient to accomplish the provisions of this section and may, by such rules, impose more stringent or appropriate loss ratio requirements when it is necessary for the protection of the public interest.

**Sec. 8.** RCW 48.66.110 and 1981 c 153 s 11 are each amended to read as follows:

~~((1) An agent, insurer, health care service contractor or health maintenance organization initiating a sale of an individual or group medicare supplement insurance policy in this state shall complete and sign a disclosure form, in a form prescribed by the insurance commissioner, and deliver the completed form))~~ In order to provide for full and fair disclosure in the sale of medicare supplement policies, a medicare supplement policy or certificate shall not be delivered in this state unless an outline of coverage is delivered to the potential policyholder not later than the time of application for the policy.

~~((2) If a medicare supplement insurance policy or certificate is issued on a basis which would require revision of the outline of coverage delivered at the time of application, a substitute outline of coverage properly describing the~~

~~policy or certificate actually issued must accompany the policy or certificate when it is delivered and contain the following statement, in no less than twelve-point type, immediately above the company name: "NOTICE. Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued."~~)

**Sec. 9.** RCW 48.66.130 and 1981 c 153 s 13 are each amended to read as follows:

(1) ~~((Effective January 1, 1982, no medicare supplement insurance policy which excludes coverage for preexisting conditions which appeared more than one hundred eighty days prior to the effective date of the policy may be sold or offered for sale in this state))~~ No later than July 1, 1992, and notwithstanding any other provision of Title 48 RCW, a medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six months from the effective date of coverage because it involved a preexisting condition.

(2) ~~((Effective January 1, 1982, no medicare supplement insurance policy may be sold or offered for sale in this state which excludes coverage for preexisting conditions for a period of more than one hundred eighty days into the term of the policy))~~ No later than July 1, 1992, a medicare supplement policy or certificate shall not define a preexisting condition more restrictively than as a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

(3) If a medicare supplement insurance policy or certificate contains any limitations with respect to preexisting conditions, such limitations must appear as a separate paragraph of the policy or certificate and be labeled as "Preexisting Condition Limitations."

Passed the House February 18, 1992.

Passed the Senate March 11, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

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## CHAPTER 139

[Engrossed Substitute House Bill 2876]

### PUBLIC RECORDS DISCLOSURE—REVISIONS

Effective Date: 6/11/92

AN ACT Relating to open government; amending RCW 42.17.020, 42.17.260, 42.17.290, 42.17.320, 42.17.330, and 42.17.340; reenacting and amending RCW 42.17.310; adding new sections to chapter 42.17 RCW; and creating a new section.

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

**Sec. 1.** RCW 42.17.020 and 1991 sp.s. c 18 s 1 are each amended to read as follows:

(1) "Agency" includes all state agencies and all local agencies. "State agency" includes every state office, department, division, bureau, board, commission, or other state agency. "Local agency" includes every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency.

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

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

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

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

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

(b) Announces publicly or files for office.

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

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

(8) "Compensation" unless the context requires a narrower meaning, includes payment in any form for real or personal property or services of any kind: PROVIDED, That for the purpose of compliance with RCW 42.17.241, the term "compensation" shall not include per diem allowances or other payments made by a governmental entity to reimburse a public official for expenses incurred while the official is engaged in the official business of the governmental entity.

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

(10) "Contribution" includes a loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds between political committees, or transfer of anything of value, including personal and professional services for less than full consideration, but does not include interest on moneys deposited in a political committee's account, ordinary home hospitality and the rendering of personal services of the sort commonly

performed by volunteer campaign workers, or incidental expenses personally incurred by volunteer campaign workers not in excess of fifty dollars personally paid for by the worker. Volunteer services, for the purposes of this chapter, means services or labor for which the individual is not compensated by any person. For the purposes of this chapter, contributions other than money or its equivalents shall be deemed to have a money value equivalent to the fair market value of the contribution. Sums paid for tickets to fund-raising events such as dinners and parties are contributions; however, the amount of any such contribution may be reduced for the purpose of complying with the reporting requirements of this chapter, by the actual cost of consumables furnished in connection with the purchase of the tickets, and only the excess over the actual cost of the consumables shall be deemed a contribution.

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

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

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

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

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

(16) "Gift," for the purposes of RCW 42.17.170 and 42.17.2415, means a rendering of anything of value in return for which reasonable consideration is not given and received and includes a rendering of money, property, services, discount, loan forgiveness, payment of indebtedness, or reimbursements from or

payments by persons (other than the federal government, or the state of Washington or any agency or political subdivision thereof) for travel or anything else of value. The term "reasonable consideration" refers to the approximate range of consideration that exists in transactions not involving donative intent. However, the value of the gift of partaking in a single hosted reception shall be determined by dividing the total amount of the cost of conducting the reception by the total number of persons partaking in the reception. "Gift" for the purposes of RCW 42.17.170 and 42.17.2415 does not include:

(a) A gift, other than a gift of partaking in a hosted reception, with a value of fifty dollars or less;

(b) The gift of partaking in a hosted reception if the value of the gift is one hundred dollars or less;

(c) A contribution that is required to be reported under RCW 42.17.090 or 42.17.243;

(d) Informational material that is transferred for the purpose of informing the recipient about matters pertaining to official business of the governmental entity of which the recipient is an official or officer, and that is not intended to confer on that recipient any commercial, proprietary, financial, economic, or monetary advantage, or the avoidance of any commercial, proprietary, financial, economic, or monetary disadvantage;

(e) A gift that is not used and that, within thirty days after receipt, is returned to the donor or delivered to a charitable organization. However, this exclusion from the definition does not apply if the recipient of the gift delivers the gift to a charitable organization and claims the delivery as a charitable contribution for tax purposes;

(f) A gift given under circumstances where it is clear beyond any doubt that the gift was not made as part of any design to gain or maintain influence in the governmental entity of which the recipient is an officer or official or with respect to any legislative matter or matters of that governmental entity; or

(g) A gift given prior to September 29, 1991.

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

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

(19) "Lobby" and "lobbying" each mean attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency under the state Administrative Procedure Act, chapter 34.05 RCW. Neither "lobby" nor "lobbying" includes an association's or other

organization's act of communicating with the members of that association or organization.

(20) "Lobbyist" includes any person who lobbies either in his own or another's behalf.

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

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

(23) "Person in interest" means the person who is the subject of a record or any representative designated by that person, except that if that person is under a legal disability, the term "person in interest" means and includes the parent or duly appointed legal representative.

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

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

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

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

(28) "Surplus funds" mean, in the case of a political committee or candidate, the balance of contributions that remain in the possession or control of that committee or candidate subsequent to the election for which the contributions were received, and that are in excess of the amount necessary to pay remaining debts incurred by the committee or candidate prior to that election. In the case of a continuing political committee, "surplus funds" mean those contributions remaining in the possession or control of the committee that are in excess of the amount necessary to pay all remaining debts when it makes its final report under RCW 42.17.065.

(29) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds,

or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

As used in this chapter, the singular shall take the plural and any gender, the other, as the context requires.

**NEW SECTION. Sec. 2.** A new section is added to chapter 42.17 RCW under the subchapter heading "public records" to read as follows:

The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they have created. The public records subdivision of this chapter shall be liberally construed and its exemptions narrowly construed to promote this public policy.

**Sec. 3.** RCW 42.17.260 and 1989 c 175 s 36 are each amended to read as follows:

(1) Each agency, in accordance with published rules, shall make available for public inspection and copying all public records, unless the record falls within the specific exemptions of subsection ~~((5))~~ (6) of this section, RCW 42.17.310, 42.17.315, or other statute which exempts or prohibits disclosure of specific information or records. To the extent required to prevent an unreasonable invasion of personal privacy interests protected by RCW 42.17.310 and 42.17.315, an agency shall delete identifying details in a manner consistent with RCW 42.17.310 and 42.17.315 when it makes available or publishes any public record; however, in each case, the justification for the deletion shall be explained fully in writing.

(2) For informational purposes, each agency shall publish and maintain a current list containing every law, other than those listed in this chapter, that the agency believes exempts or prohibits disclosure of specific information or records of the agency. An agency's failure to list an exemption shall not affect the efficacy of any exemption.

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

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

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

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

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

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

(f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory, or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party.

~~((3))~~ (4) A local agency need not maintain such an index, if to do so would be unduly burdensome, but it shall in that event:

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

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

~~((4) By July 1, 1990,))~~ (5) Each state agency shall, by rule, establish and implement a system of indexing for the identification and location of the following records:

(a) All records issued before July 1, 1990, for which the agency has maintained an index;

(b) Final orders entered after June 30, 1990, that are issued in adjudicative proceedings as defined in RCW 34.05.010(1) and that contain an analysis or decision of substantial importance to the agency in carrying out its duties;

(c) Declaratory orders entered after June 30, 1990, that are issued pursuant to RCW 34.05.240 and that contain an analysis or decision of substantial importance to the agency in carrying out its duties;

(d) Interpretive statements as defined in RCW 34.05.010(8) that were entered after June 30, 1990; and

(e) Policy statements as defined in RCW 34.05.010(14) that were entered after June 30, 1990.

Rules establishing systems of indexing shall include, but not be limited to, requirements for the form and content of the index, its location and availability to the public, and the schedule for revising or updating the index. State agencies that have maintained indexes for records issued before July 1, 1990, shall continue to make such indexes available for public inspection and copying. Information in such indexes may be incorporated into indexes prepared pursuant to this subsection. State agencies may satisfy the requirements of this subsection by making available to the public indexes prepared by other parties but actually used by the agency in its operations. State agencies shall make indexes available for public inspection and copying. State agencies may charge a fee to cover the actual costs of providing individual mailed copies of indexes.

~~((5))~~ (6) A public record may be relied on, used, or cited as precedent by an agency against a party other than an agency and it may be invoked by the agency for any other purpose only if—

- (a) It has been indexed in an index available to the public; or
- (b) Parties affected have timely notice (actual or constructive) of the terms thereof.

~~((6))~~ (7) This chapter shall not be construed as giving authority to any agency to give, sell or provide access to lists of individuals requested for commercial purposes, and agencies shall not do so unless specifically authorized or directed by law: PROVIDED, HOWEVER, That lists of applicants for professional licenses and of professional licensees shall be made available to those professional associations or educational organizations recognized by their professional licensing or examination board, upon payment of a reasonable charge therefor: PROVIDED FURTHER, That such recognition may be refused only for a good cause pursuant to a hearing under the provisions of chapter 34.05 RCW, the Administrative Procedure Act.

Sec. 4. RCW 42.17.290 and 1975 1st ex.s. c 294 s 16 are each amended to read as follows:

Agencies shall adopt and enforce reasonable rules and regulations, consonant with the intent of this chapter to provide full public access to public records, to protect public records from damage or disorganization, and to prevent excessive interference with other essential functions of the agency. Such rules and regulations shall provide for the fullest assistance to inquirers and the most timely possible action on requests for information. Nothing in this section shall relieve agencies from honoring requests received by mail for copies of identifiable public records.

If a public record request is made at a time when such record exists but is scheduled for destruction in the near future, the agency shall retain possession of the record, and may not destroy or erase the record until the request is resolved.

Sec. 5. RCW 42.17.310 and 1991 c 301 s 13, 1991 c 87 s 13, and 1991 c 23 s 10 are each reenacted and amended to read as follows:

- (1) The following are exempt from public inspection and copying:
  - (a) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients.
  - (b) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.
  - (c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (i) be prohibited to such persons by RCW 82.32.330 or (ii) violate the

taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.

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

(e) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the public disclosure commission, if disclosure would endanger any person's life, physical safety, or property. If at the time ((the)) a complaint is filed the complainant, victim or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

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

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

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

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

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

(k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(l) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(m) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680

through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070.

(n) Railroad company contracts filed prior to July 28, 1991, with the utilities and transportation commission under RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter.

(o) Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to chapter 43.163 RCW and chapter 53.31 RCW.

(p) Financial disclosures filed by private vocational schools under chapter 28C.10 RCW.

(q) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095.

(r) Financial and commercial information and records supplied by businesses during application for loans or program services provided by chapter 43.163 RCW and chapters 43.31, 43.63A, and 43.168 RCW.

(s) Membership lists or lists of members or owners of interests of units in timeshare projects, subdivisions, camping resorts, condominiums, land developments, or common-interest communities affiliated with such projects, regulated by the department of licensing, in the files or possession of the department.

(t) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

(u) The residential addresses and residential telephone numbers of employees or volunteers of a public agency which are held by the agency in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers.

(v) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers.

(w) Information obtained by the board of pharmacy as provided in RCW 69.45.090.

(x) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420.

(y) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW.

(z) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public

trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information.

(aa) Financial and valuable trade information under RCW 51.36.120.

(bb) Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or a rape crisis center as defined in RCW 70.125.030.

(cc) Information that identifies a person who, while an agency employee: (i) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (ii) requests his or her identity or any identifying information not be disclosed.

(2) Except for information described in subsection (1)(c)(i) of this section and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the exemptions of this section are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.

**Sec. 6.** RCW 42.17.320 and 1975 1st ex.s. c 294 s 18 are each amended to read as follows:

Responses to requests for public records shall be made promptly by agencies. Within five business days of receiving a public record request, an agency must respond by either (1) providing the record; (2) acknowledging that the agency has received the request and providing a reasonable estimate of the time the agency will require to respond to the request; or (3) denying the public record request. Additional time required to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request. In acknowledging receipt of a public record request that is unclear, an agency may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request, the agency need not respond to it. Denials of requests must be

accompanied by a written statement of the specific reasons therefor. Agencies shall establish mechanisms for the most prompt possible review of decisions denying inspection, and such review shall be deemed completed at the end of the second business day following the denial of inspection and shall constitute final agency action for the purposes of judicial review.

**Sec. 7.** RCW 42.17.330 and 1975 1st ex.s. c 294 s 19 are each amended to read as follows:

The examination of any specific public record may be enjoined if, upon motion and affidavit by an agency or its representative or a person who is named in the record or to whom the record specifically pertains, the superior court for the county in which the movant resides or in which the record is maintained, finds that such examination would clearly not be in the public interest and would substantially and irreparably damage any person, or would substantially and irreparably damage vital governmental functions. An agency has the option of notifying persons named in the record or to whom a record specifically pertains, that release of a record has been requested. However, this option does not exist where the agency is required by law to provide such notice.

**Sec. 8.** RCW 42.17.340 and 1987 c 403 s 5 are each amended to read as follows:

(1) Upon the motion of any person having been denied an opportunity to inspect or copy a public record by an agency, the superior court in the county in which a record is maintained may require the responsible agency to show cause why it has refused to allow inspection or copying of a specific public record or class of records. The burden of proof shall be on the agency to establish that refusal to permit public inspection and copying is in accordance with a statute that exempts or prohibits disclosure in whole or in part of specific information or records.

(2) Upon the motion of any person who believes that an agency has not made a reasonable estimate of the time that the agency requires to respond to a public record request, the superior court in the county in which a record is maintained may require the responsible agency to show that the estimate it provided is reasonable. The burden of proof shall be on the agency to show that the estimate it provided is reasonable.

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

~~((3))~~ (4) Any person who prevails against an agency in any action in the courts seeking the right to inspect or copy any public record or the right to receive a response to a public record request within a reasonable amount of time

shall be awarded all costs, including reasonable attorney fees, incurred in connection with such legal action. In addition, it shall be within the discretion of the court to award such person an amount not less than five dollars and not to exceed ((twenty-five)) one hundred dollars for each day that he was denied the right to inspect or copy said public record.

**NEW SECTION.** Sec. 9. A new section is added to chapter 42.17 RCW under the subchapter heading "public records" to read as follows:

The attorney general's office shall publish, and update when appropriate, a pamphlet, written in plain language, explaining the provisions of the public records subdivision of this chapter.

**NEW SECTION.** Sec. 10. A new section is added to chapter 42.17 RCW under the subchapter heading "public records" to read as follows:

Whenever a state agency concludes that a public record is exempt from disclosure and denies a person opportunity to inspect or copy a public record for that reason, the person may request the attorney general to review the matter. The attorney general shall provide the person with his or her written opinion on whether the record is exempt.

Nothing in this section shall be deemed to establish an attorney-client relationship between the attorney general and a person making a request under this section.

**NEW SECTION.** Sec. 11. A new section is added to chapter 42.17 RCW under the subchapter heading "public records" to read as follows:

No public agency, public official, public employee, or custodian shall be liable, nor shall a cause of action exist, for any loss or damage based upon the release of a public record if the public agency, public official, public employee, or custodian acted in good faith in attempting to comply with the provisions of this chapter.

**NEW SECTION.** Sec. 12. The legislature finds that electronic data and electronic records pose a number of challenging public disclosure questions. Included in these challenging questions are how to provide public access to electronic records while balancing personal privacy and vital governmental interests; how to best address requests for electronic records which require agencies to manipulate data; how to open electronic records to public inspection; how to calculate charges for data or products from electronic records, particularly if that data or product is to be used for a commercial purpose; and how public agencies and employees should handle the personal privacy issues associated with electronic mail.

The legislature finds that there is a large and growing number of exemptions of records from public disclosure. The legislature finds that certain types of information are treated inconsistently under current disclosure laws. The legislature further finds that there may be opportunities for consolidation of many

individual record exemptions into fewer, broader exemptions. There is a need to thoroughly review both the content and organization of such exemptions.

The legislature recognizes that there is legal uncertainty regarding the status of investigative records under the open records law. It is important that clear statutory direction be provided in this area to ensure reasonable access to such records while protecting the integrity of the investigatory process and privacy interests.

The legislature also finds that certain entities that may have substantial impacts on public policy are not covered by the open public meetings act. Such entities include certain boards, councils, committees, or other groups of similar nomenclature that serve in an advisory capacity. To ensure that public agencies comply with the intent of the open public meetings act, it is important for the legislature to determine which categories of such groups should be covered by the open public meetings act.

The legislature shall investigate special meetings and notice procedures, emergency meetings, executive sessions and matters that may be properly addressed in an executive session, publication of and provision to the public a regular meeting agenda, and penalties related to failure to comply with open meeting violations.

Finally, while the open public meetings act authorizes agencies to use closed executive sessions to consider certain matters specified in the act, agencies when in closed executive session are required to restrict their consideration to those matters. The act's provisions may need to be amended to prevent or deter public agencies from considering matters in closed executive session that they are not entitled to consider.

The joint select committee on open government shall examine these five issues and shall report back to the legislature with any recommendations for statutory changes by January 1, 1993. In examining these issues, the committee shall provide ample opportunity for input from all interested parties.

Passed the House March 10, 1992.

Passed the Senate March 6, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

## CHAPTER 140

[Substitute House Bill 2887]

## APPELLATE COURT FILING FEES

Effective Date: 4/1/92

AN ACT Relating to appellate court filing fees; amending RCW 2.32.070; providing an effective date; and declaring an emergency.

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

**Sec. 1.** RCW 2.32.070 and 1987 c 382 s 1 are each amended to read as follows:

The clerk of the supreme court and the clerks of the court of appeals shall collect the following fees for their official services:

Upon filing his or her first paper or record and making an appearance, the appellant or petitioner shall pay to the clerk of said court a docket fee of ~~((one))~~ two hundred ~~((twenty-five))~~ fifty dollars.

For copies of opinions, twenty cents per folio: PROVIDED, That counsel of record and criminal defendants shall be supplied a copy without charge.

For certificates showing admission of an attorney to practice law five dollars, except that there shall be no fee for an original certificate to be issued at the time of his or her admission.

For filing a petition for review of a court of appeals decision terminating review, ~~((one))~~ two hundred dollars.

The foregoing fees shall be all the fees connected with the appeal or special proceeding.

No fees shall be required to be advanced by the state or any municipal corporation, or any public officer prosecuting or defending on behalf of such state or municipal corporation.

**NEW SECTION. Sec. 2.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect April 1, 1992.

Passed the House February 18, 1992.

Passed the Senate March 10, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.

## CHAPTER 141

[Substitute Senate Bill 5953]

## PERFORMANCE-BASED EDUCATION

**Effective Date:** 6/11/92 - Except Sections 501 through 507 which become effective on 9/1/98 with conditions.

AN ACT Relating to education; amending RCW 28A.410.040, 28A.410.050, 28A.405.220, 28A.305.140, 28A.150.260, 28A.230.090, 28A.150.210, 28A.150.220, 28A.150.290, 28A.195.010, and 28A.150.260; adding new sections to chapter 28A.320 RCW; adding a new section to chapter 28A.630 RCW; adding a new section to chapter 28A.230 RCW; adding a new section to chapter 28A.150 RCW; creating new sections; repealing RCW 28A.320.210, 28A.320.200, and 28A.230.110; providing effective dates; and providing an expiration date.

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

**NEW SECTION. Sec. 1.** The legislature finds that the educational needs of students when they leave the public school system, has increased dramatically in the past two decades. If young people are to prosper in our democracy and if our nation is to grow economically, it is imperative that the overall level of learning achieved by students be significantly increased.

To achieve this higher level of learning, the legislature finds that the state of Washington needs to develop a performance-based school system. Instead of maintaining burdensome state accountability laws and rules that dictate educational offerings, the state needs to hold schools accountable for their performance based on what their students learn.

The legislature further finds moving toward a performance-based accountability system will require repealing state laws and rules that inhibit the freedom of school boards and professional educators to carry out their work, and also will require that significantly more decisions be made at the school district and school building levels. In addition, it will be necessary to set high expectations for students, to identify what is expected of all students, and to develop a rigorous academic assessment system to determine if these expectations have been achieved.

The legislature further finds that the governor's council on education reform and funding will, by December 1992, identify broad student learning goals. Subject to decisions made by the 1993 legislature, the legislature finds that it is critical that an organization be established to continue the council's work in identifying necessary student skills and knowledge, to develop student assessment and school accountability systems, and to take other steps necessary to develop a performance-based education system.

The legislature further finds that there is a need for high quality professional development as the state implements a performance-based system. Professional development must be available to schools and school districts to maintain quality control and to assure access to proven research on effective teaching.

PART I  
ENHANCING THE TEACHING PROFESSION

**Sec. 101.** RCW 28A.410.040 and 1990 c 33 s 406 are each amended to read as follows:

~~((1))~~ The state board of education shall adopt rules providing that, except as provided in this section, all individuals qualifying for an initial-level teaching certificate after August 31, 1992, shall possess a baccalaureate degree in the arts, sciences, and/or humanities and have fulfilled the requirements for teacher certification pursuant to RCW 28A.305.130 (1) and (2). ~~((The state board of education shall develop and adopt rules establishing baccalaureate degree equivalency standards for certification of vocational instructors performing instructional duties and acquiring initial level certification after August 31, 1992.))~~ However, candidates for grades preschool through eight certificates shall have fulfilled the requirements for a major as part of their baccalaureate degree. If the major is in early childhood education, elementary education, or special education, the candidate must have at least thirty quarter hours or twenty semester hours in one academic field.

~~((2))~~ The state board of education shall study the impact of eliminating the major in education under subsection (1) of this section and submit a report to the legislature by January 15, 1990. The report shall include a recommendation on whether the major in education under subsection (1) of this section should be eliminated.

~~(3)~~ The initial certificate shall be valid for two years.

~~(4)~~ Certificate holders may renew the certificate for a three year period by providing proof of acceptance and enrollment in an approved masters degree program. A second renewal, for a period of two years, may be granted upon recommendation of the degree granting institution and if the certificate holder can demonstrate substantial progress toward the completion of the masters degree and that the degree will be completed within the two year extension period. Under no circumstances may an initial certificate be valid for a period of more than seven years.))

**Sec. 102.** RCW 28A.410.050 and 1989 c 29 s 2 are each amended to read as follows:

~~((1))~~ The state board of education shall implement rules providing that all teachers performing instructional duties and acquiring professional level certificate status after August 31, 1992, shall possess, as a requirement of professional status, a masters degree in teaching, or a masters degree in the arts, sciences, and/or humanities.

~~(2))~~ The state board of education shall develop and adopt rules establishing baccalaureate and masters degree equivalency standards for vocational instructors performing instructional duties and acquiring ((professional level)) certification after August 31, 1992.

**Sec. 103.** RCW 28A.405.220 and 1990 c 33 s 391 are each amended to read as follows:

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

In the event the superintendent of the school district determines that the employment contract of any provisional employee should not be renewed by the district for the next ensuing term such provisional employee shall be notified thereof in writing on or before May 15th preceding the commencement of such school term, which notification shall state the reason or reasons for such determination. Such notice shall be served upon the provisional employee personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein. The determination of the superintendent shall be subject to the evaluation requirements of RCW 28A.405.100.

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

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

The board of directors shall notify the provisional employee in writing of its final decision within ten days following the meeting at which the superinten-

dent's recommendation was considered. The decision of the board of directors to nonrenew the contract of a provisional employee shall be final and not subject to appeal.

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

**NEW SECTION. Sec. 104.** The state board of education, in conjunction with the governor's council on education reform and funding, shall study the current requirements for the certification of teachers and administrators, and shall prepare a report to the legislature that includes options for improving the current certification system. The report, at a minimum, shall analyze postinitial certification requirements, including the continuing education, endorsement, and the fifth-year requirements, and shall analyze the merits of requiring teachers and administrators to develop personal education plans after they have obtained their initial certificates. The report shall be submitted to the appropriate committees of the house of representatives and senate by December 1, 1992.

**NEW SECTION. Sec. 105.** Section 103 of this act shall take effect July 1, 1992.

## PART II COMMISSION ON STUDENT LEARNING

**NEW SECTION. Sec. 201.** A new section is added to chapter 28A.630 RCW to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout sections 201 and 202 of this act.

(1) "Academic assessment system" or "assessment system" means a series of academic examinations and performance-based assessments developed by the commission on student learning to determine if students have mastered the essential academic learning requirements.

(2) "Essential academic learning requirements" means the academic and technical knowledge and skills identified by the commission on student learning, as reviewed and amended by the legislature and state board of education, that students are expected to know and be able to do at specified intervals in their schooling. The essential academic learning requirements, at a minimum, shall include knowledge and skills in reading, writing, speaking, science, history, geography, mathematics, and critical thinking.

**\*NEW SECTION.** Sec. 202. A new section is added to chapter 28A.630 RCW to read as follows:

*(1) The governor's council on education reform and funding shall submit its proposed student learning goals to the appropriate committees of the legislature by December 1, 1992. If both houses of the legislature do not adopt a joint memorial or legislation ratifying, or ratifying with amendment, the student learning goals by July 1, 1993, section 202 and sections 501 through 507 of this act shall be null and void.*

(2) The Washington commission on student learning is hereby established. The primary purposes of the commission are to identify what all students need to know and be able to do based on the student learning goals of the governor's council on education reform and funding, to develop student assessment and school accountability systems, and to take other steps necessary to develop a performance-based education system. The commission shall include three members of the state board of education, three members appointed by the governor before July 1, 1992, and three members appointed no later than February 1, 1993, by the governor elected in the November 1992 election. In making the appointments, educators, business leaders, and parents shall be represented, and nominations from state-wide education, business, and parent organizations shall be requested. Efforts shall be made to ensure that the commission reflects the cultural diversity of the state's K-12 student population and that the major geographic regions in the state are represented. Appointees shall be qualified individuals who are supportive of educational restructuring, who have a positive record of service, and who will devote sufficient time to the responsibilities of the commission to ensure that the objectives of the commission are achieved.

(3) The commission shall begin its substantive work subject to subsection (1) of this section.

(4) The commission shall establish technical advisory committees. Membership of the technical advisory committees shall include, but not necessarily be limited to, professionals from the office of the superintendent of public instruction and the state board of education, and other state and local educational practitioners and student assessment specialists.

(5) The commission, with the assistance of the technical advisory committees, shall:

(a) Identify what all elementary and secondary students need to know and be able to do. At a minimum, these essential academic learning requirements shall include reading, writing, speaking, science, history, geography, mathematics, and critical thinking. In developing these essential academic learning requirements, the commission shall incorporate the student learning goals identified by the council on education reform and funding;

(b) By December 1, 1995, present to the state board of education and superintendent of public instruction a state-wide academic assessment system for

use in the elementary grades designed to determine if each student has mastered the essential academic learning requirements identified in (a) of this subsection. The academic assessment system shall include a variety of methodologies, including performance-based measures. The assessment system shall be designed so that the results under the assessment system are used by educators as tools to evaluate instructional practices, and to initiate appropriate educational support for students who do not master the essential academic learning requirements. Mastery of each component of the essential academic learning requirements shall be required before students progress in subsequent components of the essential academic learning requirements. The state board of education and superintendent of public instruction shall implement the elementary academic assessment system beginning in the 1996-97 school year, unless the legislature takes action to delay or prevent implementation of the assessment system and essential academic learning requirements. The state board of education and superintendent of public instruction may modify the academic assessment system, as needed, in subsequent school years;

(c) By December 1, 1996, present to the state board of education and superintendent of public instruction a state-wide academic assessment system for use in the secondary grades designed to determine if each student has mastered the essential academic learning requirements identified for secondary students in (a) of this subsection. The academic assessment system shall use a variety of methodologies, including performance-based measures, to determine if students have mastered the essential academic learning requirements, and shall lead to a certificate of mastery. The certificate of mastery shall be required for graduation. The assessment system shall be designed so that the results are used by educators to evaluate instructional practices, and to initiate appropriate educational support for students who do not master the essential academic learning requirements. The commission shall recommend to the state board of education whether the certificate of mastery should take the place of the graduation requirements or be required for graduation in addition to graduation requirements. The state board of education and superintendent of public instruction shall implement the secondary academic assessment system beginning in the 1997-98 school year, unless the legislature takes action to delay or prevent implementation of the assessment system and essential academic learning requirements. The state board of education and superintendent of public instruction may modify the assessment system, as needed, in subsequent school years;

(d) Consider methods to address the unique needs of special education students when developing the assessments in (b) and (c) of this subsection;

(e) Develop strategies that will assist educators in helping students master the essential academic learning requirements;

(f) Establish a center the primary role of which is to plan, implement, and evaluate a high quality professional development process. The quality schools

center shall: Have an advisory council composed of educators, parents, and community and business leaders; use best practices research regarding instruction, management, curriculum development, and assessment; coordinate its activities with the office of the superintendent of public instruction and the state board of education; employ and contract with individuals who have a commitment to quality reform; prepare a six-year plan to be updated every two years; and be able to accept resources and funding from private and public sources;

(g) Develop recommendations for the repeal or amendment of federal, state, and local laws, rules, budgetary language, regulations, and other factors that inhibit schools from adopting strategies designed to help students achieve the essential academic learning requirements;

(h) Develop recommendations on the time, support, and resources, including technical assistance, needed by schools and school districts to help students achieve the essential academic learning requirements. These recommendations shall include an estimate for the legislature, superintendent of public instruction, and governor on the expected cost of implementing the elementary and secondary academic assessment systems during the 1995-97 biennium and beyond;

(i) Develop recommendations for consideration by the higher education coordinating board for adopting college and university entrance requirements that would assist schools in adopting strategies designed to help students achieve the essential academic learning requirements;

(j) By December 1, 1996, recommend to the legislature, state board of education, and superintendent of public instruction a state-wide accountability system to evaluate accurately and fairly the level of learning occurring in individual schools and school districts. The commission also shall recommend to the legislature steps that should be taken to assist school districts and schools in which learning is significantly below expected levels of performance as measured by the academic assessment systems established under this section;

(k) Report annually by December 1st to the legislature and the state board of education on the progress, findings, and recommendations of the commission; and

(l) Complete other tasks, as appropriate.

(6) The commission shall coordinate its activities with the state board of education and the office of the superintendent of public instruction.

(7) The commission shall seek advice broadly from the public and all interested educational organizations in the conduct of its work, including holding periodic regional public hearings.

(8) The commission shall select an entity to provide staff support and the office of financial management shall contract with that entity. The commission may direct the office of financial management to enter into subcontracts with school districts, teachers, higher education faculty, state agencies, business organizations, and other individuals and organizations to assist the commission in its deliberations.

(9) Members of the commission shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

\*Sec. 202 was partially vetoed, see message at end of chapter.

NEW SECTION. **Sec. 203.** Section 202 of this act shall expire September 1, 1998.

### PART III SCHOOL BOARD POWERS

NEW SECTION. **Sec. 301.** A new section is added to chapter 28A.320 RCW to read as follows:

(1) The board of directors of each school district may exercise the following:

(a) The broad discretionary power to determine and adopt written policies not in conflict with other law that provide for the development and implementation of programs, activities, services, or practices that the board determines will:

(i) Promote the education of kindergarten through twelfth grade students in the public schools; or

(ii) Promote the effective, efficient, or safe management and operation of the school district;

(b) Such powers as are expressly authorized by law; and

(c) Such powers as are necessarily or fairly implied in the powers expressly authorized by law.

(2) Before adopting a policy under subsection (1)(a) of this section, the school district board of directors shall comply with the notice requirements of the open public meetings act, chapter 42.30 RCW, and shall in addition include in that notice a statement that sets forth or reasonably describes the proposed policy. The board of directors shall provide a reasonable opportunity for public written and oral comment and consideration of the comment by the board of directors.

**Sec. 302.** RCW 28A.305.140 and 1990 c 33 s 267 are each amended to read as follows:

~~((The state board of education may grant waivers to school districts from the provisions of)) (1) The self-study process requirements under RCW 28A.320.200, the teacher classroom contact requirements under RCW 28A.150.260(4), and the program hour offerings requirements under RCW 28A.150.200 through 28A.150.220 ((on the basis that such waiver or waivers are necessary to implement successfully a local plan to provide for all students in the district an effective education system that is designed to enhance the educational program for each student. The local plan may include alternative ways to provide effective educational programs for students who experience difficulty with the regular education program.~~

~~The state board shall adopt criteria to evaluate the need for the waiver or waivers)) shall be waived for school districts or individual schools within a district if the school district submits to the state board of education a plan for~~

restructuring its educational program, or the educational program of individual schools within the district that includes:

(a) Specific standards for increased student learning that the district expects to achieve;

(b) How the district plans to achieve the higher standards, including timelines for implementation;

(c) How the district plans to determine if the higher standards are met;

(d) Evidence that the board of directors, teachers, administrators, and classified employees are committed to working cooperatively in implementing the plan;

(e) Evidence that opportunities were provided for parents and citizens to be involved in the development of the plan; and

(f) Identification of the state requirements that will be waived.

(2) Waivers granted by the state board of education under this section shall be renewed every three years upon the state board of education receiving a renewal request from the school district board of directors. Before filing the request, the school district shall conduct at least one public meeting to evaluate the educational programs that were implemented as a result of the waivers. The request to the state board of education shall include information regarding the activities and programs implemented as a result of the waivers, whether the higher standards for students are being achieved, and a summary of the comments received at the public meeting or meetings.

(3) If a school district intends to waive the program hour offerings under RCW 28A.150.220, it shall make available to students enrolled in kindergarten at least a total instructional offering of four hundred fifty hours. Each school district also shall make available to students enrolled in grades one through twelve at least a district-wide annual average total instructional hour offering of one thousand hours. A school district may schedule the last thirty instructional hours of any school year for noninstructional purposes in the case of students who are graduating from high school, including, but not limited to, the observance of graduation and early release from school upon the request of a student, and all such students may be claimed as full-time equivalent students to the extent they could otherwise have been so claimed for the purposes of RCW 28A.150.250 and 28A.150.260. The state board of education may define alternatives to classroom instructional time for students in grades nine through twelve enrolled in alternative learning experiences. The state board of education shall establish rules to determine annual average instructional hours for districts having fewer than twelve grades. The program shall include instruction in the essential academic learning requirements under section 202 of this act and other subjects and activities the school district determines to be appropriate.

(4) "Instructional hours" means those hours students are provided the opportunity to engage in educational activity planned by and under the direction of school district staff, as directed by the administration and board of directors

of the district, inclusive of intermissions for class changes, recess, and teacher/parent-guardian conferences that are planned and scheduled by the district for the purpose of discussing students' educational needs or progress, and exclusive of time actually spent for meals.

**Sec. 303.** RCW 28A.150.260 and 1991 c 116 s 10 are each amended to read as follows:

The basic education allocation for each annual average full time equivalent student shall be determined in accordance with the following procedures:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula based on a ratio of students to staff for the distribution of a basic education allocation for each annual average full time equivalent student enrolled in a common school. The distribution formula shall have the primary objective of equalizing educational opportunities and shall provide appropriate recognition of the following costs among the various districts within the state:

- (a) Certificated instructional staff and their related costs;
- (b) Certificated administrative staff and their related costs;
- (c) Classified staff and their related costs;
- (d) Nonsalary costs;

(e) Extraordinary costs of remote and necessary schools and small high schools, including costs of additional certificated and classified staff; and

(f) The attendance of students pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district.

(2)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature. The formula shall be for allocation purposes only. While the legislature intends that the allocations for additional instructional staff be used to increase the ratio of such staff to students, nothing in this section shall require districts to reduce the number of administrative staff below existing levels.

(b) (~~Commencing with the 1988-89 school year,~~) The formula adopted by the legislature shall reflect the following ratios at a minimum: (i) Forty-nine certificated instructional staff to one thousand annual average full time equivalent students enrolled in grades kindergarten through three; (ii) forty-six certificated instructional staff to one thousand annual average full time equivalent students in grades four through twelve; (iii) four certificated administrative staff to one thousand annual average full time equivalent students in grades kindergarten through twelve; and (iv) sixteen and sixty-seven one-hundredths classified personnel to one thousand annual average full time equivalent students enrolled in grades kindergarten through twelve.

(c) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect: PROVIDED, That

the distribution formula developed pursuant to this section shall be for state apportionment and equalization purposes only and shall not be construed as mandating specific operational functions of local school districts other than those program requirements identified in RCW 28A.150.220 and 28A.150.100. The enrollment of any district shall be the annual average number of full time equivalent students and part time students as provided in RCW 28A.150.350, enrolled on the first school day of each month and shall exclude full time equivalent handicapped students recognized for the purposes of allocation of state funds for programs under RCW 28A.155.010 through 28A.155.100. The definition of full time equivalent student shall be determined by rules and regulations of the superintendent of public instruction: PROVIDED, That the definition shall be included as part of the superintendent's biennial budget request: PROVIDED, FURTHER, That any revision of the present definition shall not take effect until approved by the house appropriations committee and the senate ways and means committee: PROVIDED, FURTHER, That the office of financial management shall make a monthly review of the superintendent's reported full time equivalent students in the common schools in conjunction with RCW 43.62.050.

(3)(a) Certificated instructional staff shall include those persons employed by a school district who are nonsupervisory employees within the meaning of RCW 41.59.020(8): PROVIDED, That in exceptional cases, people of unusual competence but without certification may teach students so long as a certificated person exercises general supervision: PROVIDED, FURTHER, That the hiring of such noncertificated people shall not occur during a labor dispute and such noncertificated people shall not be hired to replace certificated employees during a labor dispute.

(b) Certificated administrative staff shall include all those persons who are chief executive officers, chief administrative officers, confidential employees, supervisors, principals, or assistant principals within the meaning of RCW 41.59.020(4).

(4) Each annual average full time equivalent certificated classroom teacher's direct classroom contact hours shall average at least twenty-five hours per week. Direct classroom contact hours shall be exclusive of time required to be spent for preparation, conferences, or any other nonclassroom instruction duties. Up to two hundred minutes per week may be deducted from the twenty-five contact hour requirement, at the discretion of the school district board of directors, to accommodate authorized teacher/parent-guardian conferences, recess, passing time between classes, and informal instructional activity. Implementing rules to be adopted by the state board of education pursuant to RCW 28A.150.220(~~(6)~~)) (4) shall provide that compliance with the direct contact hour requirement shall be based upon teachers' normally assigned weekly instructional schedules, as assigned by the district administration. Additional record-keeping by classroom teachers as a means of accounting for contact hours shall not be required.

~~((However, upon request from the board of directors of any school district, the provisions relating to direct classroom contact hours for individual teachers in that district may be waived by the state board of education if the waiver is necessary to implement a locally approved plan for educational excellence and the waiver is limited to those individual teachers approved in the local plan for educational excellence. The state board of education shall develop criteria to evaluate the need for the waiver. Granting of the waiver shall depend upon verification that: (a) The students' classroom instructional time will not be reduced; and (b) the teacher's expertise is critical to the success of the local plan for excellence.))~~ Waivers from contact hours may be requested under RCW 28A.305.140.

NEW SECTION. Sec. 304. RCW 28A.320.210 and 1990 c 33 s 334, 1988 c 256 s 1, 1987 c 505 s 9, 1986 c 137 s 1, 1984 c 278 s 3, 1977 ex.s. c 305 s 1, & 1975-'76 2nd ex.s. c 90 s 1 are each repealed.

**PART IV**  
**STUDENT ASSESSMENT AND LEARNING OPPORTUNITIES**

NEW SECTION. Sec. 401. A new section is added to chapter 28A.230 RCW to read as follows:

(1) If students' scores on the test or assessments under RCW 28A.230.190, 28A.230.230, and 28A.230.240 indicate that students need help in identified areas, the school district shall adjust the curriculum in the identified areas.

(2) Each school district shall notify the parents of each student of their child's performance on the test and assessments conducted under this chapter.

Sec. 402. RCW 28A.230.090 and 1990 1st ex.s. c 9 s 301 are each amended to read as follows:

(1) The state board of education shall establish high school graduation requirements or equivalencies for students ~~((who commence the ninth grade subsequent to July 1, 1985, that meet or exceed the following:~~

<u>SUBJECT</u>	<u>CREDITS</u>
English	3
Mathematics	2
Social Studies	
United States history	
and government	1
Washington state	
history and government	1/2
Contemporary world	
history, geography,	
and problems	1
Science (1 credit	
must be in	
laboratory science)	2

Occupational Education	1
Physical Education	2
Electives	5 1/2
Total	18

~~(2) For the purposes of this section one credit is equivalent to one year of study.~~

~~(3) The Washington state history and government requirement may be fulfilled by students in grades seven or eight or both. Students who have completed the Washington state history and government requirement in grades seven or eight or both shall be considered to have fulfilled the Washington state history and government requirement.~~

~~(4) A candidate for graduation must have in addition earned a minimum of 18 credits including all required courses. These credits shall consist of the state requirements listed above and such additional requirements and electives as shall be established by each district).~~

~~((5)) (2) In recognition of the statutory authority of the state board of education to establish and enforce minimum high school graduation requirements, the state board shall periodically reevaluate the graduation requirements and shall report such findings to the legislature in a timely manner as determined by the state board.~~

~~((6)) (3) Pursuant to any foreign language requirement established by the state board of education or a local school district, or both, for purposes of high school graduation, students who receive instruction in sign language shall be considered to have satisfied the state or local school district foreign language graduation requirement.~~

~~((7)) (4) If requested by the student and his or her family, a student who has completed high school courses ~~((while in seventh and eighth grade))~~ before attending high school shall be given high school credit which shall be applied to fulfilling high school graduation requirements if:~~

~~(a) The course was taken with high school students, if the academic level of the course exceeds the requirements for seventh and eighth grade classes, and the student has successfully passed by completing the same course requirements and examinations as the high school students enrolled in the class; or~~

~~(b) The academic level of the course exceeds the requirements for seventh and eighth grade classes and the course would qualify for high school credit, because the course is similar or equivalent to a course offered at a high school in the district as determined by the school district board of directors.~~

~~((8)) (5) Students who have taken and successfully completed high school courses under the circumstances in subsection ~~((7))~~ (4) of this section shall not be required to take an additional competency examination or perform any other additional assignment to receive credit. Subsection ~~((7))~~ (4) of this section shall also apply to students enrolled in high school on April 11, 1990, who took the courses ~~((while they were in seventh and eighth grade))~~ before attending high school.~~

**NEW SECTION. Sec. 403.** RCW 28A.230.110 and 1990 c 33 s 240 & 1985 c 384 s 4 are each repealed.

PART V

BASIC EDUCATION AMENDMENTS—EFFECTIVE 1998

**Sec. 501.** RCW 28A.150.210 and 1977 ex.s. c 359 s 2 are each amended to read as follows:

The goal of the Basic Education Act for the schools of the state of Washington set forth in this ~~((1977 amendatory act))~~ chapter shall be to provide students with the opportunity to ~~((achieve those skills which are generally recognized as requisite to learning. Those skills shall include the ability:~~

~~(1) To distinguish, interpret and make use of words, numbers and other symbols, including sound, colors, shapes and textures;~~

~~(2) To organize words and other symbols into acceptable verbal and nonverbal forms of expression, and numbers into their appropriate functions;~~

~~(3) To perform intellectual functions such as problem solving, decision making, goal setting, selecting, planning, predicting, experimenting, ordering and evaluating; and~~

~~(4) To use various muscles necessary for coordinating physical and mental functions))~~ master the essential academic learning requirements necessary for their roles as citizens and potential participants in the economic marketplace and in the marketplace of ideas identified by the commission established in section 202 of this act.

**NEW SECTION. Sec. 502.** A new section is added to chapter 28A.150 RCW to read as follows:

Unless the context clearly requires otherwise, the definition in this section applies throughout RCW 28A.150.200 through 28A.150.295.

"Instructional hours" means those hours students are provided the opportunity to engage in educational activity planned by and under the direction of school district staff, as directed by the administration and board of directors of the district, inclusive of intermissions for class changes, recess, and teacher/parent-guardian conferences that are planned and scheduled by the district for the purpose of discussing students' educational needs or progress, and exclusive of time actually spent for meals.

**Sec. 503.** RCW 28A.150.220 and 1990 c 33 s 105 are each amended to read as follows:

~~(1) ((For the purposes of this section and RCW 28A.150.250 and 28A.150.260:~~

~~(a) The term "total program hour offering" shall mean those hours when students are provided the opportunity to engage in educational activity planned by and under the direction of school district staff, as directed by the administration and board of directors of the district, inclusive of intermissions for class changes, recess and teacher/parent-guardian conferences which are planned and~~

~~scheduled by the district for the purpose of discussing students' educational needs or progress, and exclusive of time actually spent for meals.~~

~~(b) "Instruction in work skills" shall include instruction in one or more of the following areas: Industrial arts, home and family life education, business and office education, distributive education, agricultural education, health occupations education, vocational education, trade and industrial education, technical education and career education.~~

~~(2)) Satisfaction of the basic education ((goal)) program requirements identified in RCW 28A.150.210 shall be considered to be implemented by the following program ((requirements)):~~

~~(a) Each school district shall make available to students enrolled in kindergarten at least a total ((program)) instructional offering of four hundred fifty hours. The program shall include ((reading, arithmetic, language skills)) instruction in the essential academic learning requirements under section 202 of this act and such other subjects and such activities as the school district shall determine to be appropriate for the education of the school district's students enrolled in such program;~~

~~(b) Each school district shall make available to students enrolled in grades one through ((three)) twelve, at least a district-wide annual average total ((program)) instructional hour offering of ((two thousand seven hundred)) one thousand hours. ((A minimum of ninety five percent of the total program hour offerings)) The state board of education may define alternatives to classroom instructional time for students in grades nine through twelve enrolled in alternative learning experiences. The state board of education shall establish rules to determine annual average instructional hours for districts including fewer than twelve grades. The program shall ((be in the basic skills areas of reading/ language arts (which may include foreign languages), mathematics, social studies, science, music, art, health and physical education. The remaining five percent of the total program hour offerings may include such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades;~~

~~(c) Each school district shall make available to students in grades four through six at least a total program hour offering of two thousand nine hundred seventy hours. A minimum of ninety percent of the total program hour offerings shall be in the basic skills areas of reading/language arts (which may include foreign languages), mathematics, social studies, science, music, art, health and physical education. The remaining ten percent of the total program hour offerings may include such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades;~~

~~(d) Each school district shall make available to students in grades seven through eight, at least a total program hour offering of one thousand nine hundred eighty hours. A minimum of eighty five percent of the total program~~

~~hour offerings shall be in the basic skills areas of reading/language arts (which may include foreign languages), mathematics, social studies, science, music, art, health and physical education. A minimum of ten percent of the total program hour offerings shall be in the area of work skills. The remaining five percent of the total program hour offerings may include such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades;~~

~~(e) Each school district shall make available to students in grades nine through twelve at least a total program hour offering of four thousand three hundred twenty hours. A minimum of sixty percent of the total program hour offerings shall be in the basic skills areas of language arts, foreign language, mathematics, social studies, science, music, art, health and physical education. A minimum of twenty percent of the total program hour offerings shall be in the area of work skills. The remaining twenty percent of the total program hour offerings may include traffic safety or such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades, with not less than one half thereof in basic skills and/or work skills: PROVIDED, That each school district shall have the option of including grade nine within the program hour offering requirements of grades seven and eight so long as such requirements for grades seven through nine are increased to two thousand nine hundred seventy hours and such requirements for grades ten through twelve are decreased to three thousand two hundred forty hours.~~

~~(3) In order to provide flexibility to the local school districts in the setting of their curricula, and in order to maintain the intent of this legislation, which is to stress the instruction of basic skills and work skills, any local school district may establish minimum course mix percentages that deviate by up to five percentage points above or below those minimums required by subsection (2) of this section, so long as the total program hour requirement is still met) include the essential academic learning requirements under section 202 of this act and such other subjects and such activities as the school district shall determine to be appropriate for the education of the school district's students enrolled in such group.~~

~~((4)) (2) Nothing contained in subsection ((2)) (1) of this section shall be construed to require individual students to attend school for any particular number of hours per day or to take any particular courses.~~

~~((5)) (3) Each school district's kindergarten through twelfth grade basic educational program shall be accessible to all students who are five years of age, as provided by RCW 28A.225.160, and less than twenty-one years of age and shall consist of a minimum of one hundred eighty school days per school year in such grades as are conducted by a school district, and one hundred eighty half-days of instruction, or equivalent, in kindergarten: PROVIDED, That effective May 1, 1979, a school district may schedule the last five school days~~

of the one hundred and eighty day school year for noninstructional purposes in the case of students who are graduating from high school, including, but not limited to, the observance of graduation and early release from school upon the request of a student, and all such students may be claimed as a full time equivalent student to the extent they could otherwise have been so claimed for the purposes of RCW 28A.150.250 and 28A.150.260.

~~((6)) (4) The state board of education shall adopt rules to implement and ensure compliance with the program requirements imposed by this section, RCW 28A.150.250 and 28A.150.260, and such related supplemental program approval requirements as the state board may establish(= PROVIDED, That each school district board of directors shall establish the basis and means for determining and monitoring the district's compliance with the basic skills and work skills percentage and course requirements of this section. The certification of the board of directors and the superintendent of a school district that the district is in compliance with such basic skills and work skills requirements may be accepted by the superintendent of public instruction and the state board of education.~~

~~(7) Handicapped education programs, vocational-technical institute programs, state institution and state residential school programs, all of which programs are conducted for the common school age, kindergarten through secondary school program students encompassed by this section, shall be exempt from the basic skills and work skills percentage and course requirements of this section in order that the unique needs, abilities or limitations of such students may be met.~~

~~(8) Any school district may petition the state board of education for a reduction in the total program hour offering requirements for one or more of the grade level groupings specified in this section. The state board of education shall grant all such petitions that are accompanied by an assurance that the minimum total program hour offering requirements in one or more other grade level groupings will be exceeded concurrently by no less than the number of hours of the reduction).~~

**Sec. 504.** RCW 28A.150.290 and 1990 c 33 s 111 are each amended to read as follows:

(1) The superintendent of public instruction shall have the power and duty to make such rules and regulations as are necessary for the proper administration of this chapter and RCW 28A.160.150 through 28A.160.220, 28A.300.170, and 28A.500.010 not inconsistent with the provisions thereof, and in addition to require such reports as may be necessary to carry out his or her duties under this chapter and RCW 28A.160.150 through 28A.160.220, 28A.300.170, and 28A.500.010.

(2) The superintendent of public instruction shall have the authority to make rules and regulations which establish the terms and conditions for allowing school districts to receive state basic education moneys as provided in RCW 28A.150.250 when said districts are unable to fulfill for one or more schools as

officially scheduled the requirement of a full school year of one hundred eighty days or the annual average total (~~(program)~~) instructional hour offering(~~(-teacher contact-hour, or course-mix and percentage requirements)~~) imposed by RCW 28A.150.220 and 28A.150.260 due to one or more of the following conditions:

(a) An unforeseen natural event, including, but not necessarily limited to, a fire, flood, explosion, storm, earthquake, epidemic, or volcanic eruption that has the direct or indirect effect of rendering one or more school district facilities unsafe, unhealthy, inaccessible, or inoperable; and

(b) An unforeseen mechanical failure or an unforeseen action or inaction by one or more persons, including negligence and threats, that (i) is beyond the control of both a school district board of directors and its employees and (ii) has the direct or indirect effect of rendering one or more school district facilities unsafe, unhealthy, inaccessible, or inoperable. Such actions, inactions or mechanical failures may include, but are not necessarily limited to, arson, vandalism, riots, insurrections, bomb threats, bombings, delays in the scheduled completion of construction projects, and the discontinuance or disruption of utilities such as heating, lighting and water: PROVIDED, That an unforeseen action or inaction shall not include any labor dispute between a school district board of directors and any employee of the school district.

A condition is foreseeable for the purposes of this subsection to the extent a reasonably prudent person would have anticipated prior to August first of the preceding school year that the condition probably would occur during the ensuing school year because of the occurrence of an event or a circumstance which existed during such preceding school year or a prior school year. A board of directors of a school district is deemed for the purposes of this subsection to have knowledge of events and circumstances which are a matter of common knowledge within the school district and of those events and circumstances which can be discovered upon prudent inquiry or inspection.

(3) The superintendent of public instruction shall make every effort to reduce the amount of paperwork required in administration of this chapter and RCW 28A.160.150 through 28A.160.220, 28A.300.170, and 28A.500.010; to simplify the application, monitoring and evaluation processes used; to eliminate all duplicative requests for information from local school districts; and to make every effort to integrate and standardize information requests for other state education acts and federal aid to education acts administered by the superintendent of public instruction so as to reduce paperwork requirements and duplicative information requests.

**Sec. 505.** RCW 28A.195.010 and 1990 c 33 s 176 are each amended to read as follows:

The legislature hereby recognizes that private schools should be subject only to those minimum state controls necessary to (~~(insure))~~ ensure the health and safety of all the students in the state and to (~~(insure))~~ ensure a sufficient basic education to meet usual graduation requirements. The state, any agency or

official thereof, shall not restrict or dictate any specific educational or other programs for private schools except as hereinafter in this section provided.

Principals of private schools or superintendents of private school districts shall file each year with the state superintendent of public instruction a statement certifying that the minimum requirements hereinafter set forth are being met, noting any deviations. After review of the statement, the state superintendent will notify schools or school districts of those deviations which must be corrected. In case of major deviations, the school or school district may request and the state board of education may grant provisional status for one year in order that the school or school district may take action to meet the requirements. Minimum requirements shall be as follows:

(1) The minimum school year for instructional purposes shall consist of no less than one hundred eighty school days or the equivalent in annual minimum ~~((program))~~ instructional hour offerings as prescribed in RCW 28A.150.220.

~~(2) ((The school day shall be the same as that required in RCW 28A.150.030 and 28A.150.220, except that the percentages of total program hour offerings as prescribed in RCW 28A.150.220 for basic skills, work skills, and optional subjects and activities shall not apply to private schools or private sectarian schools.~~

~~(3))~~ All classroom teachers shall hold appropriate Washington state certification except as follows:

(a) Teachers for religious courses or courses for which no counterpart exists in public schools shall not be required to obtain a state certificate to teach those courses.

(b) In exceptional cases, people of unusual competence but without certification may teach students so long as a certified person exercises general supervision. Annual written statements shall be submitted to the office of the superintendent of public instruction reporting and explaining such circumstances.

~~((4))~~ (3) An approved private school may operate an extension program for parents, guardians, or persons having legal custody of a child to teach children in their custody. The extension program shall require at a minimum that:

(a) The parent, guardian, or custodian be under the supervision of an employee of the approved private school who is certified under chapter 28A.410 RCW;

(b) The planning by the certified person and the parent, guardian, or person having legal custody include objectives consistent with this subsection and subsections (1), ~~((2))~~ (4), (5), and ~~(6)(, and (7))~~ of this section;

(c) The certified person spend a minimum average each month of one contact hour per week with each student under his or her supervision who is enrolled in the approved private school extension program;

(d) Each student's progress be evaluated by the certified person; and

(e) The certified employee shall not supervise more than thirty students enrolled in the approved private school's extension program.

~~((5))~~ (4) Appropriate measures shall be taken to safeguard all permanent records against loss or damage.

~~((6))~~ (5) The physical facilities of the school or district shall be adequate to meet the program offered by the school or district: PROVIDED, That each school building shall meet reasonable health and fire safety requirements. A residential dwelling of the parent, guardian, or custodian shall be deemed to be an adequate physical facility when a parent, guardian, or person having legal custody is instructing his or her child under subsection ~~((4))~~ (3) of this section.

~~((7))~~ (6) Private school curriculum shall include, but not be limited to, instruction ~~(ef)~~ in the basic skills of occupational education, science, mathematics, language, social studies, history, health, reading, writing, spelling, and the development of appreciation of art and music, all in sufficient units ~~((for meeting))~~ so that students are able to master the essential academic learning requirements under section 202 of this act and meet state board of education graduation requirements.

~~((8))~~ (7) Each school or school district shall be required to maintain up-to-date policy statements related to the administration and operation of the school or school district.

All decisions of policy, philosophy, selection of books, teaching material, curriculum, except as provided in subsection ~~((7) above provided)~~ (6) of this section, school rules and administration, or other matters not specifically referred to in this section, shall be the responsibility of the administration and administrators of the particular private school involved.

**NEW SECTION. Sec. 506.** RCW 28A.320.200 and 1990 c 33 s 333, 1989 c 83 s 1, 1988 c 256 s 2, & 1985 c 349 s 2 are each repealed.

**Sec. 507.** RCW 28A.150.260 and 1992 c ... s 303 (section 303 of this act) are each amended to read as follows:

The basic education allocation for each annual average full time equivalent student shall be determined in accordance with the following procedures:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula based on a ratio of students to staff for the distribution of a basic education allocation for each annual average full time equivalent student enrolled in a common school. The distribution formula shall have the primary objective of equalizing educational opportunities and shall provide appropriate recognition of the following costs among the various districts within the state:

- (a) Certificated instructional staff and their related costs;
- (b) Certificated administrative staff and their related costs;
- (c) Classified staff and their related costs;
- (d) Nonsalary costs;
- (e) Extraordinary costs of remote and necessary schools and small high schools, including costs of additional certificated and classified staff; and

(f) The attendance of students pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district.

(2)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature. The formula shall be for allocation purposes only. While the legislature intends that the allocations for additional instructional staff be used to increase the ratio of such staff to students, nothing in this section shall require districts to reduce the number of administrative staff below existing levels.

(b) The formula adopted by the legislature shall reflect the following ratios at a minimum: (i) Forty-nine certificated instructional staff to one thousand annual average full time equivalent students enrolled in grades kindergarten through three; (ii) forty-six certificated instructional staff to one thousand annual average full time equivalent students in grades four through twelve; (iii) four certificated administrative staff to one thousand annual average full time equivalent students in grades kindergarten through twelve; and (iv) sixteen and sixty-seven one-hundredths classified personnel to one thousand annual average full time equivalent students enrolled in grades kindergarten through twelve.

(c) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect: PROVIDED, That the distribution formula developed pursuant to this section shall be for state apportionment and equalization purposes only and shall not be construed as mandating specific operational functions of local school districts other than those program requirements identified in RCW 28A.150.220 and 28A.150.100. The enrollment of any district shall be the annual average number of full time equivalent students and part time students as provided in RCW 28A.150.350, enrolled on the first school day of each month and shall exclude full time equivalent handicapped students recognized for the purposes of allocation of state funds for programs under RCW 28A.155.010 through 28A.155.100. The definition of full time equivalent student shall be determined by rules and regulations of the superintendent of public instruction: PROVIDED, That the definition shall be included as part of the superintendent's biennial budget request: PROVIDED, FURTHER, That any revision of the present definition shall not take effect until approved by the house appropriations committee and the senate ways and means committee: PROVIDED, FURTHER, That the office of financial management shall make a monthly review of the superintendent's reported full time equivalent students in the common schools in conjunction with RCW 43.62.050.

(3)(a) Certificated instructional staff shall include those persons employed by a school district who are nonsupervisory employees within the meaning of RCW 41.59.020(8): PROVIDED, That in exceptional cases, people of unusual competence but without certification may teach students so long as a certificated

person exercises general supervision: PROVIDED, FURTHER, That the hiring of such noncertificated people shall not occur during a labor dispute and such noncertificated people shall not be hired to replace certificated employees during a labor dispute.

(b) Certificated administrative staff shall include all those persons who are chief executive officers, chief administrative officers, confidential employees, supervisors, principals, or assistant principals within the meaning of RCW 41.59.020(4).

~~((4) Each annual average full-time equivalent certificated classroom teacher's direct classroom contact hours shall average at least twenty-five hours per week. Direct classroom contact hours shall be exclusive of time required to be spent for preparation, conferences, or any other nonclassroom instruction duties. Up to two hundred minutes per week may be deducted from the twenty-five contact-hour requirement, at the discretion of the school district board of directors, to accommodate authorized teacher/parent-guardian conferences, recess, passing time between classes, and informal instructional activity. Implementing rules to be adopted by the state board of education pursuant to RCW 28A.150.220(4) shall provide that compliance with the direct contact hour requirement shall be based upon teachers' normally assigned weekly instructional schedules, as assigned by the district administration. Additional record keeping by classroom teachers as a means of accounting for contact hours shall not be required. However, upon request from the board of directors of any school district, the provisions relating to direct classroom contact hours for individual teachers in that district may be waived by the state board of education if the waiver is necessary to implement a locally approved plan for educational excellence and the waiver is limited to those individual teachers approved in the local plan for educational excellence. The state board of education shall develop criteria to evaluate the need for the waiver. Granting of the waiver shall depend upon verification that: (a) The students' classroom instructional time will not be reduced; and (b) the teacher's expertise is critical to the success of the local plan for excellence. Waivers from contact hours may be requested under RCW 28A.305.140.))~~

**NEW SECTION. Sec. 508.** Section 302 of this act shall expire September 1, 1998. However, this section shall not take effect if, by September 1, 1998, a law is enacted stating that a school accountability and academic assessment system is not in place.

**NEW SECTION. Sec. 509.** Sections 501 through 507 of this act shall take effect September 1, 1998. However, these sections shall not take effect if, by September 1, 1998, a law is enacted stating that a school accountability and academic assessment system is not in place.

PART VI  
MISCELLANEOUS

**NEW SECTION. Sec. 601.** Part headings as used in this act constitute no part of the law.

**NEW SECTION. Sec. 602.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate March 8, 1992.

Passed the House March 6, 1992.

Approved by the Governor April 1, 1992, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 1, 1992.

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

"I am returning herewith, without my approval as to subsection 1 of section 202, Substitute Senate Bill No. 5953 entitled:

"AN ACT Relating to education."

Substitute Senate Bill No. 5953 sets our public education system on a new course by moving to a system that emphasizes excellence in student performance. It creates the Commission on Student Learning to establish the capacity to immediately begin implementation of the recommendations of the Governor's Council on Education Reform and Funding. Simultaneously, it creates a mechanism to waive a number of existing state rules that impede local restructuring activities. I strongly support these and other provisions in the bill and congratulate the legislature for its far-sightedness in setting the stage for these important changes.

Section 202 establishes the Commission on Student Learning and defines its activities and timelines. Subsection 1 of section 202 creates a procedure which may eliminate not only the commission, but major revisions to the Basic Education Act as well. The continued viability of these sections of law rests on the passage or failure to pass a joint resolution in the future. This process is a legislative veto that violates basic constitutional checks and balances. Through this mechanism, one House of the Legislature is given the power to nullify constitutionally enacted legislation. Furthermore, the legislature is given the power to amend the law by resolution without presenting it to the executive.

I have vetoed this subsection solely because it is an infringement on the constitutional doctrine of separation of powers. The Legislature is an equal partner in the creation of education policy, including student learning goals. This veto protects the integrity of the legislative process and assures adequate bicameral review, including public scrutiny and executive approval, before future enactments or amendments can occur. Notwithstanding this veto, it is important that the Legislature affirm the student learning goals put forward by the Governor's Council on Education Reform and Funding during the 1993 Legislature. I encourage you to do so.

For the reasons stated above, I have vetoed subsection 1 of section 202 of Substitute Senate Bill No. 5953.

With the exception of subsection 1 of section 202, Substitute Senate Bill No. 5953 is approved."

## CHAPTER 142

[House Bill 2932]

## WASHINGTON TECHNOLOGY CENTER

Effective Date: 6/11/92

AN ACT Relating to the Washington technology center; amending RCW 28B.20.285; and adding new sections to chapter 28B.20 RCW.

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

**NEW SECTION. Sec. 1.** The legislature finds that the development and commercialization of new technology is a vital part of economic development.

The legislature also finds that it is in the interests of the state of Washington to provide a mechanism to transfer and apply research and technology developed at the institutions of higher education to the private sector in order to create new products and technologies which provide job opportunities in advanced technology for the citizens of this state.

It is the intent of the legislature that the University of Washington, the Washington State University, and the department of trade and economic development work cooperatively with the private sector in the development and implementation of a world class technology transfer program.

**NEW SECTION. Sec. 2.** Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 28B.20.285 and sections 3 through 8 of this act.

(1) "Technology center" means the Washington technology center, including the affiliated staff, faculty, facilities, and research centers operated by the technology center.

(2) "Board" means the board of directors of the Washington technology center.

(3) "High technology" or "technology" includes but is not limited to the modernization, miniaturization, integration, and computerization of electronic, hydraulic, pneumatic, laser, mechanical, robotics, nuclear, chemical, telecommunication, and other technological applications to enhance productivity in areas including but not limited to manufacturing, communications, medicine, bioengineering, and commerce.

**Sec. 3.** RCW 28B.20.285 and 1983 1st ex.s. c 72 s 11 are each amended to read as follows:

A Washington ~~((high-technology))~~ technology center is created ~~((at the University of Washington. The Washington high technology center shall provide: (1) An interdisciplinary program to support major high technology education and research initiatives within the state; (2) the resources necessary for research and development programs in high technology; (3) quality training for advanced undergraduate and graduate students in high technology; and (4) interdisciplinary approaches to instruction and research in high technology fields.~~

~~The Washington high technology center shall be administered by the board of regents with the advice of the high technology coordinating board. The University of Washington shall make the facilities of the Washington high technology center available to other institutions of higher education when specific program needs so require))~~ to be a collaborative effort between the state's universities, private industry, and government. The technology center shall be headquartered at the University of Washington. The mission of the technology center shall be to perform and commercialize research on a state-wide basis that benefits the intermediate and long-term economic vitality of the state of Washington, and to develop and strengthen university-industry relationships through the conduct of research that is primarily of interest to Washington-based companies or state economic development programs. The technology center shall:

(1) Perform and/or facilitate research supportive of state science and technology objectives, particularly as they relate to state industries;

(2) Provide leading edge collaborative research and technology transfer opportunities primarily to state industries;

(3) Provide substantial opportunities for training undergraduate and graduate students through direct involvement in research and industry interactions;

(4) Emphasize and develop nonstate support of the technology center's research activities; and

(5) Provide a forum for effective interaction between the state's technology-based industries and its academic research institutions through promotion of faculty collaboration with industry, particularly within the state.

**NEW SECTION. Sec. 4.** (1) The technology center shall be administered by the board of directors of the technology center.

(2) The board shall consist of the following members: Fourteen members from among individuals who are associated with or employed by technology-based industries and have broad business experience and an understanding of high technology; eight members from the state's universities with graduate science and engineering programs; the executive director of the Spokane Intercollegiate Research and Technology Institute or his or her designated representative; the provost of the University of Washington or his or her designated representative; the provost of the Washington State University or his or her designated representative; and the director of the state department of trade and economic development or his or her designated representative. The term of office for each board member, excluding the executive director of the Spokane Intercollegiate Research and Technology Institute, the provost of the University of Washington, the provost of the Washington State University, and the director of the state department of trade and economic development, shall be three years. The executive director of the technology center shall be an ex officio, nonvoting member of the board. The board shall meet at least quarterly. Board members shall be appointed by the governor based on the recommendations of the existing

board of the technology center, and the research universities. The governor shall stagger the terms of the first group of appointees to ensure the long term continuity of the board.

(3) The duties of the board include:

(a) Developing the general operating policies for the technology center;  
(b) Appointing the executive director of the technology center;  
(c) Approving the annual operating budget of the technology center;  
(d) Establishing priorities for the selection and funding of research projects that guarantee the greatest potential return on the state's investment;

(e) Approving and allocating funding for research projects conducted by the technology center, based on the recommendations of the advisory committees for each of the research centers;

(f) In cooperation with the department of trade and economic development, developing a biennial work plan and five-year strategic plan for the technology center that are consistent with the state-wide technology development and commercialization goals;

(g) Coordinating with the University of Washington, Washington State University, and other participating institutions of higher education in the development of training, research, and development programs to be conducted at the technology center that shall be targeted to meet industrial needs;

(h) Assisting the department of trade and economic development in the department's efforts to develop state science and technology public policies and coordinate publicly funded programs;

(i) Reviewing annual progress reports on funded research projects that are prepared by the advisory committees for each of the research centers;

(j) Providing an annual report to the governor and the legislature detailing the activities and performance of the technology center; and

(k) Submitting annually to the department of trade and economic development an updated strategic plan and a statement of performance measured against the mission, roles, and contractual obligations of the technology center.

**NEW SECTION.** Sec. 5. The University of Washington, Washington State University, and other participating institutions of higher education shall provide the affiliated staff, faculty, and facilities required to support the operation of the technology center.

**NEW SECTION.** Sec. 6. The department of trade and economic development shall contract with the University of Washington for the expenditure of state-appropriated funds for the operation of the Washington technology center. The department of trade and economic development shall provide guidance to the technology center regarding expenditure of state-appropriated funds and the development of the center's strategic plan. The director of the department of trade and economic development shall not withhold funds appropriated for the technology center if the technology center complies with the provisions of its contract with the department of trade and economic develop-

ment. The department shall be responsible to the legislature for the contractual performance of the center.

**NEW SECTION. Sec. 7.** The facilities of the technology center shall be made available to other institutions of higher education within the state when this would benefit specific program needs.

**NEW SECTION. Sec. 8.** Sections 1, 2, and 4 through 7 of this act are each added to chapter 28B.20 RCW.

Passed the House March 12, 1992.

Passed the Senate March 12, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

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## CHAPTER 143

[Substitute House Bill 2745]

### DOMESTIC VIOLENCE PROTECTION ORDERS—REVISIONS

**Effective Date:** 6/11/92

AN ACT Relating to court orders for protection; amending RCW 26.50.050, 26.50.060, 26.50.070, 26.50.090, 26.50.100, 10.14.070, 10.14.080, 10.14.090, 10.14.100, and 10.14.110; adding new sections to chapter 26.50 RCW; and adding new sections to chapter 10.14 RCW.

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

**Sec. 1.** RCW 26.50.050 and 1984 c 263 s 6 are each amended to read as follows:

Upon receipt of the petition, the court shall order a hearing which shall be held not later than fourteen days from the date of the order. Except as provided in section 4 of this act, personal service shall be made upon the respondent not less than five court days prior to the hearing. If timely personal service cannot be made, the court ((may)) shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided in section 4 of this act. If the court permits service by publication, the court shall set the hearing date not later than twenty-four days from the date of the order. The court may issue an ex parte order for protection pending the hearing as provided in RCW 26.50.070 and section 4 of this act.

**Sec. 2.** RCW 26.50.060 and 1989 c 411 s 1 are each amended to read as follows:

- (1) Upon notice and after hearing, the court may provide relief as follows:
  - (a) Restrain a party from committing acts of domestic violence;
  - (b) Exclude the respondent from the dwelling which the parties share or from the residence of the petitioner;
  - (c) On the same basis as is provided in chapter 26.09 RCW, the court shall make residential provision with regard to minor children of the parties.

However, parenting plans as specified in chapter 26.09 RCW shall not be required under this chapter;

(d) Order the respondent to participate in treatment or counseling services;

(e) Order other relief as it deems necessary for the protection of a family or household member, including orders or directives to a peace officer, as allowed under this chapter;

(f) Require the respondent to pay the filing fee and court costs, including service fees, and to reimburse the petitioner for costs incurred in bringing the action, including a reasonable attorney's fee. If the petitioner has been granted leave to proceed in forma pauperis, the court may require the respondent to pay the filing fee and costs, including services fees, to the county or municipality incurring the expense; and

(g) Restrain any party from having any contact with the victim of domestic violence or the victim's children or members of the victim's household.

(2) Any relief granted by the order for protection, other than a judgment for costs, shall be for a fixed period not to exceed one year if the restraining order restrains the respondent from contacting the respondent's minor children. If the petitioner has petitioned for relief on his or her own behalf or on behalf of the petitioner's family or household members or minor children that are not also the respondent's minor children, and the court finds that the respondent is likely to resume acts of domestic violence against the petitioner or the petitioner's family or household members or minor children when the order expires, the court may either (a) grant relief for a fixed period not to exceed one year; (b) grant relief for a fixed period in excess of one year; or (c) enter a permanent order of protection.

If the petitioner has petitioned for relief on behalf of the respondent's minor children, the court shall advise the petitioner that if the petitioner wants to continue protection for a period beyond one year the petitioner may either petition for renewal pursuant to the provisions of this chapter or may seek relief pursuant to the provisions of chapter 26.09 RCW.

(3) If the court grants an order for a fixed time period, the petitioner may apply for renewal of the order by filing a petition for renewal at any time within the three months before the order expires. The petition for renewal shall state the reasons why the petitioner seeks to renew the protection order. Upon receipt of the petition for renewal the court shall order a hearing which shall be not later than fourteen days from the date of the order. Except as provided in section 4 of this act, personal service shall be made on the respondent not less than five days before the hearing. If timely service cannot be made the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided in section 4 of this act. If the court permits service by publication, the court shall set the new hearing date not later than twenty-four days from the date of the order. If the order expires because timely service cannot be made the court shall grant an ex

parte order of protection as provided in RCW 26.50.070. The court shall grant the petition for renewal unless the respondent proves by a preponderance of the evidence that the respondent will not resume acts of domestic violence against the petitioner or the petitioner's children or family or household members when the order expires. The court may renew the protection order for another fixed time period or may enter a permanent order as provided in this section. The court may award court costs, service fees, and reasonable attorneys' fees as provided in subsection (1)(f) of this section.

(4) In providing relief under this chapter, the court may realign the designation of the parties as "petitioner" and "respondent" where the court finds that the original petitioner is the abuser and the original respondent is the victim of domestic violence.

(5) The court order shall specify the date the order expires if any. The court order shall also state whether the court issued the protection order following personal service or service by publication and whether the court has approved service by publication of an order issued under this section.

**Sec. 3.** RCW 26.50.070 and 1989 c 411 s 2 are each amended to read as follows:

(1) Where an application under this section alleges that irreparable injury could result from domestic violence if an order is not issued immediately without prior notice to the respondent, the court may grant an ex parte temporary order for protection, pending a full hearing, and grant relief as the court deems proper, including an order:

- (a) Restraining any party from committing acts of domestic violence;
- (b) Excluding any party from the dwelling shared or from the residence of the other until further order of the court;
- (c) Restraining any party from interfering with the other's custody of the minor children or from removing the children from the jurisdiction of the court; and

(d) Restraining any party from having any contact with the victim of domestic violence or the victim's children or members of the victim's household.

(2) Irreparable injury under this section includes but is not limited to situations in which the respondent has recently threatened petitioner with bodily injury or has engaged in acts of domestic violence against the petitioner.

(3) The court shall hold an ex parte hearing in person or by telephone on the day the petition is filed or on the following judicial day.

(4) An ex parte temporary order for protection shall be effective for a fixed period not to exceed fourteen days(~~(-but)~~) or twenty-four days if the court has permitted service by publication under section 4 of this act. The ex parte order may be reissued. A full hearing, as provided in this chapter, shall be set for not later than fourteen days from the issuance of the temporary order or not later than twenty-four days if service by publication is permitted. Except as provided in RCW 26.50.050 and section 4 of this act, the respondent shall be personally

served with a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing.

**NEW SECTION. Sec. 4.** A new section is added to chapter 26.50 RCW to read as follows:

(1) If the respondent was not personally served with the petition, notice of hearing, and ex parte order before the hearing, the court shall reset the hearing for twenty-four days from the date of entry of the order and may order service by publication instead of personal service under the following circumstances:

(a) The sheriff or municipal officer files an affidavit stating that the officer was unable to complete personal service upon the respondent. The affidavit must describe the number and types of attempts the officer made to complete service;

(b) The petitioner files an affidavit stating that the petitioner believes that the respondent is hiding from the server to avoid service. The petitioner's affidavit must state the reasons for the belief that the petitioner is avoiding service;

(c) The server has deposited a copy of the summons, in substantially the form prescribed in subsection (3) of this section, notice of hearing, and the ex parte order of protection in the post office, directed to the respondent at the respondent's last known address, unless the server states that the server does not know the respondent's address; and

(d) The court finds reasonable grounds exist to believe that the respondent is concealing himself or herself to avoid service, and that further attempts to personally serve the respondent would be futile or unduly burdensome.

(2) The court shall reissue the temporary order of protection not to exceed another twenty-four days from the date of reissuing the ex parte protection order and order to provide service by publication.

(3) The publication shall be made in a newspaper of general circulation in the county where the petition was brought and in the county of the last known address of the respondent once a week for three consecutive weeks. The newspaper selected must be one of the three most widely circulated papers in the county. The publication of summons shall not be made until the court orders service by publication under this section. Service of the summons shall be considered complete when the publication has been made for three consecutive weeks. The summons must be signed by the petitioner. The summons shall contain the date of the first publication, and shall require the respondent upon whom service by publication is desired, to appear and answer the petition on the date set for the hearing. The summons shall also contain a brief statement of the reason for the petition and a summary of the provisions under the ex parte order. The summons shall be essentially in the following form:

In the ..... court of the state of Washington for the county of .....

....., Petitioner

vs.

No. ....

....., Respondent

The state of Washington to ..... (respondent):

You are hereby summoned to appear on the ..... day of ....., 19...., at ..... a.m./p.m., and respond to the petition. If you fail to respond, an order of protection will be issued against you pursuant to the provisions of the domestic violence protection act, chapter 26.50 RCW, for a minimum of one year from the date you are required to appear. A temporary order of protection has been issued against you, restraining you from the following: (Insert a brief statement of the provisions of the ex parte order). A copy of the petition, notice of hearing, and ex parte order has been filed with the clerk of this court.

.....  
Petitioner .....

**NEW SECTION.** Sec. 5. A new section is added to chapter 26.50 RCW to read as follows:

Following completion of service by publication as provided in section 4 of this act, if the respondent fails to appear at the hearing, the court may issue an order of protection as provided in RCW 26.50.060. That order must be served pursuant to RCW 26.50.090, and forwarded to the appropriate law enforcement agency pursuant to RCW 26.50.100.

**Sec. 6.** RCW 26.50.090 and 1985 c 303 s 6 are each amended to read as follows:

(1) An order issued under this chapter shall be personally served upon the respondent, except as provided in subsections (6) and (8) of this section.

(2) The sheriff of the county or the peace officers of the municipality in which the respondent resides shall serve the respondent personally unless the petitioner elects to have the respondent served by a private party.

(3) If service by a sheriff or municipal peace officer is to be used, the clerk of the court shall have a copy of any order issued under this chapter forwarded on or before the next judicial day to the appropriate law enforcement agency specified in the order for service upon the respondent. Service of an order issued under this chapter shall take precedence over the service of other documents unless they are of a similar emergency nature.

(4) If the sheriff or municipal peace officer cannot complete service upon the respondent within ten days, the sheriff or municipal peace officer shall notify the petitioner. The petitioner shall provide information sufficient to permit notification.

(5) Returns of service under this chapter shall be made in accordance with the applicable court rules.

(6) If an order entered by the court recites that the respondent appeared in person before the court, the necessity for further service is waived and proof of service of that order is not necessary.

(7) Except in cases where the petitioner is granted leave to proceed in forma pauperis, municipal police departments serving documents as required under this chapter may collect the same fees for service and mileage authorized by RCW 36.18.040 to be collected by sheriffs.

(8) If the court previously entered an order allowing service by publication of the notice of hearing and temporary order of protection pursuant to section 4 of this act, the court may permit service by publication of the order of protection issued under RCW 26.50.060. Service by publication must comply with the requirements of section 4 of this act. The court order must state whether the court permitted service by publication.

Sec. 7. RCW 26.50.100 and 1984 c 263 s 11 are each amended to read as follows:

(1) A copy of an order for protection granted under this chapter shall be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order.

Upon receipt of the order, the law enforcement agency shall forthwith enter the order (~~for one year~~) into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The law enforcement agency shall expunge expired orders from the computer system. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

(2) The information entered into the computer-based system shall include notice to law enforcement whether the order was personally served or served by publication.

NEW SECTION. Sec. 8. A new section is added to chapter 26.50 RCW to read as follows:

(1) When the court issues an ex parte order pursuant to RCW 26.50.070 or an order of protection ordered issued pursuant to RCW 26.50.060, the court shall advise the petitioner that the respondent may not be subjected to the penalties set forth in RCW 26.50.110 for a violation of the order unless the respondent knows of the order.

(2) When a peace officer investigates a report of an alleged violation of an order for protection issued under this chapter the officer shall attempt to determine whether the respondent knew of the existence of the protection order. If the officer determines that the respondent did not or probably did not know about the protection order, the officer shall make reasonable efforts to obtain a copy of the protection order and serve it on the respondent during the investigation.

NEW SECTION. Sec. 9. A new section is added to chapter 26.50 RCW to read as follows:

The court may permit service by publication under this chapter only if the petitioner pays the cost of publication unless the county legislative authority allocates funds for service of process by publication for petitioners who are granted leave to proceed in forma pauperis.

Sec. 10. RCW 10.14.070 and 1987 c 280 s 7 are each amended to read as follows:

Upon receipt of the petition, the court shall order a hearing which shall be held not later than fourteen days from the date of the order. Except as provided in section 12 of this act, personal service shall be made upon the respondent not less than five court days before the hearing. If timely personal service cannot be made, the court ((may)) shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided by section 12 of this act. If the court permits service by publication, the court shall set the hearing date not later than twenty-four days from the date of the order. The court may issue an ex parte order for protection pending the hearing as provided in RCW 10.14.080 and section 12 of this act.

Sec. 11. RCW 10.14.080 and 1987 c 280 s 8 are each amended to read as follows:

(1) Upon filing a petition for a civil antiharassment protection order under this chapter, the petitioner may obtain an ex parte temporary antiharassment protection order. An ex parte temporary antiharassment protection order may be granted with or without notice upon the filing of an affidavit which, to the satisfaction of the court, shows reasonable proof of unlawful harassment of the petitioner by the respondent and that great or irreparable harm will result to the petitioner if the temporary antiharassment protection order is not granted.

(2) An ex parte temporary antiharassment protection order shall be effective for a fixed period not to exceed fourteen days(~~(, but)~~) or twenty-four days if the court has permitted service by publication under section 12 of this act. The ex parte order may be reissued. A full hearing, as provided in this chapter, shall be set for not later than fourteen days from the issuance of the temporary order or not later than twenty-four days if service by publication is permitted. Except as provided in RCW 10.14.070 and section 12 of this act, the respondent shall be personally served with a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing.

(3) At the hearing, if the court finds by a preponderance of the evidence that unlawful harassment exists, a civil antiharassment protection order shall issue prohibiting such unlawful harassment.

(4) An order issued under this chapter shall be effective for not more than one year unless the court finds that the respondent is likely to resume unlawful harassment of the petitioner when the order expires. If so, the court may enter an order for a fixed time exceeding one year or may enter a permanent

antiharassment protection order. The court shall not enter an order that is effective for more than one year if the order restrains the respondent from contacting the respondent's minor children. If the petitioner seeks relief for a period longer than one year on behalf of the respondent's minor children, the court shall advise the petitioner that the petitioner may apply for renewal of the order as provided in this chapter or if appropriate may seek relief pursuant to chapter 26.09 or 26.10 RCW.

(5) At any time within the three months before the expiration of the order, the petitioner may apply for a renewal of the order by filing a ((new)) petition ((under this chapter)) for renewal. The petition for renewal shall state the reasons why the petitioner seeks to renew the protection order. Upon receipt of the petition for renewal, the court shall order a hearing which shall be not later than fourteen days from the date of the order. Except as provided in section 12 of this act, personal service shall be made upon the respondent not less than five days before the hearing. If timely service cannot be made the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided by section 12 of this act. If the court permits service by publication, the court shall set the new hearing date not later than twenty-four days from the date of the order. If the order expires because timely service cannot be made the court shall grant an ex parte order of protection as provided in this section. The court shall grant the petition for renewal unless the respondent proves by a preponderance of the evidence that the respondent will not resume harassment of the petitioner when the order expires. The court may renew the protection order for another fixed time period or may enter a permanent order as provided in subsection (4) of this section.

~~((4))~~ (6) The court, in granting an ex parte temporary antiharassment protection order or a civil antiharassment protection order, shall have broad discretion to grant such relief as the court deems proper, including an order:

(a) Restraining the respondent from making any attempts to contact the petitioner;

(b) Restraining the respondent from making any attempts to keep the petitioner under surveillance; and

(c) Requiring the respondent to stay a stated distance from the petitioner's residence and workplace.

~~((5))~~ (7) A petitioner may not obtain an ex parte temporary antiharassment protection order against a respondent if the petitioner has previously obtained two such ex parte orders against the same respondent but has failed to obtain the issuance of a civil antiharassment protection order unless good cause for such failure can be shown.

(8) The court order shall specify the date an order issued pursuant to subsections (4) and (5) of this section expires if any. The court order shall also state whether the court issued the protection order following personal service or

service by publication and whether the court has approved service by publication of an order issued under this section.

**NEW SECTION. Sec. 12.** A new section is added to chapter 10.14 RCW to read as follows:

(1) If the respondent was not personally served with the petition, notice of hearing, and ex parte order before the hearing, the court shall reset the hearing for twenty-four days from the date of entry of the order and may order service by publication instead of personal service under the following circumstances:

(a) The sheriff or municipal officer files an affidavit stating that the officer was unable to complete personal service upon the respondent. The affidavit must describe the number and types of attempts the officer made to complete service;

(b) The petitioner files an affidavit stating that the petitioner believes that the respondent is hiding from the server to avoid service. The petitioner's affidavit must state the reasons for the belief that the petitioner is avoiding service;

(c) The server has deposited a copy of the summons, in substantially the form prescribed in subsection (3) of this section, notice of hearing, and the ex parte order of protection in the post office, directed to the respondent at the respondent's last known address, unless the server states that the server does not know the respondent's address; and

(d) The court finds reasonable grounds exist to believe that the respondent is concealing himself or herself to avoid service, and that further attempts to personally serve the respondent would be futile or unduly burdensome.

(2) The court shall reissue the temporary order of protection not to exceed another twenty-four days from the date of reissuing the ex parte protection order and order to provide service by publication.

(3) The publication shall be made in a newspaper of general circulation in the county where the petition was brought and in the county of the last known address of the respondent once a week for three consecutive weeks. The newspaper selected must be one of the three most widely circulated papers in the county. The publication of summons shall not be made until the court orders service by publication under this section. Service of the summons shall be considered complete when the publication has been made for three consecutive weeks. The summons must be signed by the petitioner. The summons shall contain the date of the first publication, and shall require the respondent upon whom service by publication is desired, to appear and answer the petition on the date set for the hearing. The summons shall also contain a brief statement of the reason for the petition and a summary of the provisions under the ex parte order. The summons shall be essentially in the following form:

In the ..... court of the state of Washington for the county of .....

....., Petitioner

vs.

No. ....

....., Respondent

The state of Washington to ..... (respondent):

You are hereby summoned to appear on the ..... day of ....., 19...., at .... a.m/p.m., and respond to the petition. If you fail to respond, an order of protection will be issued against you pursuant to the provisions of chapter 10.14 RCW, for a minimum of one year from the date you are required to appear. A temporary order of protection has been issued against you, restraining you from the following: (Insert a brief statement of the provisions of the ex parte order). A copy of the petition, notice of hearing, and ex parte order has been filed with the clerk of this court.

.....  
Petitioner .....

NEW SECTION. Sec. 13. A new section is added to chapter 10.14 RCW to read as follows:

Following completion of service by publication as provided in section 12 of this act, if the respondent fails to appear at the hearing, the court may issue an order of protection as provided in RCW 10.14.080. That order must be served pursuant to RCW 10.14.100, and forwarded to the appropriate law enforcement agency pursuant to RCW 10.14.110.

Sec. 14. RCW 10.14.090 and 1987 c 280 s 9 are each amended to read as follows:

(1) Nothing in this chapter shall preclude either party from representation by private counsel or from appearing on his or her own behalf.

(2) The court may require the respondent to pay the filing fee and court costs, including service fees, and to reimburse the petitioner for costs incurred in bringing the action, including a reasonable attorney's fee. If the petitioner has been granted leave to proceed in forma pauperis, the court may require the respondent to pay the filing fee and costs, including services fees, to the county or municipality incurring the expense.

Sec. 15. RCW 10.14.100 and 1987 c 280 s 10 are each amended to read as follows:

(1) An order issued under this chapter shall be personally served upon the respondent, except as provided in subsections (5) and (7) of this section.

(2) The sheriff of the county or the peace officers of the municipality in which the respondent resides shall serve the respondent personally unless the petitioner elects to have the respondent served by a private party.

(3) If the sheriff or municipal peace officer cannot complete service upon the respondent within ten days, the sheriff or municipal peace officer shall notify the petitioner.

(4) Returns of service under this chapter shall be made in accordance with the applicable court rules.

(5) If an order entered by the court recites that the respondent appeared in person before the court, the necessity for further service is waived and proof of service of that order is not necessary.

(6) Except in cases where the petitioner is granted leave to proceed in forma pauperis, municipal police departments serving documents as required under this chapter may collect the same fees for service and mileage authorized by RCW 36.18.040 to be collected by sheriffs.

(7) If the court previously entered an order allowing service by publication of the notice of hearing and temporary order of protection pursuant to section 12 of this act, the court may permit service by publication of the order of protection issued under RCW 10.14.080. Service by publication must comply with the requirements of section 12 of this act.

Sec. 16. RCW 10.14.110 and 1987 c 280 s 11 are each amended to read as follows:

(1) A copy of an antiharassment protection order granted under this chapter shall be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order.

Upon receipt of the order, the law enforcement agency shall forthwith enter the order (~~for one year~~) into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The law enforcement agency shall expunge expired orders from the computer system. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

(2) The information entered into the computer-based system shall include notice to law enforcement whether the order was personally served or served by publication.

NEW SECTION. Sec. 17. A new section is added to chapter 10.14 RCW to read as follows:

(1) When the court issues an order of protection pursuant to RCW 10.14.080, the court shall advise the petitioner that the respondent may not be subjected to the penalties set forth in RCW 10.14.120 and 10.14.170 for a violation of the order unless the respondent knows of the order.

(2) When a peace officer investigates a report of an alleged violation of an order for protection issued under this chapter the officer shall attempt to determine whether the respondent knew of the existence of the protection order. If the officer determines that the respondent did not or probably did not know about the protection order, the officer shall make reasonable efforts to obtain a copy of the protection order and serve it on the respondent during the investigation.

**NEW SECTION. Sec. 18.** A new section is added to chapter 10.14 RCW to read as follows:

The court may permit service by publication under this chapter only if the petitioner pays the cost of publication unless the county legislative authority allocates funds for service of process by publication for petitioners who are granted leave to proceed in forma pauperis.

Passed the House February 15, 1992.

Passed the Senate March 3, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

## CHAPTER 144

[Substitute Senate Bill 6377]

### TELECOMMUNICATIONS RELAY SYSTEM FOR DEAF AND SPEECH-IMPAIRED PERSONS

Effective Date: 6/11/92

AN ACT Relating to the TDD state-wide relay system; amending RCW 43.20A.720, 43.20A.725, and 43.20A.730; adding a new section to chapter 80.36 RCW; and creating a new section.

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

**NEW SECTION. Sec. 1.** The legislature finds that the state of Washington has shown national leadership in providing telecommunications access for the hearing impaired and speech impaired communities. The legislature further finds that the federal Americans with Disabilities Act requires states to further enhance telecommunications access for disabled persons and that the state should be positioned to allow this service to be delivered with fairness, flexibility, and efficiency.

**Sec. 2.** RCW 43.20A.720 and 1990 c 89 s 2 are each amended to read as follows:

"Hearing impaired" means those persons who are certified to be deaf, deaf-blind, or hard of hearing, and those persons who are certified to have a hearing disability limiting their access to telecommunications.

"Speech impaired" means persons who are certified to be unable to speak or who are certified to have a speech impairment limiting their access to telecommunications.

"Text telephone (TT)," formerly known as a telecommunications device for the deaf (TDD)(<sup>(1)</sup>) means a ((teletypewriter)) telecommunications device that has a typewriter or computer keyboard and a readable display that couples with the telephone, allowing messages to be typed rather than spoken. The device allows a person to make a telephone call directly to another person possessing similar equipment. The conversation is typed through one machine to the other machine instead of spoken.

"~~((TDD))~~ Telecommunications relay ((system)) service (TRS)" is a service for hearing and speech impaired people who have a ~~((TDD))~~ TT to call someone who does not have a ~~((TDD))~~ TT or vice versa. The service consists of several telephones being utilized by ~~((TDD-relay-service-operators))~~ TRS communications assistants who receive either ~~((TDD))~~ TT or voice phone calls. If a ~~((TDD-relay-service-operator))~~ TRS communications assistant receives a phone call from a hearing or speech impaired person wishing to call a hearing person, the operator will call the hearing person and act as an intermediary by translating what is displayed on the ~~((TDD))~~ TT to voice and typing what is voiced into the ~~((TDD))~~ TT to be read by the hearing or speech impaired caller. This process can also be reversed with a hearing person calling a deaf person through the ~~((TDD))~~ telecommunications relay service. "TRS program" as used in this chapter includes both the relay function and TTs.

"Qualified trainer" is a person who is knowledgeable about ~~((TDDs))~~ TTs, signal devices, and amplifying accessories; familiar with the technical aspects of equipment designed to meet hearing impaired people's needs; and is fluent in American sign language.

"Qualified contractor" shall have ~~((bilingual))~~ staff bilingual in American sign language and standard English available for quality language/cultural interpretations; quality training of operators; and policies, training, and operational procedures to be determined by the office.

"The department" means the department of social and health services of the state of Washington.

"Office" means the office of deaf services within the state department of social and health services.

Sec. 3. RCW 43.20A.725 and 1990 c 89 s 3 are each amended to read as follows:

(1) The department shall maintain a program whereby ~~((TDDs))~~ TTs, signal devices, a ~~((TDD-relay-system))~~ TRS, and amplifying accessories capable of serving the needs of the hearing and speech impaired shall be provided at no charge additional to the basic exchange rate, to an individual of school age or older, (a) who is certified as hearing impaired by a licensed physician, audiologist, or a qualified state agency, and to any subscriber that is an organization representing the hearing impaired, as determined and specified by the ~~((TDD))~~ TRS program advisory committee; or (b) who is certified as speech impaired by a licensed physician, speech pathologist, or a qualified state agency, and to any subscriber that is an organization representing the speech impaired, as determined and specified by the ~~((TDD))~~ TRS program advisory committee. For the purpose of this section, certification implies that individuals cannot use the telephone for expressive or receptive communications due to hearing or speech impairment.

(2) The office shall award contracts on a competitive basis, to qualified persons for which eligibility to contract is determined by the office, for the

distribution and maintenance of such (~~TDDs~~) TTs, signal devices, and amplifying accessories as shall be determined by the office. When awarding such contracts, the office may consider the quality of equipment and, with the director's approval, may award contracts on a basis other than cost. Such contracts (~~shall~~) may include a provision for the employment and use of a qualified trainer and the training of recipients in the use of such devices.

(3) The office shall establish and implement a policy for the ultimate responsibility for recovery of (~~TDDs~~) TTs, signal devices, and amplifying accessories from recipients who are moving from this state or who for other reasons are no longer using them.

(4) Pursuant to recommendations of the (~~TDD~~) TRS program advisory committee, until July 26, 1993, the office shall maintain a program whereby a relay system will be provided state-wide using operator intervention to connect hearing impaired and speech impaired persons and offices or organizations representing the hearing impaired and speech impaired, as determined and specified by the TDD advisory committee pursuant to RCW 43.20A.730. The relay system shall be the most cost-effective possible and shall operate in a manner consistent with federal requirements for such systems.

(5) Pursuant to the recommendations of the TDD task force report of December 1991, and with the express purpose of maintaining state control and jurisdiction, the office shall seek certification by the federal communications commission of the state-wide relay service.

(6) The office shall award contracts for the operation and maintenance of the state-wide relay service. The initial contract shall be for service commencing July 26, 1993. The contract shall be awarded to an individual company registered as a telecommunications company by the utilities and transportation commission, to a group of registered telecommunications companies, or to any other company or organization determined by the office as qualified to provide relay services, contingent upon that company or organization being approved as a registered telecommunications company prior to final contract approval.

(7) The program shall be funded by a telecommunications (~~devices for the deaf (TDD))~~ relay service (TRS) excise tax applied to each switched access line provided by the local exchange companies. The office shall determine, in consultation with the (~~TDD~~) TRS program advisory committee, the amount of money needed to fund the program on an annual basis, including both operational costs and a reasonable amount for capital improvements such as equipment upgrade and replacement. That information shall be given by the department in an annual budget to the utilities and transportation commission no later than March 1 prior to the beginning of the fiscal year. The utilities and transportation commission shall then determine the amount of (~~TDD~~) TRS excise tax to be placed on each access line and shall inform each local exchange company of this amount no later than May 15. The utilities and transportation commission shall determine the amount of TRS excise tax by dividing the total of the program

budget, as submitted by the office, by the total number of access lines, and shall not exercise any further oversight of the program under this subsection. The ~~((FDD))~~ TRS excise tax shall not exceed ten cents per month per access line. Each local exchange company shall impose the amount of excise tax determined by the commission as of July 1, and shall remit the amount collected directly to the department on a monthly basis. The ~~((FDD))~~ TRS excise tax shall be separately identified on each ratepayer's bill (~~(as "Telecommunications devices funds for deaf and hearing impaired")~~). All proceeds from the ~~((FDD))~~ TRS excise tax shall be put into a fund to be administered by the office through the department.

~~((6))~~ (8) The office shall administer and control the award of money to all parties incurring costs in implementing and maintaining telecommunications services, programs, equipment, and technical support services in accordance with the provisions of RCW 43.20A.725.

~~((7))~~ (9) The department shall provide the legislature with a biennial report on the operation of the program. The first report shall be provided no later than December 1, 1990, and successive reports every two years thereafter. Reports shall be prepared in consultation with the ~~((FDD))~~ TRS program advisory committee and the utilities and transportation commission. The reports shall, at a minimum, briefly outline the accomplishments of the program, the number of persons served, revenues and expenditures, the prioritizing of services to those eligible based on such factors as degree of physical handicap or the allocation of the program's revenue between provision of devices to individuals and operation of the state-wide relay service, other major policy or operational issues, and proposals for improvements or changes for the program. The first report shall contain a study which includes examination of like programs in other states, alternative methods of financing the program, alternative methods of using the telecommunications system, advantages and disadvantages of operating the ~~((FDD))~~ TRS program from within the department, by telecommunications companies, and by a private, nonprofit corporation, and means to limit demand for system usage.

~~((8))~~ (10) The program shall be consistent with the requirements of federal law for the operation of both interstate and intrastate telecommunications services for the deaf or hearing impaired or speech impaired. The department and the utilities and transportation commission shall be responsible for ensuring compliance with federal requirements and shall provide timely notice to the legislature of any legislation that may be required to accomplish compliance.

**Sec. 4.** RCW 43.20A.730 and 1990 c 89 s 4 are each amended to read as follows:

(1) The department advisory committee on deafness shall establish a ~~((FDD))~~ TRS program advisory committee to oversee operation of the ~~((FDD))~~ TRS program. The ~~((FDD))~~ TRS program advisory committee shall consist of no more than thirteen individuals representing the hearing impaired and speech

impaired communities, the department, the utilities and transportation commission, agencies and services serving the hearing impaired and speech impaired, and local exchange companies in the state. The membership on the ~~((TDD))~~ TRS program advisory committee shall, to the maximum extent possible, include representatives from (a) the major state-wide organizations representing the hearing impaired and speech impaired, (b) organizations for the hearing impaired and speech impaired located in areas of the state with high populations of such persons, and (c) organizations that reflect the different geographic regions of the state. In order to develop, implement, and maintain a state-wide relay system providing cost-effective relay centers at a reasonable cost and that will meet the requirements of the hearing impaired and speech impaired, the ~~((TDD))~~ TRS program advisory committee shall investigate options, conduct public hearings as needed to ~~((determine))~~ develop recommendations on the most cost-effective method of operating a state-wide relay system providing relay centers to the hearing impaired and speech impaired, and solicit the advice, counsel, and assistance of interested parties and nonprofit consumer organizations for hearing impaired and speech impaired persons state-wide. The ~~((TDD))~~ TRS program advisory committee shall also, in conjunction with the department, monitor the activities and moneys that are being spent by the department for the program herein.

(2) The TRS program advisory committee shall provide reports at least four times per year to the administrators and operators of the TRS state-wide relay service. The committee shall report on the extent to which the relay system is meeting the needs of disabled citizens in the state, and shall include program elements that are successful, program elements in need of improvement, and any recommendations from the committee.

(3) The ~~((TDD))~~ TRS program advisory committee shall establish criteria and specify state-wide organizations representing the hearing or speech impaired meeting such criteria that are to receive telecommunications devices pursuant to RCW 43.20A.725(1), and in which offices the equipment shall be installed if an organization has more than one office.

NEW SECTION. Sec. 5. A new section is added to chapter 80.36 RCW to read as follows:

Each telecommunications company providing intrastate interexchange voice transmission service shall offer discounts from otherwise applicable long distance rates for service used in conjunction with the state-wide relay service authorized under RCW 43.20A.725. Such long distance discounts shall be determined in relation to the additional time required to translate calls through relay operators. In the case of intrastate long distance services provided pursuant to tariff, the commission shall require the incorporation of such discounts.

NEW SECTION. Sec. 6. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate March 8, 1992.

Passed the House March 5, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

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## CHAPTER 145

[Engrossed Substitute Senate Bill 6104]

### ASSAULT AGAINST A CHILD

Effective Date: 6/11/92

AN ACT Relating to creating the crimes of first, second, and third degree assault against a child; amending RCW 9.94A.320, 9.41.010, 9.94A.150, 9.94A.310, 9.94A.360, 9.94A.440, 9A.46.060, 9A.82.010, 13.34.130, 13.34.190, and 71.09.020; reenacting and amending RCW 9.94A.030, 9.94A.120, and 43.43.830; adding new sections to chapter 9A.36 RCW; and prescribing penalties.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 9A.36 RCW to read as follows:

(1) A person eighteen years of age or older is guilty of the crime of assault of a child in the first degree if the child is under the age of thirteen and the person:

(a) Commits the crime of assault in the first degree, as defined in RCW 9A.36.011, against the child; or

(b) Intentionally assaults the child and either:

(i) Recklessly inflicts great bodily harm; or

(ii) Causes substantial bodily harm, and the person has previously engaged in a pattern or practice either of (A) assaulting the child which has resulted in bodily harm that is greater than transient physical pain or minor temporary marks, or (B) causing the child physical pain or agony that is equivalent to that produced by torture.

(2) Assault of a child in the first degree is a class A felony.

**NEW SECTION.** Sec. 2. A new section is added to chapter 9A.36 RCW to read as follows:

(1) A person eighteen years of age or older is guilty of the crime of assault of a child in the second degree if the child is under the age of thirteen and the person:

(a) Commits the crime of assault in the second degree, as defined in RCW 9A.36.021, against a child; or

(b) Intentionally assaults the child and causes bodily harm that is greater than transient physical pain or minor temporary marks, and the person has previously engaged in a pattern or practice either of (i) assaulting the child which has resulted in bodily harm that is greater than transient pain or minor temporary marks, or (ii) causing the child physical pain or agony that is equivalent to that produced by torture.

(2) Assault of a child in the second degree is a class B felony.

**NEW SECTION. Sec. 3.** A new section is added to chapter 9A.36 RCW to read as follows:

(1) A person eighteen years of age or older is guilty of the crime of assault of a child in the third degree if the child is under the age of thirteen and the person commits the crime of assault in the third degree as defined in RCW 9A.36.031(1)(d) or (f) against the child.

(2) Assault of a child in the third degree is a class C felony.

**Sec. 4.** RCW 9.94A.320 and 1991 c 32 s 3 are each amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

XV	Aggravated Murder 1 (RCW 10.95.020)
XIV	Murder 1 (RCW 9A.32.030) Homicide by abuse (RCW 9A.32.055)
XIII	Murder 2 (RCW 9A.32.050)
XII	Assault 1 (RCW 9A.36.011) <u>Assault of a Child 1 (RCW 9A.36.--- (section 1 of this act))</u>
XI	Rape 1 (RCW 9A.44.040) Rape of a Child 1 (RCW 9A.44.073)
X	Kidnapping 1 (RCW 9A.40.020) Rape 2 (RCW 9A.44.050) Rape of a Child 2 (RCW 9A.44.076) Child Molestation 1 (RCW 9A.44.083) Damaging building, etc., by explosion with threat to human being (RCW 70.74.280(1)) Over 18 and deliver heroin or narcotic from Schedule I or II to someone under 18 (RCW 69.50.406) Leading Organized Crime (RCW 9A.82.060(1)(a))
IX	<u>Assault of a Child 2 (RCW 9A.36.--- (section 2 of this act))</u> Robbery 1 (RCW 9A.56.200) Manslaughter 1 (RCW 9A.32.060) Explosive devices prohibited (RCW 70.74.180) Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a)) Endangering life and property by explosives with threat to human being (RCW 70.74.270)

- Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406)
- Controlled Substance Homicide (RCW 69.50.415)
- Sexual Exploitation (RCW 9.68A.040)
- VIII Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
- Arson 1 (RCW 9A.48.020)
- Promoting Prostitution 1 (RCW 9A.88.070)
- Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410)
- Manufacture, deliver, or possess with intent to deliver heroin or cocaine (RCW 69.50.401(a)(1)(i))
- Manufacture, deliver, or possess with intent to deliver methamphetamine (RCW 69.50.401(a)(1)(ii))
- Vehicular Homicide, by being under the influence of intoxicating liquor or any drug or by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- VII Burglary 1 (RCW 9A.52.020)
- Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
- Introducing Contraband 1 (RCW 9A.76.140)
- Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))
- Child Molestation 2 (RCW 9A.44.086)
- Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)
- Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)
- Involving a minor in drug dealing (RCW 69.50.401(f))
- VI Bribery (RCW 9A.68.010)
- Manlaughter 2 (RCW 9A.32.070)
- Rape of a Child 3 (RCW 9A.44.079)
- Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
- Damaging building, etc., by explosion with no threat to human being (RCW 70.74.280(2))
- Endangering life and property by explosives with no threat to human being (RCW 70.74.270)

- Incest 1 (RCW 9A.64.020(1))
- Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II (except heroin or cocaine) (RCW 69.50.401(a)(1)(i))
- Intimidating a Judge (RCW 9A.72.160)
- Bail Jumping with Murder 1 (RCW 9A.76.170(2)(a))
- V Criminal Mistreatment 1 (RCW 9A.42.020)
- Rape 3 (RCW 9A.44.060)
- Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
- Child Molestation 3 (RCW 9A.44.089)
- Kidnapping 2 (RCW 9A.40.030)
- Extortion 1 (RCW 9A.56.120)
- Incest 2 (RCW 9A.64.020(2))
- Perjury 1 (RCW 9A.72.020)
- Extortionate Extension of Credit (RCW 9A.82.020)
- Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
- Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
- Rendering Criminal Assistance 1 (RCW 9A.76.070)
- Bail Jumping with class A Felony (RCW 9A.76.170(2)(b))
- Delivery of imitation controlled substance by person eighteen or over to person under eighteen (RCW 69.52.030(2))
- IV Residential Burglary (RCW 9A.52.025)
- Theft of Livestock 1 (RCW 9A.56.080)
- Robbery 2 (RCW 9A.56.210)
- Assault 2 (RCW 9A.36.021)
- Escape 1 (RCW 9A.76.110)
- Arson 2 (RCW 9A.48.030)
- Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
- Malicious Harassment (RCW 9A.36.080)
- Threats to Bomb (RCW 9.61.160)
- Willful Failure to Return from Furlough (RCW 72.66.060)
- Hit and Run — Injury Accident (RCW 46.52.020(4))
- Vehicular Assault (RCW 46.61.522)

- Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except marijuana or methamphetamines) (RCW 69.50.401(a)(1)(ii) through (iv))
- Influencing Outcome of Sporting Event (RCW 9A.82.070)
- Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
- Knowingly Trafficking in Stolen Property (RCW 9A.82.050(2))
- III Criminal mistreatment 2 (RCW 9A.42.030)
- Extortion 2 (RCW 9A.56.130)
- Unlawful Imprisonment (RCW 9A.40.040)
- Assault 3 (RCW 9A.36.031)
- Assault of a Child 3 (RCW 9A.36.--- (section 3 of this act))
- Custodial Assault (RCW 9A.36.100)
- Unlawful possession of firearm or pistol by felon (RCW 9A.41.040)
- Harassment (RCW 9A.46.020)
- Promoting Prostitution 2 (RCW 9A.88.080)
- Willful Failure to Return from Work Release (RCW 72.65.070)
- Burglary 2 (RCW 9A.52.030)
- Introducing Contraband 2 (RCW 9A.76.150)
- Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
- Patronizing a Juvenile Prostitute (RCW 9.68A.100)
- Escape 2 (RCW 9A.76.120)
- Perjury 2 (RCW 9A.72.030)
- Bail Jumping with class B or C Felony (RCW 9A.76.170(2)(c))
- Intimidating a Public Servant (RCW 9A.76.180)
- Tampering with a Witness (RCW 9A.72.120)
- Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(a)(1)(ii))
- Delivery of a material in lieu of a controlled substance (RCW 69.50.401(c))
- Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW 69.52.030(1))
- Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))

- Theft of livestock 2 (RCW 9A.56.080)
- Securities Act violation (RCW 21.20.400)
- II Malicious Mischief 1 (RCW 9A.48.070)
- Possession of Stolen Property 1 (RCW 9A.56.150)
- Theft 1 (RCW 9A.56.030)
- Possession of controlled substance that is either heroin or narcotics from Schedule I or II (RCW 69.50.401(d))
- Possession of phencyclidine (PCP) (RCW 69.50.401(d))
- Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))
- Computer Trespass 1 (RCW 9A.52.110)
- Reckless Endangerment 1 (RCW 9A.36.045)
- I Theft 2 (RCW 9A.56.040)
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Forgery (RCW 9A.60.020)
- Taking Motor Vehicle Without Permission (RCW 9A.56.070)
- Vehicle Prowl 1 (RCW 9A.52.095)
- Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
- Malicious Mischief 2 (RCW 9A.48.080)
- Reckless Burning 1 (RCW 9A.48.040)
- Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
- Unlawful Use of Food Stamps (RCW 9.91.140 (2) and (3))
- False Verification for Welfare (RCW 74.08.055)
- Forged Prescription (RCW 69.41.020)
- Forged Prescription for a Controlled Substance (RCW 69.50.403)
- Possess Controlled Substance that is a Narcotic from Schedule III, IV, or V or Non-narcotic from Schedule I-V (except phencyclidine) (RCW 69.50.401(d))

**Sec. 5.** RCW 9.41.010 and 1983 c 232 s 1 are each amended to read as follows:

(1) "Short firearm" or "pistol" as used in this chapter means any firearm with a barrel less than twelve inches in length.

(2) "Crime of violence" as used in this chapter means:

(a) Any of the following felonies, as now existing or hereafter amended: Any felony defined under any law as a class A felony or an attempt to commit a class A felony, criminal solicitation of or criminal conspiracy to commit a class

A felony, manslaughter in the first degree, manslaughter in the second degree, indecent liberties if committed by forcible compulsion, rape in the second degree, kidnapping in the second degree, arson in the second degree, assault in the second degree, assault of a child in the second degree, extortion in the first degree, burglary in the second degree, and robbery in the second degree;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, which is comparable to a felony classified as a crime of violence in subsection (2)(a) of this section; and

(c) Any federal or out-of-state conviction for an offense comparable to a felony classified as a crime of violence under subsection (2) (a) or (b) of this section.

(3) "Firearm" as used in this chapter means a weapon or device from which a projectile may be fired by an explosive such as gunpowder.

(4) "Commercial seller" as used in this chapter means a person who has a federal firearms license.

**Sec. 6.** RCW 9.94A.030 and 1991 c 348 s 4, 1991 c 290 s 3, and 1991 c 181 s 1 are each reenacted and amended to read as follows:

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

(1) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department of corrections, means that the department is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(2) "Commission" means the sentencing guidelines commission.

(3) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(4) "Community custody" means that portion of an inmate's sentence of confinement in lieu of earned early release time served in the community subject to controls placed on the inmate's movement and activities by the department of corrections.

(5) "Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned early release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

(6) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(7) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed by a court pursuant to this chapter or RCW 46.61.524. For first-time offenders, the supervision may include crime-related prohibitions and other conditions imposed pursuant to RCW 9.94A.120(5). For purposes of the interstate compact for out-of-state supervision of parolees and probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.

(8) "Confinement" means total or partial confinement as defined in this section.

(9) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Court-ordered legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction.

(11) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct.

(12)(a) "Criminal history" means the list of a defendant's prior convictions, whether in this state, in federal court, or elsewhere. The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) "Criminal history" shall always include juvenile convictions for sex offenses and shall also include a defendant's other prior convictions in juvenile court if: (i) The conviction was for an offense which is a felony or a serious traffic offense and is criminal history as defined in RCW 13.40.020(6)(a); (ii) the defendant was fifteen years of age or older at the time the offense was committed; and (iii) with respect to prior juvenile class B and C felonies or serious traffic offenses, the defendant was less than twenty-three years of age at the time the offense for which he or she is being sentenced was committed.

(13) "Department" means the department of corrections.

(14) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the number of actual hours or days of community service work, or dollars or terms of a legal financial obligation. The

fact that an offender through "earned early release" can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(15) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(16) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.401(d)) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(17) "Escape" means:

(a) Escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to comply with any limitations on the inmate's movements while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(18) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-and-run injury-accident (RCW 46.52.020(4)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(19) "Fines" means the requirement that the offender pay a specific sum of money over a specific period of time to the court.

(20)(a) "First-time offender" means any person who is convicted of a felony (i) not classified as a violent offense or a sex offense under this chapter, or (ii) that is not the manufacture, delivery, or possession with intent to manufacture or

deliver a controlled substance classified in schedule I or II that is a narcotic drug or the selling for profit [of] any controlled substance or counterfeit substance classified in schedule I, RCW 69.50.204, except leaves and flowering tops of marihuana, and except as provided in (b) of this subsection, who previously has never been convicted of a felony in this state, federal court, or another state, and who has never participated in a program of deferred prosecution for a felony offense.

(b) For purposes of (a) of this subsection, a juvenile adjudication for an offense committed before the age of fifteen years is not a previous felony conviction except for adjudications of sex offenses.

(21) "Nonviolent offense" means an offense which is not a violent offense.

(22) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(23) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention as defined in this section.

(24) "Postrelease supervision" is that portion of an offender's community placement that is not community custody.

(25) "Restitution" means the requirement that the offender pay a specific sum of money over a specific period of time to the court as payment of damages. The sum may include both public and private costs. The imposition of a restitution order does not preclude civil redress.

(26) "Serious traffic offense" means:

(a) Driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(27) "Serious violent offense" is a subcategory of violent offense and means:

(a) Murder in the first degree, homicide by abuse, murder in the second degree, assault in the first degree, kidnapping in the first degree, or rape in the first degree, assault of a child in the first degree, or an attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(28) "Sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(29) "Sex offense" means:

(a) A felony that is a violation of chapter 9A.44 RCW or RCW 9A.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;

(b) A felony with a finding of sexual motivation under RCW 9.94A.127; or

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(30) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(31) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(32) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(33) "Violent offense" means:

(a) Any of the following felonies, as now existing or hereafter amended: Any felony defined under any law as a class A felony or an attempt to commit a class A felony, criminal solicitation of or criminal conspiracy to commit a class A felony, manslaughter in the first degree, manslaughter in the second degree, indecent liberties if committed by forcible compulsion, kidnapping in the second degree, arson in the second degree, assault in the second degree, assault of a child in the second degree, extortion in the first degree, robbery in the second degree, vehicular assault, and vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

(34) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community of not less than thirty-

five hours per week that complies with RCW 9.94A.135. The civic improvement tasks shall be performed on public property or on private property owned or operated by nonprofit entities, except that, for emergency purposes only, work crews may perform snow removal on any private property. The civic improvement tasks shall have minimal negative impact on existing private industries or the labor force in the county where the service or labor is performed. The civic improvement tasks shall not affect employment opportunities for people with developmental disabilities contracted through sheltered workshops as defined in RCW 82.04.385. Only those offenders sentenced to a facility operated or utilized under contract by a county are eligible to participate on a work crew. Offenders sentenced for a sex offense as defined in subsection (29) of this section are not eligible for the work crew program.

(35) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school. Participation in work release shall be conditioned upon the offender attending work or school at regularly defined hours and abiding by the rules of the work release facility.

(36) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance. Home detention may not be imposed for offenders convicted of a violent offense, any sex offense, any drug offense, reckless burning in the first or second degree as defined in RCW 9A.48.040 or 9A.48.050, assault in the third degree as defined in RCW 9A.36.031, assault of a child in the third degree, unlawful imprisonment as defined in RCW 9A.40.040, or harassment as defined in RCW 9A.46.020. Home detention may be imposed for offenders convicted of possession of a controlled substance (RCW 69.50.401(d)) or forged prescription for a controlled substance (RCW 69.50.403) if the offender fulfills the participation conditions set forth in this subsection and is monitored for drug use by treatment alternatives to street crime (TASC) or a comparable court or agency-referred program.

(a) Home detention may be imposed for offenders convicted of burglary in the second degree as defined in RCW 9A.52.030 or residential burglary conditioned upon the offender: (i) Successfully completing twenty-one days in a work release program, (ii) having no convictions for burglary in the second degree or residential burglary during the preceding two years and not more than two prior convictions for burglary or residential burglary, (iii) having no convictions for a violent felony offense during the preceding two years and not more than two prior convictions for a violent felony offense, (iv) having no prior charges of escape, and (v) fulfilling the other conditions of the home detention program.

(b) Participation in a home detention program shall be conditioned upon: (i) The offender obtaining or maintaining current employment or attending a regular course of school study at regularly defined hours, or the offender

performing parental duties to offspring or minors normally in the custody of the offender, (ii) abiding by the rules of the home detention program, and (iii) compliance with court-ordered legal financial obligations. The home detention program may also be made available to offenders whose charges and convictions do not otherwise disqualify them if medical or health-related conditions, concerns or treatment would be better addressed under the home detention program, or where the health and welfare of the offender, other inmates, or staff would be jeopardized by the offender's incarceration. Participation in the home detention program for medical or health-related reasons is conditioned on the offender abiding by the rules of the home detention program and complying with court-ordered restitution.

Sec. 7. RCW 9.94A.120 and 1991 c 221 s 2, 1991 c 181 s 3, and 1991 c 104 s 3 are each reenacted and amended to read as follows:

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

(1) Except as authorized in subsections (2), (5), and (7) of this section, the court shall impose a sentence within the sentence range for the offense.

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

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

(4) An offender convicted of the crime of murder in the first degree shall be sentenced to a term of total confinement not less than twenty years. An offender convicted of the crime of assault in the first degree or assault of a child in the first degree where the offender used force or means likely to result in death or intended to kill the victim shall be sentenced to a term of total confinement not less than five years. An offender convicted of the crime of rape in the first degree shall be sentenced to a term of total confinement not less than five years, and shall not be eligible for furlough, work release or other authorized leave of absence from the correctional facility during such minimum five-year term except for the purpose of commitment to an inpatient treatment facility. The foregoing minimum terms of total confinement are mandatory and shall not be varied or modified as provided in subsection (2) of this section.

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

- (a) Devote time to a specific employment or occupation;
- (b) Undergo available outpatient treatment for up to two years, or inpatient treatment not to exceed the standard range of confinement for that offense;
- (c) Pursue a prescribed, secular course of study or vocational training;
- (d) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;
- (e) Report as directed to the court and a community corrections officer; or
- (f) Pay all court-ordered legal financial obligations as provided in RCW 9.94A.030 and/or perform community service work.

(6) If a sentence range has not been established for the defendant's crime, the court shall impose a determinate sentence which may include not more than one year of confinement, community service work, a term of community supervision not to exceed one year, and/or other legal financial obligations. The court may impose a sentence which provides more than one year of confinement if the court finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.

(7)(a)(i) When an offender is convicted of a sex offense other than a violation of RCW 9A.44.050 or a sex offense that is also a serious violent offense and has no prior convictions for a sex offense or any other felony sex offenses in this or any other state, the sentencing court, on its own motion or the motion of the state or the defendant, may order an examination to determine whether the defendant is amenable to treatment.

The report of the examination shall include at a minimum the following: The defendant's version of the facts and the official version of the facts, the defendant's offense history, an assessment of problems in addition to alleged deviant behaviors, the offender's social and employment situation, and other evaluation measures used. The report shall set forth the sources of the evaluator's information.

The examiner shall assess and report regarding the defendant's amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

- (A) Frequency and type of contact between offender and therapist;
- (B) Specific issues to be addressed in the treatment and description of planned treatment modalities;
- (C) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others;
- (D) Anticipated length of treatment; and
- (E) Recommended crime-related prohibitions.

The court on its own motion may order, or on a motion by the state shall order, a second examination regarding the offender's amenability to treatment. The evaluator shall be selected by the party making the motion. The defendant

shall pay the cost of any second examination ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost.

(ii) After receipt of the reports, the court shall consider whether the offender and the community will benefit from use of this special sexual offender sentencing alternative and consider the victim's opinion whether the offender should receive a treatment disposition under this subsection. If the court determines that this special sex offender sentencing alternative is appropriate, the court shall then impose a sentence within the sentence range. If this sentence is less than eight years of confinement, the court may suspend the execution of the sentence and impose the following conditions of suspension:

(A) The court shall place the defendant on community supervision for the length of the suspended sentence or three years, whichever is greater; and

(B) The court shall order treatment for any period up to three years in duration. The court in its discretion shall order outpatient sex offender treatment or inpatient sex offender treatment, if available. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment. The offender shall not change sex offender treatment providers or treatment conditions without first notifying the prosecutor, the community corrections officer, and the court, and shall not change providers without court approval after a hearing if the prosecutor or community corrections officer object to the change. In addition, as conditions of the suspended sentence, the court may impose other sentence conditions including up to six months of confinement, not to exceed the sentence range of confinement for that offense, crime-related prohibitions, and requirements that the offender perform any one or more of the following:

(I) Devote time to a specific employment or occupation;

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

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

(IV) Pay all court-ordered legal financial obligations as provided in RCW 9.94A.030, perform community service work, or any combination thereof; or

(V) Make recoupment to the victim for the cost of any counseling required as a result of the offender's crime.

(iii) The sex offender therapist shall submit quarterly reports on the defendant's progress in treatment to the court and the parties. The report shall reference the treatment plan and include at a minimum the following: Dates of attendance, defendant's compliance with requirements, treatment activities, the defendant's relative progress in treatment, and any other material as specified by the court at sentencing.

(iv) At the time of sentencing, the court shall set a treatment termination hearing for three months prior to the anticipated date for completion of treatment. Prior to the treatment termination hearing, the treatment professional and

community corrections officer shall submit written reports to the court and parties regarding the defendant's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment, including proposed community supervision conditions. Either party may request and the court may order another evaluation regarding the advisability of termination from treatment. The defendant shall pay the cost of any additional evaluation ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost. At the treatment termination hearing the court may: (A) Modify conditions of community supervision, and either (B) terminate treatment, or (C) extend treatment for up to the remaining period of community supervision.

(v) The court may revoke the suspended sentence at any time during the period of community supervision and order execution of the sentence if: (A) The defendant violates the conditions of the suspended sentence, or (B) the court finds that the defendant is failing to make satisfactory progress in treatment. All confinement time served during the period of community supervision shall be credited to the offender if the suspended sentence is revoked.

(vi) After July 1, 1991, examinations and treatment ordered pursuant to this subsection shall only be conducted by sex offender treatment providers certified by the department of health pursuant to chapter 18.155 RCW.

For purposes of this subsection, "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a result of the crime charged. "Victim" also means a parent or guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense.

(b) When an offender is convicted of any felony sex offense committed before July 1, 1987, and is sentenced to a term of confinement of more than one year but less than six years, the sentencing court may, on its own motion or on the motion of the offender or the state, order the offender committed for up to thirty days to the custody of the secretary of social and health services for evaluation and report to the court on the offender's amenability to treatment at these facilities. If the secretary of social and health services cannot begin the evaluation within thirty days of the court's order of commitment, the offender shall be transferred to the state for confinement pending an opportunity to be evaluated at the appropriate facility. The court shall review the reports and may order that the term of confinement imposed be served in the sexual offender treatment program at the location determined by the secretary of social and health services or the secretary's designee, only if the report indicates that the offender is amenable to the treatment program provided at these facilities. The offender shall be transferred to the state pending placement in the treatment program. Any offender who has escaped from the treatment program shall be referred back to the sentencing court.

If the offender does not comply with the conditions of the treatment program, the secretary of social and health services may refer the matter to the sentencing court. The sentencing court shall commit the offender to the department of corrections to serve the balance of the term of confinement.

If the offender successfully completes the treatment program before the expiration of the term of confinement, the court may convert the balance of confinement to community supervision and may place conditions on the offender including crime-related prohibitions and requirements that the offender perform any one or more of the following:

(i) Devote time to a specific employment or occupation;

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

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

(iv) Undergo available outpatient treatment.

If the offender violates any of the terms of community supervision, the court may order the offender to serve out the balance of the community supervision term in confinement in the custody of the department of corrections.

After June 30, 1993, this subsection (b) shall cease to have effect.

(c) When an offender commits any felony sex offense on or after July 1, 1987, and is sentenced to a term of confinement of more than one year but less than six years, the sentencing court may, on its own motion or on the motion of the offender or the state, request the department of corrections to evaluate whether the offender is amenable to treatment and the department may place the offender in a treatment program within a correctional facility operated by the department.

Except for an offender who has been convicted of a violation of RCW 9A.44.040 or 9A.44.050, if the offender completes the treatment program before the expiration of his term of confinement, the department of corrections may request the court to convert the balance of confinement to community supervision and to place conditions on the offender including crime-related prohibitions and requirements that the offender perform any one or more of the following:

(i) Devote time to a specific employment or occupation;

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

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

(iv) Undergo available outpatient treatment.

If the offender violates any of the terms of his community supervision, the court may order the offender to serve out the balance of his community supervision term in confinement in the custody of the department of corrections.

Nothing in (c) of this subsection shall confer eligibility for such programs for offenders convicted and sentenced for a sex offense committed prior to July

1, 1987. This subsection (c) does not apply to any crime committed after July 1, 1990.

(d) Offenders convicted and sentenced for a sex offense committed prior to July 1, 1987, may, subject to available funds, request an evaluation by the department of corrections to determine whether they are amenable to treatment. If the offender is determined to be amenable to treatment, the offender may request placement in a treatment program within a correctional facility operated by the department. Placement in such treatment program is subject to available funds.

(8)(a) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense or a serious violent offense committed after July 1, 1988, but before July 1, 1990, assault in the second degree, assault of a child in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 1988, the court shall in addition to the other terms of the sentence, sentence the offender to a one-year term of community placement beginning either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2). When the court sentences an offender under this subsection to the statutory maximum period of confinement then the community placement portion of the sentence shall consist entirely of such community custody to which the offender may become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any period of community custody actually served shall be credited against the community placement portion of the sentence.

(b) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense or serious violent offense committed on or after July 1, 1990, the court shall in addition to other terms of the sentence, sentence the offender to community placement for two years or up to the period of earned early release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The community placement shall begin either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2). When the court sentences an offender under this subsection to the statutory maximum period of confinement then the community placement portion of the sentence shall consist entirely of the community custody to which the offender may become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any period of community custody actually served shall be credited against the community placement portion of the sentence. Unless a condition is waived by

the court; the terms of community placement for offenders sentenced pursuant to this section shall include the following conditions:

(i) The offender shall report to and be available for contact with the assigned community corrections officer as directed;

(ii) The offender shall work at department of corrections-approved education, employment, and/or community service;

(iii) The offender shall not consume controlled substances except pursuant to lawfully issued prescriptions;

(iv) An offender in community custody shall not unlawfully possess controlled substances; and

(v) The offender shall pay supervision fees as determined by the department of corrections.

(c) The court may also order any of the following special conditions:

(i) The offender shall remain within, or outside of, a specified geographical boundary;

(ii) The offender shall not have direct or indirect contact with the victim of the crime or a specified class of individuals;

(iii) The offender shall participate in crime-related treatment or counseling services;

(iv) The offender shall not consume alcohol;

(v) The residence location and living arrangements of a sex offender shall be subject to the prior approval of the department of corrections; or

(vi) The offender shall comply with any crime-related prohibitions.

(d) Prior to transfer to, or during, community placement, any conditions of community placement may be removed or modified so as not to be more restrictive by the sentencing court, upon recommendation of the department of corrections.

(9) If the court imposes a sentence requiring confinement of thirty days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than thirty days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.

(10) If a sentence imposed includes payment of a legal financial obligation, the sentence shall specify the total amount of the legal financial obligation owed, and shall require the offender to pay a specified monthly sum toward that legal financial obligation. Restitution to victims shall be paid prior to any other payments of monetary obligations. Any legal financial obligation that is imposed by the court may be collected by the department, which shall deliver the amount paid to the county clerk for credit. The offender's compliance with payment of legal financial obligations shall be supervised by the department. All monetary payments ordered shall be paid no later than ten years after the last date of release from confinement pursuant to a felony conviction or the date the sentence was entered. Independent of the department, the party or entity to whom the

legal financial obligation is owed shall have the authority to utilize any other remedies available to the party or entity to collect the legal financial obligation. Nothing in this section makes the department, the state, or any of its employees, agents, or other persons acting on their behalf liable under any circumstances for the payment of these legal financial obligations. If an order includes restitution as one of the monetary assessments, the county clerk shall make disbursements to victims named in the order.

(11) Except as provided under RCW 9.94A.140(1) and 9.94A.142(1), a court may not impose a sentence providing for a term of confinement or community supervision or community placement which exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

(12) All offenders sentenced to terms involving community supervision, community service, community placement, or legal financial obligation shall be under the supervision of the secretary of the department of corrections or such person as the secretary may designate and shall follow explicitly the instructions of the secretary including reporting as directed to a community corrections officer, remaining within prescribed geographical boundaries, notifying the community corrections officer of any change in the offender's address or employment, and paying the supervision fee assessment.

(13) All offenders sentenced to terms involving community supervision, community service, or community placement under the supervision of the department of corrections shall not own, use, or possess firearms or ammunition. Offenders who own, use, or are found to be in actual or constructive possession of firearms or ammunition shall be subject to the appropriate violation process and sanctions. "Constructive possession" as used in this subsection means the power and intent to control the firearm or ammunition. "Firearm" as used in this subsection means a weapon or device from which a projectile may be fired by an explosive such as gunpowder.

(14) The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.

(15) A departure from the standards in RCW 9.94A.400 (1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in subsections (2) and (3) of this section, and may be appealed by the defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

(16) The court shall order restitution whenever the offender is convicted of a felony that results in injury to any person or damage to or loss of property, whether the offender is sentenced to confinement or placed under community supervision, unless extraordinary circumstances exist that make restitution inappropriate in the court's judgment. The court shall set forth the extraordinary circumstances in the record if it does not order restitution.

(17) As a part of any sentence, the court may impose and enforce an order that relates directly to the circumstances of the crime for which the offender has been convicted, prohibiting the offender from having any contact with other specified individuals or a specific class of individuals for a period not to exceed the maximum allowable sentence for the crime, regardless of the expiration of the offender's term of community supervision or community placement.

(18) In any sentence of partial confinement, the court may require the defendant to serve the partial confinement in work release, in a program of home detention, on work crew, or in a combined program of work crew and home detention.

(19) All court-ordered legal financial obligations collected by the department and remitted to the county clerk shall be credited and paid where restitution is ordered. Restitution shall be paid prior to any other payments of monetary obligations.

**Sec. 8.** RCW 9.94A.150 and 1990 c 3 s 202 are each amended to read as follows:

No person serving a sentence imposed pursuant to this chapter and committed to the custody of the department shall leave the confines of the correctional facility or be released prior to the expiration of the sentence except as follows:

(1) Except as otherwise provided for in subsection (2) of this section, the term of the sentence of an offender committed to a correctional facility operated by the department, may be reduced by earned early release time in accordance with procedures that shall be developed and promulgated by the correctional agency having jurisdiction in which the offender is confined. The earned early release time shall be for good behavior and good performance, as determined by the correctional agency having jurisdiction. The correctional agency shall not credit the offender with earned early release credits in advance of the offender actually earning the credits. Any program established pursuant to this section shall allow an offender to earn early release credits for presentence incarceration. If an offender is transferred from a county jail to the department of corrections, the county jail facility shall certify to the department the amount of time spent in custody at the facility and the amount of earned early release time. In the case of an offender convicted of a serious violent offense or a sex offense that is a class A felony committed on or after July 1, 1990, the aggregate earned early release time may not exceed fifteen percent of the sentence. In no other case shall the aggregate earned early release time exceed one-third of the total sentence;

(2) A person convicted of a sex offense or an offense categorized as a serious violent offense, assault in the second degree, assault of a child in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter

69.50 or 69.52 RCW may become eligible, in accordance with a program developed by the department, for transfer to community custody status in lieu of earned early release time pursuant to subsection (1) of this section;

(3) An offender may leave a correctional facility pursuant to an authorized furlough or leave of absence. In addition, offenders may leave a correctional facility when in the custody of a corrections officer or officers;

(4) The governor, upon recommendation from the clemency and pardons board, may grant an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances;

(5) No more than the final six months of the sentence may be served in partial confinement designed to aid the offender in finding work and reestablishing him or herself in the community;

(6) The governor may pardon any offender;

(7) The department of corrections may release an offender from confinement any time within ten days before a release date calculated under this section; and

(8) An offender may leave a correctional facility prior to completion of his sentence if the sentence has been reduced as provided in RCW 9.94A.160.

Sec. 9. RCW 9.94A.310 and 1991 c 32 s 2 are each amended to read as follows:

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

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

X	5y	5y6m	6y	6y6m	7y	7y6m	8y6m	10y6m	12y6m	14y6m
	51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
	68	75	82	89	96	102	130	144	171	198
IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
	31-	36-	41-	46-	51-	57-	77-	87-	108 -	129-
	41	48	54	61	68	75	102	116	144	171
VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
	21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
	27	34	41	48	54	61	89	102	116	144
VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
	15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
	20	27	34	41	48	54	75	89	102	116
VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
	12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
	14	20	27	34	41	48	61	75	89	102
V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
	6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
	12	14	17	20	29	43	54	68	82	96
IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
	3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
	9	12	14	17	20	29	43	57	70	84
III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
	1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
	3	8	12	12	16	22	29	43	57	68
II	4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m	
	0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
	Days	6	9	12	14	18	22	29	43	57
I	3m	4m	5m	8m	13m	16m	20m	2y2m		
	0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
	Days	Days	5	6	8	12	14	18	22	29

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

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

(3) The following additional times shall be added to the presumptive sentence if the offender or an accomplice was armed with a deadly weapon as

defined in this chapter and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice was armed with a deadly weapon and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection, the following times shall be added to the presumptive range determined under subsection (2) of this section:

(a) 24 months for Rape 1 (RCW 9A.44.040), Robbery 1 (RCW 9A.56.200), or Kidnapping 1 (RCW 9A.40.020)

(b) 18 months for Burglary 1 (RCW 9A.52.020)

(c) 12 months for Assault 2 (RCW 9A.36.020 or 9A.36.021), Assault of a Child 2 (RCW 9A.36.--- (section 2 of this act)), Escape 1 (RCW 9A.76.110), Kidnapping 2 (RCW 9A.40.030), Burglary 2 of a building other than a dwelling (RCW 9A.52.030), Theft of Livestock 1 or 2 (RCW 9A.56.080), or any drug offense.

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

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

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

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

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

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

**Sec. 10.** RCW 9.94A.360 and 1990 c 3 s 706 are each amended to read as follows:

The offender score is measured on the horizontal axis of the sentencing grid. The offender score rules are as follows:

The offender score is the sum of points accrued under this section rounded down to the nearest whole number.

(1) A prior conviction is a conviction which exists before the date of sentencing for the offense for which the offender score is being computed. Convictions entered or sentenced on the same date as the conviction for which

the offender score is being computed shall be deemed "other current offenses" within the meaning of RCW 9.94A.400.

(2) Except as provided in subsection (4) of this section, class A and sex prior felony convictions shall always be included in the offender score. Class B prior felony convictions other than sex offenses shall not be included in the offender score, if since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent ten consecutive years in the community without being convicted of any felonies. Class C prior felony convictions other than sex offenses shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent five consecutive years in the community without being convicted of any felonies. Serious traffic convictions shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender spent five years in the community without being convicted of any serious traffic or felony traffic offenses. This subsection applies to both adult and juvenile prior convictions.

(3) Out-of-state convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law.

(4) Always include juvenile convictions for sex offenses. Include other class A juvenile felonies only if the offender was 15 or older at the time the juvenile offense was committed. Include other class B and C juvenile felony convictions only if the offender was 15 or older at the time the juvenile offense was committed and the offender was less than 23 at the time the offense for which he or she is being sentenced was committed.

(5) Score prior convictions for felony anticipatory offenses (attempts, criminal solicitations, and criminal conspiracies) the same as if they were convictions for completed offenses.

(6) In the case of multiple prior convictions, for the purpose of computing the offender score, count all convictions separately, except:

(a) Prior adult offenses which were found, under RCW 9.94A.400(1)(a), to encompass the same criminal conduct, shall be counted as one offense, the offense that yields the highest offender score. The current sentencing court shall determine with respect to other prior adult offenses for which sentences were served concurrently whether those offenses shall be counted as one offense or as separate offenses, and if the court finds that they shall be counted as one offense, then the offense that yields the highest offender score shall be used;

(b) Juvenile prior convictions entered or sentenced on the same date shall count as one offense, the offense that yields the highest offender score, except for juvenile prior convictions for violent offenses with separate victims, which shall count as separate offenses; and

(c) In the case of multiple prior convictions for offenses committed before July 1, 1986, for the purpose of computing the offender score, count all adult convictions served concurrently as one offense, and count all juvenile convictions entered on the same date as one offense. Use the conviction for the offense that yields the highest offender score.

(7) If the present conviction is one of the anticipatory offenses of criminal attempt, solicitation, or conspiracy, count each prior conviction as if the present conviction were for a completed offense.

(8) If the present conviction is for a nonviolent offense and not covered by subsection (12) or (13) of this section, count one point for each adult prior felony conviction and one point for each juvenile prior violent felony conviction and 1/2 point for each juvenile prior nonviolent felony conviction.

(9) If the present conviction is for a violent offense and not covered in subsection (10), (11), (12), or (13) of this section, count two points for each prior adult and juvenile violent felony conviction, one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(10) If the present conviction is for Murder 1 or 2, Assault 1, Assault of a Child 1, Kidnaping 1, Homicide by Abuse, or Rape 1, count three points for prior adult and juvenile convictions for crimes in these categories, two points for each prior adult and juvenile violent conviction (not already counted), one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(11) If the present conviction is for Burglary 1, count prior convictions as in subsection (9) of this section; however count two points for each prior adult Burglary 2 or residential burglary conviction, and one point for each prior juvenile Burglary 2 or residential burglary conviction.

(12) If the present conviction is for a felony traffic offense count two points for each adult or juvenile prior conviction for Vehicular Homicide or Vehicular Assault; for each felony offense or serious traffic offense, count one point for each adult and 1/2 point for each juvenile prior conviction.

(13) If the present conviction is for a drug offense count three points for each adult prior felony drug offense conviction and two points for each juvenile drug offense. All other adult and juvenile felonies are scored as in subsection (9) of this section if the current drug offense is violent, or as in subsection (8) of this section if the current drug offense is nonviolent.

(14) If the present conviction is for Willful Failure to Return from Furlough, RCW 72.66.060, or Willful Failure to Return from Work Release, RCW 72.65.070, count only prior escape convictions in the offender score. Count adult prior escape convictions as one point and juvenile prior escape convictions as 1/2 point.

(15) If the present conviction is for Escape 1, RCW 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as one point and juvenile prior convictions as 1/2 point.

(16) If the present conviction is for Burglary 2 or residential burglary, count priors as in subsection (8) of this section; however, count two points for each adult and juvenile prior Burglary 1 conviction, two points for each adult prior Burglary 2 or residential burglary conviction, and one point for each juvenile prior Burglary 2 or residential burglary conviction.

(17) If the present conviction is for a sex offense, count priors as in subsections (8) through (16) of this section; however count three points for each adult and juvenile prior sex offense conviction.

(18) If the present conviction is for an offense committed while the offender was under community placement, add one point.

**Sec. 11.** RCW 9.94A.440 and 1989 c 332 s 2 are each amended to read as follows:

(1) Decision not to prosecute.

**STANDARD:** A prosecuting attorney may decline to prosecute, even though technically sufficient evidence to prosecute exists, in situations where prosecution would serve no public purpose, would defeat the underlying purpose of the law in question or would result in decreased respect for the law.

**GUIDELINE/COMMENTARY:**

**Examples**

The following are examples of reasons not to prosecute which could satisfy the standard.

(a) **Contrary to Legislative Intent** - It may be proper to decline to charge where the application of criminal sanctions would be clearly contrary to the intent of the legislature in enacting the particular statute.

(b) **Antiquated Statute** - It may be proper to decline to charge where the statute in question is antiquated in that:

- (i) It has not been enforced for many years; and
- (ii) Most members of society act as if it were no longer in existence; and
- (iii) It serves no deterrent or protective purpose in today's society; and
- (iv) The statute has not been recently reconsidered by the legislature.

This reason is not to be construed as the basis for declining cases because the law in question is unpopular or because it is difficult to enforce.

(c) **De Minimus Violation** - It may be proper to decline to charge where the violation of law is only technical or insubstantial and where no public interest or deterrent purpose would be served by prosecution.

(d) **Confinement on Other Charges** - It may be proper to decline to charge because the accused has been sentenced on another charge to a lengthy period of confinement; and

(i) Conviction of the new offense would not merit any additional direct or collateral punishment;

(ii) The new offense is either a misdemeanor or a felony which is not particularly aggravated; and

(iii) Conviction of the new offense would not serve any significant deterrent purpose.

(e) Pending Conviction on Another Charge - It may be proper to decline to charge because the accused is facing a pending prosecution in the same or another county; and

(i) Conviction of the new offense would not merit any additional direct or collateral punishment;

(ii) Conviction in the pending prosecution is imminent;

(iii) The new offense is either a misdemeanor or a felony which is not particularly aggravated; and

(iv) Conviction of the new offense would not serve any significant deterrent purpose.

(f) High Disproportionate Cost of Prosecution - It may be proper to decline to charge where the cost of locating or transporting, or the burden on, prosecution witnesses is highly disproportionate to the importance of prosecuting the offense in question. This reason should be limited to minor cases and should not be relied upon in serious cases.

(g) Improper Motives of Complainant - It may be proper to decline charges because the motives of the complainant are improper and prosecution would serve no public purpose, would defeat the underlying purpose of the law in question or would result in decreased respect for the law.

(h) Immunity - It may be proper to decline to charge where immunity is to be given to an accused in order to prosecute another where the accused's information or testimony will reasonably lead to the conviction of others who are responsible for more serious criminal conduct or who represent a greater danger to the public interest.

(i) Victim Request - It may be proper to decline to charge because the victim requests that no criminal charges be filed and the case involves the following crimes or situations:

(i) Assault cases where the victim has suffered little or no injury;

(ii) Crimes against property, not involving violence, where no major loss was suffered;

(iii) Where doing so would not jeopardize the safety of society.

Care should be taken to insure that the victim's request is freely made and is not the product of threats or pressure by the accused.

The presence of these factors may also justify the decision to dismiss a prosecution which has been commenced.

#### Notification

The prosecutor is encouraged to notify the victim, when practical, and the law enforcement personnel, of the decision not to prosecute.

(2) Decision to prosecute.

**STANDARD:**

Crimes against persons will be filed if sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify conviction by a reasonable and objective fact-finder. With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050, 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and 9A.64.020 the prosecutor should avoid pre-filing agreements or diversions intended to place the accused in a program of treatment or counseling, so that treatment, if determined to be beneficial, can be provided pursuant to RCW 9A.120(7).

Crimes against property/other crimes will be filed if the admissible evidence is of such convincing force as to make it probable that a reasonable and objective fact-finder would convict after hearing all the admissible evidence and the most plausible defense that could be raised.

See table below for the crimes within these categories.

**CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS****CRIMES AGAINST PERSONS**

Aggravated Murder  
 1st Degree Murder  
 2nd Degree Murder  
 1st Degree Kidnaping  
 1st Degree Assault  
1st Degree Assault of a Child  
 1st Degree Rape  
 1st Degree Robbery  
 1st Degree Rape of a Child  
 1st Degree Arson  
 2nd Degree Kidnaping  
 2nd Degree Assault  
2nd Degree Assault of a Child  
 2nd Degree Rape  
 2nd Degree Robbery  
 1st Degree Burglary  
 1st Degree Manslaughter  
 2nd Degree Manslaughter  
 1st Degree Extortion  
 Indecent Liberties  
 Incest  
 2nd Degree Rape of a Child  
 Vehicular Homicide  
 Vehicular Assault  
 3rd Degree Rape  
 3rd Degree Rape of a Child

1st Degree Child Molestation  
2nd Degree Child Molestation  
3rd Degree Child Molestation  
2nd Degree Extortion  
1st Degree Promoting Prostitution  
Intimidating a Juror  
Communication with a Minor  
Intimidating a Witness  
Intimidating a Public Servant  
Bomb Threat (if against person)  
3rd Degree Assault  
3rd Degree Assault of a Child  
Unlawful Imprisonment  
Promoting a Suicide Attempt  
Riot (if against person)

**CRIMES AGAINST PROPERTY/OTHER CRIMES**

2nd Degree Arson  
1st Degree Escape  
2nd Degree Burglary  
1st Degree Theft  
1st Degree Perjury  
1st Degree Introducing Contraband  
1st Degree Possession of Stolen Property  
Bribery  
Bribing a Witness  
Bribe received by a Witness  
Bomb Threat (if against property)  
1st Degree Malicious Mischief  
2nd Degree Theft  
2nd Degree Escape  
2nd Degree Introducing Contraband  
2nd Degree Possession of Stolen Property  
2nd Degree Malicious Mischief  
1st Degree Reckless Burning  
Taking a Motor Vehicle without Authorization  
Forgery  
2nd Degree Perjury  
2nd Degree Promoting Prostitution  
Tampering with a Witness  
Trading in Public Office  
Trading in Special Influence  
Receiving/Granting Unlawful Compensation  
Bigamy

Eluding a Pursuing Police Vehicle  
 Willful Failure to Return from Furlough  
 Riot (if against property)  
 Thefts of Livestock

#### ALL OTHER UNCLASSIFIED FELONIES

##### Selection of Charges/Degree of Charge

(1) The prosecutor should file charges which adequately describe the nature of defendant's conduct. Other offenses may be charged only if they are necessary to ensure that the charges:

- (a) Will significantly enhance the strength of the state's case at trial; or
- (b) Will result in restitution to all victims.

(2) The prosecutor should not overcharge to obtain a guilty plea. Overcharging includes:

- (a) Charging a higher degree;
- (b) Charging additional counts.

This standard is intended to direct prosecutors to charge those crimes which demonstrate the nature and seriousness of a defendant's criminal conduct, but to decline to charge crimes which are not necessary to such an indication. Crimes which do not merge as a matter of law, but which arise from the same course of conduct, do not all have to be charged.

#### GUIDELINES/COMMENTARY:

##### Police Investigation

A prosecuting attorney is dependent upon law enforcement agencies to conduct the necessary factual investigation which must precede the decision to prosecute. The prosecuting attorney shall ensure that a thorough factual investigation has been conducted before a decision to prosecute is made. In ordinary circumstances the investigation should include the following:

- (1) The interviewing of all material witnesses, together with the obtaining of written statements whenever possible;
- (2) The completion of necessary laboratory tests; and
- (3) The obtaining, in accordance with constitutional requirements, of the suspect's version of the events.

If the initial investigation is incomplete, a prosecuting attorney should insist upon further investigation before a decision to prosecute is made, and specify what the investigation needs to include.

##### Exceptions

In certain situations, a prosecuting attorney may authorize filing of a criminal complaint before the investigation is complete if:

- (1) Probable cause exists to believe the suspect is guilty; and
- (2) The suspect presents a danger to the community or is likely to flee if not apprehended; or
- (3) The arrest of the suspect is necessary to complete the investigation of the crime.

In the event that the exception to the standard is applied, the prosecuting attorney shall obtain a commitment from the law enforcement agency involved to complete the investigation in a timely manner. If the subsequent investigation does not produce sufficient evidence to meet the normal charging standard, the complaint should be dismissed.

#### Investigation Techniques

The prosecutor should be fully advised of the investigatory techniques that were used in the case investigation including:

- (1) Polygraph testing;
- (2) Hypnosis;
- (3) Electronic surveillance;
- (4) Use of informants.

#### Pre-Filing Discussions with Defendant

Discussions with the defendant or his/her representative regarding the selection or disposition of charges may occur prior to the filing of charges, and potential agreements can be reached.

**Sec. 12.** RCW 9A.46.060 and 1988 c 145 s 15 are each amended to read as follows:

As used in this chapter, "harassment" may include but is not limited to any of the following crimes:

- (1) Harassment (RCW 9A.46.020);
- (2) Malicious harassment (RCW 9A.36.080);
- (3) Telephone harassment (RCW 9.61.230);
- (4) Assault in the first degree (RCW 9A.36.011);
- (5) Assault of a child in the first degree (RCW 9A.36.--- (section 1 of this act));
- ~~(6)~~ Assault in the second degree (RCW 9A.36.021);
- ~~((6)) Simple assault [Assault in the fourth degree]~~ (7) Assault of a child in the second degree (RCW 9A.36.--- (section 2 of this act));
- (8) Assault in the fourth degree (RCW 9A.36.041);
- ~~((7))~~ (9) Reckless endangerment ((in the second degree)) in the second degree (RCW 9A.36.050);
- ~~((8))~~ (10) Extortion in the first degree (RCW 9A.56.120);
- ~~((9))~~ (11) Extortion in the second degree (RCW 9A.56.130);
- ~~((10))~~ (12) Coercion (RCW 9A.36.070);
- ~~((11))~~ (13) Burglary in the first degree (RCW 9A.52.020);
- ~~((12))~~ (14) Burglary in the second degree (RCW 9A.52.030);
- ~~((13))~~ (15) Criminal trespass in the first degree (RCW 9A.52.070);
- ~~((14))~~ (16) Criminal trespass in the second degree (RCW 9A.52.080);
- ~~((15))~~ (17) Malicious mischief in the first degree (RCW 9A.48.070);
- ~~((16))~~ (18) Malicious mischief in the second degree (RCW 9A.48.080);
- ~~((17))~~ (19) Malicious mischief in the third degree (RCW 9A.48.090);
- ~~((18))~~ (20) Kidnapping in the first degree (RCW 9A.40.020);

- ~~((19))~~ (21) Kidnapping in the second degree (RCW 9A.40.030);  
~~((20))~~ (22) Unlawful imprisonment (RCW 9A.40.040);  
~~((21))~~ (23) Rape in the first degree (RCW 9A.44.040);  
~~((22))~~ (24) Rape in the second degree (RCW 9A.44.050);  
~~((23))~~ (25) Rape in the third degree (RCW 9A.44.060);  
~~((24))~~ (26) Indecent liberties (RCW 9A.44.100);  
~~((25))~~ (27) Rape of a child in the first degree (RCW 9A.44.073);  
~~((26))~~ (28) Rape of a child in the second degree (RCW 9A.44.076);  
~~((27))~~ (29) Rape of a child in the third degree (RCW 9A.44.079);  
~~((28))~~ (30) Child molestation in the first degree (RCW 9A.44.083);  
~~((29))~~ (31) Child molestation in the second degree (RCW 9A.44.086); and  
~~((30))~~ (32) Child molestation in the third degree (RCW 9A.44.089).

**Sec. 13.** RCW 9A.82.010 and 1989 c 20 s 17 are each amended to read as follows:

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

(1) "Creditor" means a person making an extension of credit or a person claiming by, under, or through a person making an extension of credit.

(2) "Debtor" means a person to whom an extension of credit is made or a person who guarantees the repayment of an extension of credit or in any manner undertakes to indemnify the creditor against loss resulting from the failure of a person to whom an extension is made to repay the same.

(3) "Extortionate extension of credit" means an extension of credit with respect to which it is the understanding of the creditor and the debtor at the time the extension is made that delay in making repayment or failure to make repayment could result in the use of violence or other criminal means to cause harm to the person, reputation, or property of any person.

(4) "Extortionate means" means the use, or an express or implicit threat of use, of violence or other criminal means to cause harm to the person, reputation, or property of any person.

(5) "To collect an extension of credit" means to induce in any way a person to make repayment thereof.

(6) "To extend credit" means to make or renew a loan or to enter into an agreement, tacit or express, whereby the repayment or satisfaction of a debt or claim, whether acknowledged or disputed, valid or invalid, and however arising, may or shall be deferred.

(7) "Repayment of an extension of credit" means the repayment, satisfaction, or discharge in whole or in part of a debt or claim, acknowledged or disputed, valid or invalid, resulting from or in connection with that extension of credit.

(8) "Dealer in property" means a person who buys and sells property as a business.

(9) "Stolen property" means property that has been obtained by theft, robbery, or extortion.

(10) "Traffic" means to sell, transfer, distribute, dispense, or otherwise dispose of stolen property to another person, or to buy, receive, possess, or obtain control of stolen property, with intent to sell, transfer, distribute, dispense, or otherwise dispose of the property to another person.

(11) "Control" means the possession of a sufficient interest to permit substantial direction over the affairs of an enterprise.

(12) "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business trust, or other profit or nonprofit legal entity, and includes any union, association, or group of individuals associated in fact although not a legal entity, and both illicit and licit enterprises and governmental and nongovernmental entities.

(13) "Financial institution" means any bank, trust company, savings and loan association, savings bank, mutual savings bank, credit union, or loan company under the jurisdiction of the state or an agency of the United States.

(14) "Criminal profiteering" means any act, including any anticipatory or completed offense, committed for financial gain, that is chargeable or indictable under the laws of the state in which the act occurred and, if the act occurred in a state other than this state, would be chargeable or indictable under the laws of this state had the act occurred in this state and punishable as a felony and by imprisonment for more than one year, regardless of whether the act is charged or indicted, as any of the following:

- (a) Murder, as defined in RCW 9A.32.030 and 9A.32.050;
- (b) Robbery, as defined in RCW 9A.56.200 and 9A.56.210;
- (c) Kidnapping, as defined in RCW 9A.40.020 and 9A.40.030;
- (d) Forgery, as defined in RCW 9A.60.020 and 9A.60.030;
- (e) Theft, as defined in RCW 9A.56.030, 9A.56.040, 9A.56.060, and 9A.56.080;
- (f) Child selling or child buying, as defined in RCW 9A.64.030;
- (g) Bribery, as defined in RCW 9A.68.010, 9A.68.020, 9A.68.040, and 9A.68.050;
- (h) Gambling, as defined in RCW 9.46.220 and 9.46.230;
- (i) Extortion, as defined in RCW 9A.56.120 and 9A.56.130;
- (j) Extortionate extension of credit, as defined in RCW 9A.82.020;
- (k) Advancing money for use in an extortionate extension of credit, as defined in RCW 9A.82.030;
- (l) Collection of an extortionate extension of credit, as defined in RCW 9A.82.040;
- (m) Collection of an unlawful debt, as defined in RCW 9A.82.045;
- (n) Delivery or manufacture of controlled substances or possession with intent to deliver or manufacture controlled substances under chapter 69.50 RCW;
- (o) Trafficking in stolen property, as defined in RCW 9A.82.050;
- (p) Leading organized crime, as defined in RCW 9A.82.060;

(q) Obstructing criminal investigations or prosecutions in violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120, 9A.72.130, 9A.76.070, or 9A.76.180;

(r) Fraud in the purchase or sale of securities, as defined in RCW 21.20.010;

(s) Promoting pornography, as defined in RCW 9.68.140;

(t) Sexual exploitation of children, as defined in RCW 9.68A.040, 9.68A.050, and 9.68A.060;

(u) Promoting prostitution, as defined in RCW 9A.88.070 and 9A.88.080;

(v) Arson, as defined in RCW 9A.48.020 and 9A.48.030;

(w) Assault, as defined in RCW 9A.36.011 and 9A.36.021;

(x) Assault of a child, as defined in RCW 9A.36.--- and 9A.36.--- (sections 1 and 2 of this act);

(y) A pattern of equity skimming, as defined in RCW 61.34.020; or

~~((+))~~ (z) Commercial telephone solicitation in violation of RCW 19.158.040(1).

(15) "Pattern of criminal profiteering activity" means engaging in at least three acts of criminal profiteering, one of which occurred after July 1, 1985, and the last of which occurred within five years, excluding any period of imprisonment, after the commission of the earliest act of criminal profiteering. In order to constitute a pattern, the three acts must have the same or similar intent, results, accomplices, principals, victims, or methods of commission, or be otherwise interrelated by distinguishing characteristics including a nexus to the same enterprise, and must not be isolated events. However, in any civil proceedings brought pursuant to RCW 9A.82.100 by any person other than the attorney general or county prosecuting attorney in which one or more acts of fraud in the purchase or sale of securities are asserted as acts of criminal profiteering activity, it is a condition to civil liability under RCW 9A.82.100 that the defendant has been convicted in a criminal proceeding of fraud in the purchase or sale of securities under RCW 21.20.400 or under the laws of another state or of the United States requiring the same elements of proof, but such conviction need not relate to any act or acts asserted as acts of criminal profiteering activity in such civil action under RCW 9A.82.100.

(16) "Records" means any book, paper, writing, record, computer program, or other material.

(17) "Documentary material" means any book, paper, document, writing, drawing, graph, chart, photograph, phonograph record, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into usable form, or other tangible item.

(18) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in the state in full or in part because the debt was incurred or contracted:

(a) In violation of any one of the following:

- (i) Chapter 67.16 RCW relating to horse racing;
- (ii) Chapter 9.46 RCW relating to gambling;
- (b) In a gambling activity in violation of federal law; or
- (c) In connection with the business of lending money or a thing of value at a rate that is at least twice the permitted rate under the applicable state or federal law relating to usury.

(19)(a) "Beneficial interest" means:

(i) The interest of a person as a beneficiary under a trust established under Title 11 RCW in which the trustee for the trust holds legal or record title to real property;

(ii) The interest of a person as a beneficiary under any other trust arrangement under which a trustee holds legal or record title to real property for the benefit of the beneficiary; or

(iii) The interest of a person under any other form of express fiduciary arrangement under which one person holds legal or record title to real property for the benefit of the other person.

(b) "Beneficial interest" does not include the interest of a stockholder in a corporation or the interest of a partner in a general partnership or limited partnership.

(c) A beneficial interest shall be considered to be located where the real property owned by the trustee is located.

(20) "Real property" means any real property or interest in real property, including but not limited to a land sale contract, lease, or mortgage of real property.

(21)(a) "Trustee" means:

(i) A person acting as a trustee under a trust established under Title 11 RCW in which the trustee holds legal or record title to real property;

(ii) A person who holds legal or record title to real property in which another person has a beneficial interest; or

(iii) A successor trustee to a person who is a trustee under subsection (21)(a) (i) or (ii) of this section.

(b) "Trustee" does not mean a person appointed or acting as:

(i) A personal representative under Title 11 RCW;

(ii) A trustee of any testamentary trust;

(iii) A trustee of any indenture of trust under which a bond is issued; or

(iv) A trustee under a deed of trust.

**Sec. 14.** RCW 13.34.130 and 1991 c 127 s 4 are each amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, as now or hereafter amended, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030(2); after consideration of the predisposition report prepared pursuant to RCW 13.34.110

and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In selecting a program, the court should choose those services that least interfere with family autonomy, provided that the services are adequate to protect the child.

(b) Order that the child be removed from his or her home and ordered into the custody, control, and care of a relative or the department of social and health services or a licensed child placing agency for placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or in a home not required to be licensed pursuant to chapter 74.15 RCW. Unless there is reasonable cause to believe that the safety or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, such child shall be placed with a grandparent, brother, sister, stepbrother, stepsister, uncle, aunt, or first cousin with whom the child has a relationship and is comfortable, and who is willing and available to care for the child. An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home, specifying the services that have been provided to the child and the child's parent, guardian, or legal custodian, and that:

(i) There is no parent or guardian available to care for such child;

(ii) The parent, guardian, or legal custodian is not willing to take custody of the child;

(iii) A manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger; or

(iv) The extent of the child's disability is such that the parent, guardian, or legal custodian is unable to provide the necessary care for the child and the parent, guardian, or legal custodian has determined that the child would benefit from placement outside of the home.

(2) If the court has ordered a child removed from his or her home pursuant to ~~((RCW 13.34.130))~~ subsection (1)(b) of this section, the court may order that a petition seeking termination of the parent and child relationship be filed if the court finds it is recommended by the supervising agency, that it is in the best interests of the child and that it is not reasonable to provide further services to reunify the family because the existence of aggravated circumstances make it unlikely that services will effectuate the return of the child to the child's parents in the near future. In determining whether aggravated circumstances exist, the court shall consider one or more of the following:

(a) Conviction of the parent of rape of the child in the first, second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and 9A.44.079;

(b) Conviction of the parent of criminal mistreatment of the child in the first or second degree as defined in RCW 9A.42.020 and 9A.42.030;

(c) Conviction of the parent of one of the following assault crimes, when the child is the victim: Assault ((of the child)) in the first or second degree as defined in RCW 9A.36.011 and 9A.36.021 or assault of a child in the first or second degree as defined in RCW 9A.36.--- or 9A.36.--- (sections 1 and 2 of this act);

(d) Conviction of the parent of murder, manslaughter, or homicide by abuse of the child's other parent, sibling, or another child;

(e) A finding by a court that a parent is a sexually violent predator as defined in RCW 71.09.020;

(f) Failure of the parent to complete available treatment ordered under this chapter or the equivalent laws of another state, where such failure has resulted in a prior termination of parental rights to another child and the parent has failed to effect significant change in the interim.

(3) Whenever a child is ordered removed from the child's home, the agency charged with his or her care shall provide the court with:

(a) A permanent plan of care that may include one of the following: Return of the child to the home of the child's parent, adoption, guardianship, or long-term placement with a relative or in foster care with a written agreement.

(b) Unless the court has ordered, pursuant to ((RCW 13.34.130)) subsection (2) of this section, that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to return the child home, and what actions the agency will take to maintain parent-child ties. All aspects of the plan shall include the goal of achieving permanence for the child.

(i) The agency plan shall specify what services the parents will be offered in order to enable them to resume custody, what requirements the parents must meet in order to resume custody, and a time limit for each service plan and parental requirement.

(ii) The agency shall be required to encourage the maximum parent-child contact possible, including regular visitation and participation by the parents in the care of the child while the child is in placement. Visitation may be limited or denied only if the court determines that such limitation or denial is necessary to protect the child's health, safety, or welfare.

(iii) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that placement at a greater distance is necessary to promote the child's or parents' well-being.

(iv) The agency charged with supervising a child in placement shall provide all reasonable services that are available within the agency, or within the community, or those services which the department of social and health services

has existing contracts to purchase. It shall report to the court if it is unable to provide such services.

(c) If the court has ordered, pursuant to (~~RCW 13.34.130~~) subsection (2) of this section, that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to achieve permanency for the child, services to be offered or provided to the child, and, if visitation would be in the best interests of the child, a recommendation to the court regarding visitation between parent and child pending a fact-finding hearing on the termination petition. The agency shall not be required to develop a plan of services for the parents or provide services to the parents.

(4) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative, the child shall remain in foster care and the court shall direct the supervising agency to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative appears otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before placement, but as soon as possible after placement. Any placements with relatives, pursuant to this section, shall be contingent upon cooperation by the relative with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts and any other conditions imposed by the court. Noncompliance with the case plan or court order shall be grounds for removal of the child from the relative's home, subject to review by the court.

(5) Except for children whose cases are reviewed by a citizen review board under chapter 13.70 RCW, the status of all children found to be dependent shall be reviewed by the court at least every six months from the beginning date of the placement episode or the date dependency is established, whichever is first, at a hearing in which it shall be determined whether court supervision should continue. The review shall include findings regarding the agency and parental completion of disposition plan requirements, and if necessary, revised permanency time limits.

(a) A child shall not be returned home at the review hearing unless the court finds that a reason for removal as set forth in this section no longer exists. The parents, guardian, or legal custodian shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is returned, casework supervision shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) If the child is not returned home, the court shall establish in writing:

(i) Whether reasonable services have been provided to or offered to the parties to facilitate reunion, specifying the services provided or offered;

(ii) Whether the child has been placed in the least-restrictive setting appropriate to the child's needs, including whether consideration has been given to placement with the child's relatives;

(iii) Whether there is a continuing need for placement and whether the placement is appropriate;

(iv) Whether there has been compliance with the case plan by the child, the child's parents, and the agency supervising the placement;

(v) Whether progress has been made toward correcting the problems that necessitated the child's placement in out-of-home care;

(vi) Whether the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;

(vii) Whether additional services are needed to facilitate the return of the child to the child's parents; if so, the court shall order that reasonable services be offered specifying such services; and

(viii) The projected date by which the child will be returned home or other permanent plan of care will be implemented.

(c) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed.

**Sec. 15.** RCW 13.34.190 and 1990 c 284 s 33 are each amended to read as follows:

After hearings pursuant to RCW 13.34.110, the court may enter an order terminating all parental rights to a child if the court finds that:

(1) The allegations contained in the petition as provided in RCW 13.34.180 (1) through (6) are established by clear, cogent, and convincing evidence; or

(2) RCW 13.34.180 (3) and (4) may be waived because the allegations under RCW 13.34.180 (1), (2), (5), and (6) are established beyond a reasonable doubt; or

~~((e)-(3))~~ (3) The allegation under RCW 13.34.180(7) is established beyond a reasonable doubt. In determining whether RCW 13.34.180 (5) and (6) are established beyond a reasonable doubt, the court shall consider one or more of the following:

(a) Conviction of the parent of rape of the child in the first, second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and 9A.44.079;

(b) Conviction of the parent of criminal mistreatment of the child in the first or second degree as defined in RCW 9A.42.020 or 9A.42.030;

(c) Conviction of the parent of one of the following assault crimes, when the child is the victim: Assault ((of the child)) in the first or second degree as defined in RCW 9A.36.011 and 9A.36.021 or assault of a child in the first or second degree as defined in RCW 9A.36.--- or 9A.36.--- (sections 1 and 2 of this act);

(d) Conviction of the parent of murder, manslaughter, or homicide by abuse of the child's other parent, sibling, or another child;

(e) A finding by a court that a parent is a sexually violent predator as defined in RCW (~~9A.88.010~~) 71.09.020;

(f) Failure of the parent to complete available treatment ordered under this chapter or the equivalent laws of another state, where such failure has resulted in a prior termination of parental rights to another child and the parent has failed to effect significant change in the interim; and

~~((3)-(4))~~ (4) Such an order is in the best interests of the child.

**Sec. 16.** RCW 43.43.830 and 1990 c 146 s 8 and 1990 c 3 s 1101 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.43.830 through 43.43.840.

(1) "Applicant" means:

(a) Any prospective employee who will or may have unsupervised access to children under sixteen years of age or developmentally disabled persons or vulnerable adults during the course of his or her employment or involvement with the business or organization;

(b) Any prospective volunteer who will have regularly scheduled unsupervised access to children under sixteen years of age, developmentally disabled persons, or vulnerable adults during the course of his or her employment or involvement with the business or organization under circumstances where such access will or may involve groups of (i) five or fewer children under twelve years of age, (ii) three or fewer children between twelve and sixteen years of age, (iii) developmentally disabled persons, or (iv) vulnerable adults; or

(c) Any prospective adoptive parent, as defined in RCW 26.33.020.

(2) "Business or organization" means a business or organization licensed in this state, any agency of the state, or other governmental entity, that educates, trains, treats, supervises, or provides recreation to developmentally disabled persons, vulnerable adults, or children under sixteen years of age, including school districts and educational service districts.

(3) "Civil adjudication" means a specific court finding of sexual abuse or exploitation or physical abuse in a dependency action under RCW 13.34.040 or in a domestic relations action under Title 26 RCW. In the case of vulnerable adults, civil adjudication means a specific court finding of abuse or financial exploitation in a protection proceeding under chapter 74.34 RCW. It does not include administrative proceedings. The term "civil adjudication" is further limited to court findings that identify as the perpetrator of the abuse a named individual, over the age of eighteen years, who was a party to the dependency or dissolution proceeding or was a respondent in a protection proceeding in which the finding was made and who contested the allegation of abuse or exploitation.

(4) "Conviction record" means "conviction record" information as defined in RCW 10.97.030(3) relating to a crime against children or other persons committed by either an adult or a juvenile. It does not include a conviction for

an offense that has been the subject of an expungement, pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted, or a conviction that has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence. It does include convictions for offenses for which the defendant received a deferred or suspended sentence, unless the record has been expunged according to law.

(5) "Crime against children or other persons" means a conviction of any of the following offenses: Aggravated murder; first or second degree murder; first or second degree kidnaping; first, second, or third degree assault; first, second, or third degree assault of a child; first, second, or third degree rape; first, second, or third degree rape of a child; first or second degree robbery; first degree arson; first degree burglary; first or second degree manslaughter; first or second degree extortion; indecent liberties; incest; vehicular homicide; first degree promoting prostitution; communication with a minor; unlawful imprisonment; simple assault; sexual exploitation of minors; first or second degree criminal mistreatment; child abuse or neglect as defined in RCW 26.44.020; first or second degree custodial interference; malicious harassment; first, second, or third degree child molestation; first or second degree sexual misconduct with a minor; first or second degree rape of a child; patronizing a juvenile prostitute; child abandonment; promoting pornography; selling or distributing erotic material to a minor; custodial assault; violation of child abuse restraining order; child buying or selling; prostitution; felony indecent exposure; or any of these crimes as they may be renamed in the future.

(6) "Crimes relating to financial exploitation" means a conviction for first, second, or third degree extortion; first, second, or third degree theft; first or second degree robbery; forgery; or any of these crimes as they may be renamed in the future.

(7) "Disciplinary board final decision" means any final decision issued by the disciplinary board or the director of the department of licensing for the following businesses or professions:

- (a) Chiropractic;
- (b) Dentistry;
- (c) Dental hygiene;
- (d) Massage;
- (e) Midwifery;
- (f) Naturopathy;
- (g) Osteopathy;
- (h) Physical therapy;
- (i) Physicians;
- (j) Practical nursing;
- (k) Registered nursing;
- (l) Psychology; and

(m) Real estate brokers and salesmen.

(8) "Unsupervised" means not in the presence of:

(a) Another employee or volunteer from the same business or organization as the applicant; or

(b) Any relative or guardian of any of the children or developmentally disabled persons to which the applicant has access during the course of his or her employment or involvement with the business or organization.

(9) "Vulnerable adult" means a person sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself or a patient in a state hospital as defined in chapter 72.23 RCW.

(10) "Financial exploitation" means the illegal or improper use of a vulnerable adult or that adult's resources for another person's profit or advantage.

(11) "Agency" means any person, firm, partnership, association, corporation, or facility which receives, provides services to, houses or otherwise cares for vulnerable adults.

**Sec. 17.** RCW 71.09.020 and 1990 1st ex.s. c 12 s 2 are each amended to read as follows:

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

(1) "Sexually violent predator" means any person who has been convicted of or charged with a crime of sexual violence and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence.

(2) "Mental abnormality" means a congenital or acquired condition affecting the emotional or volitional capacity which predisposes the person to the commission of criminal sexual acts in a degree constituting such person a menace to the health and safety of others.

(3) "Predatory" means acts directed towards strangers or individuals with whom a relationship has been established or promoted for the primary purpose of victimization.

(4) "Sexually violent offense" means an act committed on, before, or after July 1, 1990, that is: (a) An act defined in Title 9A RCW as rape in the first degree, rape in the second degree by forcible compulsion, rape of a child in the first or second degree, statutory rape in the first or second degree, indecent liberties by forcible compulsion, indecent liberties against a child under age fourteen, incest against a child under age fourteen, or child molestation in the first or second degree; (b) a felony offense in effect at any time prior to July 1, 1990, that is comparable to a sexually violent offense as defined in (a) of this subsection, or any federal or out-of-state conviction for a felony offense that under the laws of this state would be a sexually violent offense as defined in this subsection; (c) an act of murder in the first or second degree, assault in the first or second degree, assault of a child in the first or second degree, kidnapping in the first or second degree, burglary in the first degree, residential burglary, or

unlawful imprisonment, which act, either at the time of sentencing for the offense or subsequently during civil commitment proceedings pursuant to chapter 71.09 RCW, has been determined beyond a reasonable doubt to have been sexually motivated, as that term is defined in RCW 9.94A.030; or (d) an act as described in chapter 9A.28 RCW, that is an attempt, criminal solicitation, or criminal conspiracy to commit one of the felonies designated in (a), (b), or (c) of this subsection.

Passed the Senate March 7, 1992.

Passed the House March 4, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

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## CHAPTER 146

[Engrossed Substitute House Bill 1150]

### PORT DISTRICT COMMISSIONERS—REVISIONS

Effective Date: 6/11/92

AN ACT Relating to port districts; amending RCW 53.12.010, 53.12.172, 53.12.120, 53.12.130, 53.16.030, 53.12.260, and 41.04.190; adding new sections to chapter 53.12 RCW; adding a new section to chapter 53.16 RCW; and repealing RCW 53.12.020, 53.12.035, 53.12.050, 53.12.057, 53.12.060, 53.12.172, 53.12.180, 53.12.190, 53.12.200, 53.12.220, and 53.16.010.

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

**Sec. 1.** RCW 53.12.010 and 1991 c 363 s 128 are each amended to read as follows:

The powers of the port district shall be exercised through a port commission consisting of three members. ~~((In any port district with boundaries that are coterminous with the boundaries of a county with a population of five hundred thousand or more the members shall be residents of the county in which the port district is located. In all other port districts, three commissioner districts, numbered consecutively, having approximately equal population and boundaries following ward and precinct lines, shall be described in the petition for the formation of the port district, and one commissioner shall be elected from each of said commissioner districts.))~~ Every port district that is not coextensive with a county having a population of five hundred thousand or more shall be divided into three commissioner districts each having approximately equal population. Where a port district is coextensive with the boundaries of a county that has a population of less than five hundred thousand and the county has three county legislative authority districts, the port district commissioner districts shall be the county legislative authority districts. In other instances where a port district is divided into commissioner districts, the petition proposing the formation of such a port district shall describe three commissioner districts each having approximately the same population and the commissioner districts shall be altered as provided in chapter 53.16 RCW.

Commissioner districts shall be used as follows: (1) Only a registered voter who resides in a commissioner district may be a candidate for, or hold office as, a commissioner of the commissioner district; and (2) only the voters of a commissioner district may vote at a primary election to nominate candidates for a commissioner of the commissioner district. Voters of the entire port district may vote at a general election to elect a person as a commissioner of the commissioner district.

In port districts having additional commissioners as authorized by RCW 53.12.120 ~~((and)),~~ 53.12.130, and section 7 of this act, the powers of the port district shall be exercised through a port commission consisting of five members constituted as provided therein.

Sec. 2. RCW 53.12.172 and 1979 ex.s. c 126 s 34 are each amended to read as follows:

In every ~~((such))~~ port district the term of office of each port commissioner shall be four years in each port district that is county-wide with a population of one hundred thousand or more, or either six or four years in all other port districts as provided in section 3 of this act, and until ((his or her)) a successor is elected and qualified~~((, and one commissioner shall be elected at the time of the general election in each odd numbered year for the term of six years beginning in accordance with RCW 29.04.170: PROVIDED, That the terms of office of the port commissioners shall be staggered in any district hereafter organized as follows: (1) The candidate residing in the first commissioner district receiving the highest number of votes in the port district at the election organizing the district shall hold office until a successor assumes office who is elected from the election held in the sixth year after the organizational election, if such organizational election was held in an odd numbered year, or from the election held in the fifth year after the organizational election if such organizational election was held in an even numbered year; (2) the candidate residing in the second commissioner district receiving the highest number of votes in the port district at such organizational election shall hold office until a successor assumes office who is elected from the election held in the fourth year after the organizational election, if such organizational election was held in an odd numbered year, or from the election held in the third year after the organizational election if such organizational election was held in an even numbered year; and (3) the candidate residing in the third commissioner district receiving the highest number of votes in the port district at such organizational election shall hold office until a successor assumes office who is elected from the election held in the second year after the organizational election, if such organizational election was held in an odd numbered year, or from the election held in the first year after the organizational election if such organizational election was held in an even numbered year)) and assumes office in accordance with RCW 29.04.170. The initial port commissioners shall be elected at the same election as when the ballot proposition is submitted to voters authorizing the creation of the port~~

district. If the port district is created the persons elected at this election shall serve as the initial port commission. No primary shall be held. The person receiving the greatest number of votes for commissioner from each commissioner district shall be elected as the commissioner of that district.

The terms of office of the initial port commissioners shall be staggered as follows in a port district that is county-wide with a population of one hundred thousand or more: (1) The two persons who are elected receiving the two greatest numbers of votes shall be elected to four-year terms of office if the election is held in an odd-numbered year, or three-year terms of office if the election is held in an even-numbered year, and shall hold office until successors are elected and qualified and assume office in accordance with RCW 29.04.170; and (2) the other person who is elected shall be elected to a two-year term of office if the election is held in an odd-numbered year, or a one-year term of office if the election is held in an even-numbered year, and shall hold office until a successor is elected and qualified and assumes office in accordance with RCW 29.04.170. The terms of office of the initial port commissioners in all other port districts shall be staggered as follows: (a) The person who is elected receiving the greatest number of votes shall be elected to a six-year term of office if the election is held in an odd-numbered year or to a five-year term of office if the election is held in an even-numbered year, and shall hold office until a successor is elected and qualified and assumes office in accordance with RCW 29.04.170; (b) the person who is elected receiving the next greatest number of votes shall be elected to a four-year term of office if the election is held in an odd-numbered year or to a three-year term of office if the election is held in an even-numbered year, and shall hold office until a successor is elected and qualified and assumes office in accordance with RCW 29.04.170; and (c) the other person who is elected shall be elected to a two-year term of office if the election is held in an odd-numbered year or a one-year term of office if the election is held in an even-numbered year, and shall hold office until a successor is elected and qualified and assumes office in accordance with RCW 29.04.170.

The initial port commissioners shall take office immediately after being elected and qualified, but the length of their terms shall be calculated from the first day in January in the year following their elections.

NEW SECTION. Sec. 3. A new section is added to chapter 53.12 RCW to read as follows:

A ballot proposition to reduce the terms of office of port commissioners from six years to four years shall be submitted to the voters of any port district that otherwise would have commissioners with six-year terms of office upon either resolution of the port commissioners or petition of voters of the port district proposing the reduction in terms of office, which petition has been signed by voters of the port district equal in number to at least ten percent of the number of voters in the port district voting at the last district general election. The petition shall be submitted to the county auditor. If the petition was signed

by sufficient valid signatures, the ballot proposition shall be submitted at the next district general election that occurs sixty or more days after the adoption of the resolution or submission of the petition.

If the ballot proposition reducing the terms of office of port commissioners is approved by a simple majority vote of the voters voting on the proposition, the commissioner or commissioners who are elected at that election shall be elected to four-year terms of office. The terms of office of the other commissioners shall not be reduced, but each successor shall be elected to a four-year term of office.

**NEW SECTION.** Sec. 4. A new section is added to chapter 53.12 RCW to read as follows:

Port commissioners of county-wide port districts with populations of one hundred thousand or more who are holding office as of the effective date of this act shall retain their positions for the remainder of their terms until their successors are elected and qualified, and assume office in accordance with RCW 29.04.170. Their successors shall be elected to four-year terms of office except as otherwise provided in RCW 53.12.130.

**NEW SECTION.** Sec. 5. A new section is added to chapter 53.12 RCW to read as follows:

All elections relating to a port district shall conform with general election law, except as expressly provided in Title 53 RCW.

**NEW SECTION.** Sec. 6. A new section is added to chapter 53.12 RCW to read as follows:

A candidate for the office of port commissioner may withdraw his or her declaration of candidacy at any time before the close of business on the Thursday following the last day for candidates to file by filing, with the officer with whom the declaration of candidacy was filed, a signed request that his or her name not be printed on the ballot. There shall be no withdrawal period for declarations of candidacy filed during special filing periods. The filing officer may permit the withdrawal of a filing for the office of port commissioner at the request of the candidate at any time before a primary if the primary ballots for that election have not been ordered. No filing fee may be refunded to any candidate who withdraws under this section. Notice of the deadline for withdrawal of candidacy and that the filing fee is not refundable shall be given to each candidate at the time he or she files.

**NEW SECTION.** Sec. 7. A new section is added to chapter 53.12 RCW to read as follows:

A ballot proposition shall be submitted to the voters of any port district authorizing an increase in the number of port commissioners to five whenever a petition requesting such an increase has been submitted to the county auditor of the county in which the port district is located that has been signed by voters of the port district at least equal in number to ten percent of the number of voters

in the port district who voted at the last general election. The ballot proposition shall be submitted at the next general election occurring sixty or more days after the petition was submitted.

At the next general election following the election in which an increase in the number of port commissioners was authorized, candidates for the two additional port commissioner positions shall be elected as provided in RCW 53.12.130.

**Sec. 8.** RCW 53.12.120 and 1982 c 219 s 1 are each amended to read as follows:

When the population of a port district reaches five hundred thousand, in accordance with the latest United States regular or special census or with the official state population estimate, there shall be submitted to the voters of the district, at the next general election or at a special port election called for that purpose, the proposition of increasing the number of commissioners to five. At any general election thereafter, the same proposition may be submitted by resolution of the port commissioners, by filing a certified copy of the resolution with the county auditor at least four months prior to the general election. If the proposition is ~~((adopted))~~ approved by the voters, the commission in that port district shall consist of five commissioners ~~((in positions numbered as specified in RCW 53.12.035, the additional commissioners to take office five days after the election))~~.

**Sec. 9.** RCW 53.12.130 and 1965 c 51 s 8 are each amended to read as follows:

Two additional port commissioners shall be elected at the ((same)) next general election ((the names of the candidates for the additional port commissioner positions numbered four and five shall be printed on the ballot and voted on, but the election of such additional commissioners shall be contingent upon the adoption of the proposition for a commission of five members)) following the election at which voters authorized the increase in port commissioners to five members. The two additional positions shall be numbered positions four and five. A primary shall be held to nominate candidates where necessary. The ((candidate for each additional numbered position)) person receiving the highest number of votes for each position shall be elected((;) to that position and shall take office ((five days after the election)) immediately after qualification as defined under RCW 29.01.135. In a port district where commissioners are elected to four-year terms of office, the additional commissioner thus elected receiving the highest number of votes shall ((hold office for six years and the other shall hold office for four years from the date provided by law for port commissioners to next commence their terms of office)) be elected to a four-year term of office and the other additional commissioner thus elected shall be elected to a term of office of two years, if the election were held in an odd-numbered year, or the additional commissioner thus elected receiving the highest number of votes shall be elected to a term of office of three years and the other shall be

electd to a term of office of one year, if the election were held in an even-numbered year. In a port district where the commissioners are elected to six-year terms of office, the additional commissioner thus elected receiving the highest number of votes shall be elected to a six-year term of office and the other additional commissioner shall be elected to a four-year term of office, if the election is held in an odd-numbered year, or the additional commissioner receiving the highest number of votes shall be elected to a term of office of five-years and the other shall be elected to a three-year term of office, if the election is held in an even-numbered year. The length of terms of office shall be computed from the first day of January in the year following this election.

A successor to a commissioner holding position four or five whose term is about to expire, shall be elected at the general election next preceding such expiration, for a term of either six or four years, depending on the length of terms of office to which commissioners of that port district are elected. Positions four and five shall not be associated with a commissioner district and the elections to both nominate candidates for those positions and elect commissioners for these positions shall be held on a port district-wide basis.

NEW SECTION. **Sec. 10.** A new section is added to chapter 53.16 RCW to read as follows:

In a port district that is not coterminous with a county that has three county legislative authority districts and that has port commissioner districts, the port commission may redraw the commissioner district boundaries as provided in chapter 29.70 RCW at any time and submit the redrawn boundaries to the county auditor. The new commissioner districts shall be used at the next election at which a port commissioner is regularly elected that occurs at least one hundred eighty days after the redrawn boundaries have been submitted. Each commissioner district shall encompass as nearly as possible one-third of the population of the port district.

**Sec. 11.** RCW 53.16.030 and 1933 c 145 s 4 are each amended to read as follows:

Any change of boundary lines provided for in this chapter shall not affect the term for which a commissioner shall hold office at the time the change is made(~~(, and the requirement of two years' residence within the commissioner district for eligibility for office of port commissioner shall not apply to incumbent commissioners seeking election at any port district election held within three years of the change of such district boundaries: PROVIDED, That at the time of nomination the incumbent commissioner resides in the commissioner's district for which he seeks election)).~~

**Sec. 12.** RCW 53.12.260 and 1985 c 330 s 3 are each amended to read as follows:

(1) Each commissioner of a port district shall receive fifty dollars per day or portion thereof spent (a) in actual attendance at official meetings of the port district commission, or (b) in performance of other service in behalf of the

~~district((: PROVIDED, That no commissioner shall receive compensation to exceed five thousand eight hundred dollars for any calendar year: PROVIDED FURTHER, That no commissioner of a port district shall receive compensation to exceed four thousand eight hundred dollars for any calendar year if the port district had gross operating income of less than twenty-five million dollars in the preceding calendar year)).~~ The total per diem compensation of a port commissioner shall not exceed four thousand eight hundred dollars in a year, or six thousand dollars in any year for a port district with gross operating income of twenty-five million or more in the preceding calendar year.

(2) Port commissioners shall receive additional compensation as follows:

(a) Each commissioner of a port district with gross operating revenues of twenty-five million dollars or more in the preceding calendar year shall receive a salary of five hundred dollars per month; and (b) each commissioner of a port district with gross operating revenues of from one million dollars to less than twenty-five million dollars in the preceding calendar year shall receive a salary of two hundred dollars per month.

(3) In lieu of the compensation specified in this section, a port commission may set compensation to be paid to commissioners.

(4) For any commissioner who has not elected to become a member of public employees retirement system before May 1, 1975, the compensation provided pursuant to this section shall not be considered salary for purposes of the provisions of any retirement system created pursuant to the general laws of this state nor shall attendance at such meetings or other service on behalf of the district constitute service as defined in RCW 41.40.010(9): PROVIDED, That in the case of a port district when commissioners are receiving compensation and contributing to the public employees retirement system, these benefits shall continue in full force and effect notwithstanding the provisions of RCW 53.12.260 and 53.12.265.

**Sec. 13.** RCW 41.04.190 and 1983 1st ex.s. c 37 s 1 are each amended to read as follows:

The cost of ~~((any such group))~~ a policy or plan to ~~((any such))~~ a public agency or body ~~((shall))~~ is not ~~((be deemed))~~ additional compensation to the employees or elected ~~((county))~~ officials covered thereby~~((, and))~~. The elected officials to whom this section applies include but are not limited to commissioners elected under chapters 28A.315, 52.14, 53.12, 54.12, 56.12, 57.12, 70.44, and 87.03 RCW, as well as any county elected officials who are provided insurance coverage under RCW 41.04.180. Any officer authorized to disburse such funds may pay in whole or in part to ~~((any such))~~ an insurance carrier or health care service contractor the amount of the premiums due ~~((pursuant to any such))~~ under the contract.

NEW SECTION. **Sec. 14.** The following acts or parts of acts are each repealed:

- (1) RCW 53.12.020 and 1991 c 363 s 129, 1986 c 262 s 2, 1965 c 51 s 2, 1959 c 175 s 1, & 1959 c 17 s 4;
- (2) RCW 53.12.035 and 1991 c 363 s 130, 1990 c 59 s 108, 1965 c 51 s 3, & 1959 c 175 s 9;
- (3) RCW 53.12.050 and 1959 c 17 s 5;
- (4) RCW 53.12.057 and 1965 c 51 s 6;
- (5) RCW 53.12.060 and 1990 c 259 s 19, 1959 c 175 s 6, 1927 c 204 s 1, & 1913 c 62 s 3;
- (6) RCW 53.12.172 and 1979 ex.s. c 126 s 34 & 1951 c 68 s 2;
- (7) RCW 53.12.180 and 1935 c 133 s 8;
- (8) RCW 53.12.190 and 1935 c 133 s 10;
- (9) RCW 53.12.200 and 1935 c 133 s 9;
- (10) RCW 53.12.220 and 1979 ex.s. c 126 s 35, 1941 c 45 s 2, & 1925 ex.s. c 113 s 2; and
- (11) RCW 53.16.010 and 1969 ex.s. c 9 s 1 & 1957 c 69 s 2.

Passed the House March 7, 1992.

Passed the Senate March 3, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

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## CHAPTER 147

[Engrossed House Bill 2287]

### PORT DISTRICTS—CREATION OF LESS THAN COUNTY-WIDE DISTRICT

Effective Date: 6/11/92

AN ACT Relating to port districts; amending RCW 53.04.020; adding new sections to chapter 53.04 RCW; and adding a new section to chapter 53.12 RCW.

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

**Sec. 1.** RCW 53.04.020 and 1990 c 259 s 15 are each amended to read as follows:

At any general election or at any special election which may be called for that purpose, the county legislative authority of any county in this state may, or on petition of ten percent of the registered voters of such county based on the total vote cast in the last general county election, shall, by resolution submit to the voters of such county the proposition of creating a port district (~~which may:~~ (1) ~~Be~~) coextensive with the limits of such county (~~as now or hereafter established; or (2) be under the provisions of RCW 53.04.022~~). Such petition shall be filed with the county auditor, who shall within fifteen days examine the signatures thereof and certify to the sufficiency or insufficiency thereof, and for such purpose the county auditor shall have access to all registration books in the possession of the officers of any incorporated city or town in such proposed port district. If such petition be found to be insufficient, it shall be returned to the persons filing the same, who may amend or add names thereto for ten days,

when the same shall be returned to the county auditor, who shall have an additional fifteen days to examine the same and attach his or her certificate thereto. No person having signed such petition shall be allowed to withdraw his or her name therefrom after the filing of the same with the county auditor. Whenever such petition shall be certified to as sufficient, the county auditor shall forthwith transmit the same, together with his or her certificate of sufficiency attached thereto, to the legislative authority of the county, who shall submit such proposition at the next general election or, if such petition so requests, the county legislative authority shall, at their first meeting after the date of such certificate, by resolution, call a special election to be held in accordance with RCW 29.13.010 and 29.13.020. The notice of election shall state the boundaries of the proposed port district and the object of such election. In submitting the question to the voters for their approval or rejection, the proposition shall be expressed on the ballot substantially in the following terms:

"Port of ....., Yes." (giving the name of the principal seaport city within such proposed port district, or if there be more than one city of the same class within such district, such name as may be determined by the legislative authority of the county).

"Port of ....., No." (giving the name of the principal seaport city within such port district, or if there be more than one city of the same class within such district, such name as may be determined by the legislative authority of the county).

**NEW SECTION.** Sec. 2. A new section is added to chapter 53.04 RCW to read as follows:

A less than county-wide port district with an assessed valuation of at least seventy-five million dollars may be created in a county bordering on saltwater that already has a less than county-wide port district located within its boundaries. Except as provided in this section, such a port district shall be created in accordance with the procedure to create a county-wide port district.

The effort to create such a port district is initiated by the filing of a petition with the county auditor calling for the creation of such a port district, describing the boundaries of the proposed port district, and providing a name for the proposed port district. The petition must be signed by voters residing within the proposed port district equal in number to at least ten percent of such voters who voted at the last county general election.

A public hearing on creation of the proposed port district shall be held by the county legislative authority if the county auditor certifies that the petition contained sufficient valid signatures. Notice of the public hearing must be published in the county's official newspaper at least ten days prior to the date of the public hearing. After taking testimony, the county legislative authority may make changes in the boundaries of the proposed port district if it finds that such changes are in the public interest and shall determine if the creation of the port

district is in the public interest. No area may be added to the boundaries unless a subsequent public hearing is held on the proposed port district.

The county legislative authority shall submit a ballot proposition authorizing the creation of the proposed port district to the voters of the proposed port district, at any special election date provided in RCW 29.13.020, if it finds the creation of the port district to be in the public interest.

The port district shall be created if a majority of the voters voting on the ballot proposition favor the creation of the port district. The initial port commissioners shall be elected at the same election as provided in RCW 53.12.050, but the election of commissioners shall be null and void if the port district is not created. Commissioner districts shall not be used in the initial election of the port commissioners.

This section shall expire July 1, 1997.

**NEW SECTION. Sec. 3.** A new section is added to chapter 53.04 RCW to read as follows:

A port district that is less than county-wide may annex adjacently located territory that is located in another less than county-wide port district in the same county, if the territory proposed to be annexed is located in a city the name of which is included as part of the name of the annexing port district. A port district proposing to annex territory under this section shall by resolution cause a ballot proposition on the issue of annexation to be submitted to the voters of the area proposed to be annexed. The annexation is authorized when the ballot proposition is approved of by over fifty percent of the ballots cast. The territory that is annexed shall be removed from the other port district.

This section shall expire January 1, 1995.

**NEW SECTION. Sec. 4.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 5.** A new section is added to chapter 53.12 RCW to read as follows:

For purposes of this chapter, "gross operating revenue" means the total of all revenues received by a port district.

Passed the House March 9, 1992.

Passed the Senate March 6, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

## CHAPTER 148

[House Bill 2417]

## DISABLED PARKING SPACES—USE BY BOARDING HOMES

Effective Date: 6/11/92

AN ACT Relating to the use of disabled parking spaces by boarding homes; and amending RCW 46.16.381.

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

**Sec. 1.** RCW 46.16.381 and 1991 c 339 s 21 are each amended to read as follows:

(1) The director shall grant special parking privileges to any person who has a disability that limits or impairs the ability to walk and meets one of the following criteria, as determined by a licensed physician:

(a) Cannot walk two hundred feet without stopping to rest;

(b) Is severely limited in ability to walk due to arthritic, neurological, or orthopedic condition;

(c) Is so severely disabled, that the person cannot walk without the use of or assistance from a brace, cane, another person, prosthetic device, wheelchair, or other assistive device;

(d) Uses portable oxygen;

(e) Is restricted by lung disease to such an extent that forced expiratory respiratory volume, when measured by spirometry is less than one liter per second or the arterial oxygen tension is less than sixty mm/hg on room air at rest;

(f) Impairment by cardiovascular disease or cardiac condition to the extent that the person's functional limitations are classified as class III or IV under standards accepted by the American Heart Association; or

(g) Has a disability resulting from an acute sensitivity to automobile emissions which limits or impairs the ability to walk. The personal physician of the applicant shall document that the disability is comparable in severity to the others listed in this subsection.

(2) Persons who qualify for special parking privileges are entitled to receive from the department of licensing a removable windshield placard bearing the international symbol of access. The department shall design the placard to be displayed when the vehicle is parked by suspending it from the rearview mirror, or in the absence of a rearview mirror the card may be displayed on the dashboard of any vehicle used to transport the disabled person. Instead of regular motor vehicle license plates, disabled persons are entitled to receive special license plates bearing the international symbol of access for one vehicle registered in the disabled person's name. Disabled persons who are not issued the special license plates are entitled to receive a second special placard. Persons who have been issued the parking privileges and who are using a vehicle or are riding in a vehicle displaying the special license plates or placard may park in places reserved for mobility disabled persons. The director shall adopt rules providing for the issuance of special placards and license plates to public

transportation authorities, nursing homes licensed under chapter 18.51 RCW, boarding homes licensed under chapter 18.20 RCW, senior citizen centers, and private nonprofit agencies as defined in chapter 24.03 RCW that regularly transport disabled persons who have been determined eligible for special parking privileges provided under this section. The director may issue special license plates for a vehicle registered in the name of the public transportation authority, nursing home, boarding homes, senior citizen center, or private nonprofit agency if the vehicle is primarily used to transport persons with disabilities described in this section. Public transportation authorities, nursing homes, boarding homes, senior citizen centers, and private nonprofit agencies are responsible for insuring that the special placards and license plates are not used improperly and are responsible for all fines and penalties for improper use.

(3) Whenever the disabled person transfers or assigns his or her interest in the vehicle, the special license plates shall be removed from the motor vehicle. If another vehicle is acquired by the disabled person and the vehicle owner qualifies for a special plate, the plate shall be attached to the vehicle, and the director shall be immediately notified of the transfer of the plate. If another vehicle is not acquired by the disabled person, the removed plate shall be immediately surrendered to the director.

(4) The special license plate shall be renewed in the same manner and at the time required for the renewal of regular motor vehicle license plates under this chapter. No special license plate may be issued to a person who is temporarily disabled. A person who has a condition expected to improve within six months may be issued a temporary placard for a period not to exceed six months. The director may issue a second temporary placard during that period if requested by the person who is temporarily disabled. If the condition exists after six months a new temporary placard shall be issued upon receipt of a new certification from the disabled person's physician. The parking placard of a disabled person shall be renewed, when required by the director, by satisfactory proof of the right to continued use of the privileges.

(5) Additional fees shall not be charged for the issuance of the special placards. No additional fee may be charged for the issuance of the special license plates except the regular motor vehicle registration fee and any other fees and taxes required to be paid upon registration of a motor vehicle.

(6) Any unauthorized use of the special placard or the special license plate is a misdemeanor.

(7) It is a traffic infraction, with a monetary penalty of not less than fifteen and not more than fifty dollars for any person to park a vehicle in a parking place provided on private property without charge or on public property reserved for physically disabled persons without a special license plate or placard. If a person is charged with a violation, the person shall not be determined to have committed an infraction if the person produces in court or before the court appearance the special license plate or placard required under this section.

(8) It is a misdemeanor for any person to willfully obtain a special license plate or placard in a manner other than that established under this section.

Passed the House February 17, 1992.

Passed the Senate March 6, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

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## CHAPTER 149

[Senate Bill 6396]

### INSURANCE CONTRACTS WITH UNAUTHORIZED PROVIDERS—LIABILITY

Effective Date: 6/11/92

AN ACT Relating to persons making contracts of insurance with unauthorized insurance providers; and amending RCW 48.15.020.

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

**Sec. 1.** RCW 48.15.020 and 1983 1st ex.s. c 32 s 3 are each amended to read as follows:

(1) An insurer not thereunto authorized by the commissioner shall not solicit insurance business in this state, nor transact insurance business in this state except as provided in this chapter.

(2)(a) No person shall, in this state, represent an unauthorized insurer except as provided in this chapter. This provision shall not apply to any adjuster or attorney at law representing such an insurer from time to time in this state in his or her professional capacity.

(b) A person, other than a duly licensed surplus line broker acting in good faith under his or her license, who makes a contract of insurance in this state, directly or indirectly, on behalf of an unauthorized insurer, without complying with the provisions of this chapter, is personally liable for the performance of such contract.

(3) Each violation of this section shall constitute a separate offense punishable by a fine of not more than twenty-five thousand dollars, and the commissioner, at the commissioner's discretion, may order replacement of policies improperly placed with an unauthorized insurer with policies issued by an authorized insurer. Violations may result in suspension or revocation of a license.

Passed the Senate February 18, 1992.

Passed the House March 6, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

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## CHAPTER 150

[Senate Bill 6444]

## TELEVISION RECEPTION IMPROVEMENT DISTRICT BOARD MEMBERS

Effective Date: 6/11/92

AN ACT Relating to television reception improvement districts; and amending RCW 36.95.060. Be it enacted by the Legislature of the State of Washington:

**Sec. 1.** RCW 36.95.060 and 1971 ex.s. c 155 s 6 are each amended to read as follows:

The business of the district shall be conducted by the board of the television reception improvement district, hereinafter referred to as the "board". The board shall be constituted as provided under either subsection (1) or (2) of this section.

(1) The board of a district having boundaries different from the county's shall have either three, five, seven, or nine members, as determined by the board of county commissioners at the time the district is created. Each member shall ~~((be appointed by the board of county commissioners, shall))~~ reside within the boundaries of the district and ((each shall serve a three-year term)) shall be appointed by the board of county commissioners for a term of three years, or until ((their successors are)) his or her successor has qualified, except that the board of county commissioners shall appoint one of the members of the first board to a one-year term and two to two-year terms. There is no limit upon the number of terms to which a member may be reappointed after his or her first appointment. A majority of the members of the board shall constitute a quorum for the transaction of business, but the majority vote of the board members shall be necessary for any action taken by the board. The board shall elect from among its members a chairman and such other officers as may be necessary. In the event a seat on the board is vacated prior to the expiration of the term of the member appointed to such seat, the board of county commissioners shall appoint a person to complete ~~((such))~~ the unexpired term.

(2) Upon the creation of a district having boundaries identical to those of the county (a county-wide district), the county commissioners shall be the members of the board of the district and shall have all the powers and duties of ~~((such))~~ the board as provided under the other sections of this chapter. The county commissioners shall be reimbursed pursuant to the provisions of RCW 36.95.070, and shall conduct the business of the district according to the regular rules and procedures applicable to meetings of the board of county commissioners.

Passed the Senate February 12, 1992.

Passed the House March 6, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

## CHAPTER 151

[Substitute House Bill 2457]

## AGRICULTURAL NUISANCES—REVISIONS

Effective Date: 6/11/92

AN ACT Relating to agricultural nuisances; and amending RCW 7.48.305 and 46.61.655.

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

**Sec. 1.** RCW 7.48.305 and 1979 c 122 s 2 are each amended to read as follows:

Notwithstanding any other provision of this chapter, agricultural activities conducted on farmland, if consistent with good agricultural practices and established prior to surrounding nonagricultural activities, are presumed to be reasonable and ~~((d))~~ shall not be found to constitute a nuisance unless the activity has a substantial adverse effect on the public health and safety.

If that agricultural activity is undertaken in conformity with federal, state, and local laws and regulations, it is presumed to be good agricultural practice and not adversely affecting the public health and safety. An agricultural activity that is in conformity with such laws and rules shall not be restricted as to the hours of the day or day or days of the week during which it may be conducted.

Nothing in this section shall affect or impair any right to sue for damages.

**\*Sec. 2.** RCW 46.61.655 and 1990 c 250 s 56 are each amended to read as follows:

*(1) No vehicle shall be driven or moved on any public highway unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking, or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction. Any person operating a vehicle from which any glass or objects have fallen or escaped, which would constitute an obstruction or injure a vehicle or otherwise endanger travel upon such public highway shall immediately cause the public highway to be cleaned of all such glass or objects and shall pay any costs therefor.*

*(2) No person may operate on any public highway any vehicle with any load unless the load and such covering as required thereon by subsection (3) of this section is securely fastened to prevent the covering or load from becoming loose, detached, or in any manner a hazard to other users of the highway.*

*(3) Any vehicle operating on a paved public highway with a load of dirt, sand, or gravel susceptible to being dropped, spilled, leaked, or otherwise escaping therefrom shall be covered so as to prevent spillage. Covering of such loads is not required if six inches of freeboard is maintained within the bed.*

*(4) Any vehicle with deposits of mud, rocks, or other debris on the vehicle's body, fenders, frame, undercarriage, wheels, or tires shall be cleaned of such material before the operation of the vehicle on a paved public highway.*

*(5) The state patrol may make necessary rules to carry into effect the provisions of this section, applying such provisions to specific conditions and loads and prescribing means, methods, and practices to effectuate such provisions.*

*(6) Nothing in this section may be construed to prohibit a public maintenance vehicle from dropping sand on a highway to enhance traction, or sprinkling water or other substances to clean or maintain a highway.*

*(7) This section does not apply to waste products falling from vehicles hauling live farm animals when crossing a ferry capable only of transporting fewer than twenty-five vehicles.*

\*Sec. 2 was vetoed, see message at end of chapter.

Passed the House March 7, 1992.

Passed the Senate March 3, 1992.

Approved by the Governor April 1, 1992, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 1, 1992.

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

"I am returning herewith, without my approval as to section 2, Substitute House Bill No. 2457 entitled:

"AN ACT Relating to agricultural nuisances."

Substitute House Bill No. 2457 clarifies that a normal agricultural practice does not constitute a nuisance. Section 2 exempts vehicles hauling live farm animals from laws requiring loads to be secure while those vehicles are crossing certain ferries. This section is aimed at allowing the continued transport of livestock across the Keller Ferry on Lake Roosevelt without regard to animal waste which falls from transport vehicles.

It is my understanding that the Department of Transportation has given assurances to livestock transporters that the use of the Keller Ferry will not be denied to vehicles hauling live farm animals. As a result, section 2 is unnecessary. I urge continued cooperation between the Department of Transportation and affected parties to address any concerns about the use of the Keller Ferry.

For the reason stated above, I have vetoed section 2 of Substitute House Bill No. 2457.

With the exception of section 2, I have approved Substitute House Bill No. 2457."

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## CHAPTER 152

[Substitute House Bill 2857]

### SCHOOL RETIREES' HEALTH INSURANCE COVERAGE

Effective Date: 6/11/92

AN ACT Relating to school retirees' health insurance coverage; adding new sections to chapter 28A.400 RCW; creating new sections; and repealing RCW 28A.400.390.

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

NEW SECTION. Sec. 1. A new section is added to chapter 28A.400 RCW to read as follows:

(1) Every group disability insurance policy, health care service contract, health maintenance agreement, and health and welfare benefit plan obtained or created to provide benefits to employees of school districts and their dependents shall contain provisions that permit retired and disabled employees to continue medical, dental, or vision coverage under the group policy, contract, agreement, or plan until June 30, 1994, or until the employee becomes eligible for federal medicare coverage, whichever occurs first. The terms and conditions for election and maintenance of such continued coverage shall conform to the standards established under the federal consolidated omnibus budget reconciliation act of 1985, as amended. The period of continued coverage provided under this section shall run concurrently with any period of coverage guaranteed under the federal consolidated omnibus budget reconciliation act of 1985, as amended.

(2) This section applies to:

(a) School district employees who retired or lost insurance coverage due to disability after July 28, 1991;

(b) School district employees who retired or lost insurance coverage due to disability within the eighteen-month period ending on July 28, 1991; and

(c) School district employees who retired or lost insurance coverage due to disability prior to January 28, 1990, and who were covered by their employing district's insurance plan on January 1, 1991.

(3) For the purposes of this section "retired employee" means an employee who separates from district service and is eligible at the time of separation from service to receive, immediately following separation from service, a retirement allowance under chapter 41.32 or 41.40 RCW.

(4) The superintendent of public instruction shall adopt administrative rules to implement this section.

**NEW SECTION.** Sec. 2. (1) The health care authority shall study and develop recommendations regarding group health insurance coverage for retired and disabled school district employees. The health care authority shall collect such information as it deems necessary to address the following issues:

(a) Alternatives for making appropriate health insurance coverage available to currently retired and disabled school district employees, including allowing these employees to participate in insurance plans offered by the state employees' benefits board at no additional cost to the state;

(b) Development of estimated costs and funding mechanisms to provide health insurance coverage for currently retired and disabled school district employees at a reasonable cost, including alternatives for partial subsidization of costs by active employees or the state; and

(c) Identification of issues and alternatives for defining eligibility for group health insurance coverage for currently retired and disabled school district employees.

(2) The health care authority may form technical advisory committees to assist with the study. The health care authority shall submit its findings and recommendations to the legislature by January 15, 1993.

**NEW SECTION. Sec. 3.** A new section is added to chapter 28A.400 RCW to read as follows:

A group disability insurance policy, health care service contract, health maintenance agreement, or health and welfare benefit plan that provides benefits to retired school district employees and eligible dependents shall not require the beneficiary to make payment by monthly deduction from the beneficiary's state retirement allowance if the payment exceeds the retirement allowance. In such cases, the payment may be made directly by the individual beneficiary.

**NEW SECTION. Sec. 4.** If specific funding for the purposes of section 2 of this act, referencing this act by bill number, is not provided by June 30, 1992, in the omnibus appropriations act, section 2 of this act shall be null and void.

**NEW SECTION. Sec. 5.** RCW 28A.400.390 and 1991 c 254 s 1 are each repealed.

Passed the House March 9, 1992.

Passed the Senate March 6, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

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## CHAPTER 153

[Substitute House Bill 2594]

### WILDLIFE AND RECREATION LANDS MANAGEMENT ACT

Effective Date: 6/11/92

AN ACT Relating to the establishment of an account for the operation and maintenance of state-owned fish and wildlife habitat, natural areas such as natural area preserves and natural resource conservation areas, parks, and other recreation lands; adding a new chapter to Title 43 RCW; and creating new sections.

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

**NEW SECTION. Sec. 1.** SHORT TITLE. This chapter shall be known as the state wildlife and recreation lands management act.

**NEW SECTION. Sec. 2.** FINDINGS AND PURPOSE. (1) The legislature finds that:

(a) The state of Washington owns and maintains a wide variety of fish and wildlife habitat, natural areas, parks, and other recreation lands;

(b) The state of Washington is responsible for managing these lands for the benefit of the citizens, wildlife, and other natural resources of the state;

(c) The state of Washington has recently significantly enhanced its efforts to acquire critical habitat, natural areas, parks, and other recreation lands and to transfer suitable lands from school trust to conservation and park purposes;

(d) Recent unprecedented population growth has greatly increased the threat to the state's fish and wildlife habitat and the demands placed on the lands under (a) of this subsection;

(e) The importance of this habitat and these lands to the state is continuing to increase as more people depend on them to satisfy their needs and more plant and animal species require state-owned lands for their survival;

(f) By itself, public ownership cannot guarantee that resources will be protected, or that appropriate recreational opportunities will be provided;

(g) Only through ongoing, responsible management can fish and wildlife habitat, sensitive ecosystems, and recreational values be protected;

(h) The operation and maintenance funding for state-owned fish and wildlife habitat, natural areas, parks, and other recreation lands has not kept pace with increasing demands placed upon such lands;

(i) Many needed operation and maintenance projects have been deferred due to insufficient funding, resulting in increased costs when the projects are finally undertaken; and

(j) An increase in operation and maintenance funding is necessary to bring state-owned lands and facilities up to acceptable standards and to protect the state's investment in its fish and wildlife habitat, natural areas, parks, and other recreation lands.

(2) Therefore, it is the policy of the state to provide adequate and continuing funding for operation and maintenance needs of state-owned fish and wildlife habitat, natural areas, parks, and other recreation lands to protect the state's investment in such lands, and it is the purpose of this chapter to create a mechanism for doing so.

**NEW SECTION.** Sec. 3. DEFINITIONS. The definitions set forth in this section apply throughout this chapter.

(1) "Basic stewardship" means the costs associated with holding and protecting property to maintain the functions for which the property was acquired. It includes, but is not limited to, costs associated with statutorily required in-lieu property taxes, weed and pest control, fire protection, fence maintenance, cultural and archaeological site protection, basic research related to maintenance of natural area preserves and natural resource conservation areas, basic resource and environmental protection, and meeting applicable legal requirements.

(2) "Improved or developed resources" means the costs associated with the built or manipulated environment. It includes, but is not limited to, costs associated with maintaining buildings, grounds, roads, trails, water access sites, and utility systems. Also included are improvements to habitat such as bank stabilization, range rehabilitation, and food and water sources.

(3) "Human use management" means the costs associated with visitor management, education, and protection.

(4) "Administration" means state agency costs necessary to support subsections (1) through (3) of this section. It includes, but is not limited to, budget and accounting, personnel support services, volunteer programs, and training.

NEW SECTION. Sec. 4. STATE WILDLIFE AND RECREATION LANDS MANAGEMENT ACCOUNT. There is created the state wildlife and recreation lands management account in the state treasury.

(1) Moneys accumulated under this chapter shall be used exclusively for the purposes specified in this chapter. Those purposes are to support operation and maintenance activities and costs associated with owning and managing state fish and wildlife habitat, natural areas such as natural area preserves and natural resource conservation areas, parks, and other recreation lands and include:

- (a) Basic stewardship;
- (b) Improved or developed resources;
- (c) Human use management; and
- (d) Administration.

Land acquisition, facility development or replacement, major renovation projects, improvement or rehabilitation projects normally funded through the capital budget, and operation and maintenance of state fish hatcheries are excluded.

(2) No expenditures may be made from this account without legislative appropriation.

NEW SECTION. Sec. 5. ALLOCATION AND DISTRIBUTION OF MONEYS. (1) Moneys appropriated for this chapter from the state wildlife and recreation lands management account shall be expended in the following manner:

- (a) Not less than thirty percent for basic stewardship;
  - (b) Not less than twenty percent for improved or developed resources;
  - (c) Not less than fifteen percent for human use management; and
  - (d) Not more than fifteen percent for administration.
- (e) The remaining twenty to thirty-five percent shall be considered unallocated.

(2) In the event that moneys appropriated for this chapter to the state wildlife and recreation lands management account under the initial allocation prove insufficient to meet basic stewardship needs, the unallocated amount shall be used to fund basic stewardship needs.

(3) Each eligible agency is not required to meet this specific percentage distribution. However, funding across agencies should meet these percentages during each biennium.

(4) It is intended that moneys disbursed from this account not replace existing operation and maintenance funding levels from other state sources.

(5) Agencies eligible to receive funds from this account are the departments of fisheries, natural resources, and wildlife, and the state parks and recreation commission.

(6) Moneys appropriated for this chapter from the state wildlife and recreation lands management account shall be distributed in the following manner:

(a) Not less than twenty-five percent to the state parks and recreation commission.

(b) Not less than twenty-five percent to the department of natural resources.

(c) Not less than twenty-five percent to the department of wildlife.

(d) The remaining funds shall be allocated to eligible agencies based upon an evaluation of remaining unfunded needs.

(7) The office of financial management shall review eligible state agency requests and make recommendations on the allocation of funds provided under this chapter as part of the governor's operating budget request to the legislature.

**NEW SECTION. Sec. 6. STATE WILDLIFE AND RECREATION LANDS MANAGEMENT TASK FORCE.** (1) A state wildlife and recreation lands management task force is hereby created to develop recommendations regarding a new long-term funding source or sources to meet the requirements of this chapter. The task force shall investigate possible opportunities for the use of future appropriations for habitat conservation and outdoor recreation lands under chapter 43.98A RCW in meeting major operations and maintenance funding needs. The task force shall also report on funding needed to assist counties with the required police, fire protection, and other local services provided to protect state-owned fish and wildlife habitat, natural areas, parks, and other recreation lands.

(2)(a) The task force shall be composed of seven voting members, appointed by the governor, representing different regions of the state.

(b) The task force shall include as ex officio, nonvoting members, one member from each of the departments of fisheries, wildlife, and natural resources, the state parks and recreation commission, and the office of financial management appointed by the respective directors. The president of the senate and the speaker of the house of representatives shall each appoint one nonvoting member from each caucus of their respective legislative bodies.

(3) The chair of the task force shall be a citizen member and shall be chosen by the governor.

(4) The task force appointments shall be made by May 15, 1992.

(5) The task force shall provide for public involvement in the development of the recommendations.

(6) The interagency committee for outdoor recreation and the office of financial management shall provide staff support and technical assistance to the task force. All participant agencies and the department of revenue shall

cooperate in the development of the recommendations and shall provide relevant information as needed.

(7) A report and recommendations shall be submitted to the governor and standing committees of the legislature by September 15, 1992.

**NEW SECTION. Sec. 7. SEVERABILITY.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 8. CAPTIONS NOT LAW.** Section headings as used in this act do not constitute any part of the law.

**NEW SECTION. Sec. 9.** Sections 1 through 5 and 7 of this act shall constitute a new chapter in Title 43 RCW.

Passed the House March 7, 1992.

Passed the Senate March 3, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

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**CHAPTER 154**

[House Bill 2727]

**AIRCRAFT, WATERCRAFT, AND TRAVEL TRAILER AND CAMPER  
EXCISE TAXES—COLLECTION OF UNPAID TAXES**

**Effective Date: 7/1/92**

AN ACT Relating to aircraft, watercraft, and travel trailer and camper excise taxes; amending RCW 82.48.020, 82.48.090, 82.49.010, 82.49.065, and 82.50.400; reenacting and amending RCW 82.50.170; prescribing penalties; and providing an effective date.

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

**Sec. 1.** RCW 82.48.020 and 1987 c 220 s 6 are each amended to read as follows:

An annual excise tax is hereby imposed for the privilege of using any aircraft in the state. A current certificate of air worthiness with a current inspection date from the appropriate federal agency and/or the purchase of aviation fuel shall constitute the necessary evidence of aircraft use or intended use. The tax shall be collected annually or under a staggered collection schedule as required by the secretary by rule. No additional tax shall be imposed under this chapter upon any aircraft upon the transfer of ownership thereof, if the tax imposed by this chapter with respect to such aircraft has already been paid for the year in which transfer of ownership occurs. Persons who are required to register aircraft under chapter 47.68 RCW and who register aircraft in another state or foreign country and avoid the Washington aircraft excise tax are liable for such unpaid excise tax. The department of revenue may assess and collect the unpaid excise tax under chapter 82.32 RCW, including the penalties and

interest provided in chapter 82.32 RCW. A violation of this chapter is a misdemeanor punishable as provided in chapter 9A.20 RCW.

**Sec. 2.** RCW 82.48.090 and 1989 c 378 s 25 are each amended to read as follows:

In case a claim is made by any person that the person has paid an erroneously excessive amount of excise tax under this chapter, the person may apply to the department of transportation for a refund of the claimed excessive amount together with interest at the rate specified in RCW 82.32.060. The department of transportation shall review such application, and if it determines that an excess amount of tax has actually been paid by the taxpayer, such excess amount and interest at the rate specified in RCW 82.32.060 shall be refunded to the taxpayer by means of a voucher approved by the department of transportation and by the issuance of a state warrant drawn upon and payable from such funds as the legislature may provide for that purpose. No refund shall be allowed, however, unless application for the refund is filed with the department of transportation within ninety days after the claimed excessive excise tax was paid and the amount of the overpayment exceeds five dollars.

**Sec. 3.** RCW 82.49.010 and 1983 2nd ex.s. c 3 s 42 are each amended to read as follows:

An excise tax is imposed for the privilege of using a vessel upon the waters of this state, except vessels exempt under RCW 82.49.020. The annual amount of the excise tax is one-half of one percent of fair market value, as determined under this chapter, or five dollars, whichever is greater. Persons who are required under chapter 88.02 RCW to register a vessel in this state and who register the vessel in another state or foreign country and avoid the Washington watercraft excise tax are liable for such unpaid excise tax. The department of revenue may assess and collect the unpaid excise tax under chapter 82.32 RCW, including the penalties and interest provided in chapter 82.32 RCW.

The excise tax upon a vessel registered for the first time in this state shall be imposed for a twelve-month period, including the month in which the vessel is registered, unless the director of licensing extends or diminishes vessel registration periods for the purpose of staggered renewal periods under RCW 88.02.050. A vessel is registered for the first time in this state when the vessel was not registered in this state for the immediately preceding registration year, or when the vessel was registered in another jurisdiction for the immediately preceding year. The excise tax on vessels required to be registered in this state on June 30, 1983, shall be paid by June 30, 1983.

**Sec. 4.** RCW 82.49.065 and 1989 c 68 s 3 are each amended to read as follows:

Whenever any person has paid a vessel license fee, and with the fee has paid an excise tax imposed under this chapter, and the director of licensing determines that the payor is entitled to a refund of the entire amount of the license fee as provided by law, then the payor shall also be entitled to a refund

of the entire excise tax collected under this chapter together with interest at the rate specified in RCW 82.32.060. If the director determines that any person is entitled to a refund of only a part of the license fee paid, the payor shall be entitled to a refund of the difference, if any, between the excise tax collected and that which should have been collected together with interest at the rate specified in RCW 82.32.060. The state treasurer shall determine the amount of such refund by reference to the applicable excise tax schedule prepared by the department of revenue in cooperation with the department of licensing.

If no claim is to be made for the refund of the license fee, or any part of the fee, but claim is made by any person that he or she has paid an erroneously excessive amount of excise tax, the department of licensing shall determine in the manner generally provided in this chapter the amount of such excess, if any, that has been paid and shall certify to the state treasurer that the person is entitled to a refund in that amount together with interest at the rate specified in RCW 82.32.060.

If due to error a person has been required to pay an excise tax pursuant to this chapter and a license fee under chapter 88.02 RCW which amounts to an overpayment of ten dollars or more, such person shall be entitled to a refund of the entire amount of such overpayment, together with interest at the rate specified in RCW 82.32.060, regardless of whether a refund of the overpayment has been requested. If due to error the department or its agents has failed to collect the full amount of the license fee and excise tax due, which underpayment is in the amount of ten dollars or more, the department shall charge and collect such additional amount as will constitute full payment of the tax and any penalties or interest at the rate specified in RCW 82.32.050.

If the department approves the claim, it shall notify the state treasurer to that effect and the treasurer shall make such approved refunds and the other refunds provided for in this section from the general fund and shall mail or deliver the same to the person entitled to the refund.

Any person who makes a false statement under which he or she obtains a refund to which he or she is not entitled under this section is guilty of a gross misdemeanor.

**Sec. 5.** RCW 82.50.400 and 1990 c 42 s 320 are each amended to read as follows:

An annual excise tax is imposed on the owner of any travel trailer or camper for the privilege of using such travel trailer or camper in this state. The excise tax hereby imposed shall be due and payable to the department of licensing or its agents at the time of registration of a travel trailer or camper. Whenever an application is made to the department of licensing or its agents for a license for a travel trailer or camper there shall be collected, in addition to the amount of the license fee or renewal license fee, the amount of the excise tax imposed by this chapter, and no dealer's license or license plates, and no license or license plates for a travel trailer or camper may be issued unless such tax is paid in full.

No additional tax shall be imposed under this chapter upon any travel trailer or camper upon the transfer of ownership thereof, if the tax imposed by this chapter with respect to such travel trailer or camper has already been paid for the registration year or fractional part thereof in which such transfer occurs. Persons who are required to license travel trailers or campers under chapter 46.16 RCW and who license travel trailers or campers in another state or foreign country to avoid the Washington travel trailer or camper tax are liable for such unpaid excise tax. The department of revenue may assess and collect the unpaid excise tax under chapter 82.32 RCW, including the penalties and interest provided in chapter 82.32 RCW.

**Sec. 6.** RCW 82.50.170 and 1989 c 378 s 26 and 1989 c 68 s 4 are each reenacted and amended to read as follows:

In case a claim is made by any person that the person has erroneously paid the tax or a part thereof or any charge hereunder, the person may apply in writing to the department of licensing for a refund of the amount of the claimed erroneous payment within thirteen months of the time of payment of the tax on such a form as is prescribed by the department of licensing. The department of licensing shall review such application for refund, and, if it determines that an erroneous payment has been made by the taxpayer, it shall certify the amount to be refunded to the state treasurer that such person is entitled to a refund in such amount together with interest at the rate specified in RCW 82.32.060, and the treasurer shall make such approved refund together with interest at the rate specified in RCW 82.32.060 herein provided for from the general fund and shall mail or deliver the same to the person entitled thereto.

If due to error a person has been required to pay an excise tax under this chapter and a vehicle license fee under Title 46 RCW which amounts to an overpayment of ten dollars or more, such person shall be entitled to a refund of the entire amount of such overpayment, together with interest at the rate specified in RCW 82.32.060, regardless of whether a refund of the overpayment has been requested. If due to error the department or its agents has failed to collect the full amount of the license fee and excise tax due, which underpayment is in the amount of ten dollars or more, the department shall charge and collect such additional amount as will constitute full payment of the tax and any penalties or interest at the rate specified in RCW 82.32.050.

Any person making any false statement in the claim herein mentioned, under which the person obtains any amount of refund to which the person is not entitled under the provisions of this section, shall be guilty of a gross misdemeanor.

**NEW SECTION.** Sec. 7. This act shall take effect July 1, 1992.

Passed the House March 7, 1992.

Passed the Senate March 3, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

**CHAPTER 155**

[Substitute Senate Bill 5305]

**SCHOOL SUSPENSIONS—CONDITIONS AND ALTERNATIVES**

**Effective Date:** 6/11/92

AN ACT Relating to school suspension; and adding new sections to chapter 28A.600 RCW. Be it enacted by the Legislature of the State of Washington:

**NEW SECTION. Sec. 1.** A new section is added to chapter 28A.600 RCW to read as follows:

School districts are encouraged to find alternatives to suspension including reducing the length of a student's suspension conditioned by the commencement of counseling or other treatment services. Consistent with current law, the conditioning of a student's suspension does not obligate the school district to pay for the counseling or other treatment services except for those stipulated and agreed to by the district at the inception of the suspension.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.600 RCW to read as follows:

(1) The superintendent of public instruction shall encourage school districts to utilize community service as an alternative to student suspension. Community service shall include the provision of volunteer services by students in social and educational organizations including, but not limited to, hospitals, fire and police stations, nursing homes, food banks, day care organizations, and state and local government offices.

(2) At a minimum, by February 1, 1993, the superintendent shall prepare and distribute information to school districts regarding existing programs, the potential benefits and considerations of using community service as an alternative to suspension, and recommended guidelines for starting new programs. The superintendent also shall address, and attempt to clarify and resolve, any potential liability, supervision, and transportation issues associated with using community service as an alternative to suspension.

Passed the Senate March 7, 1992.

Passed the House March 5, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

## CHAPTER 156

[House Bill 2961]

## THURSTON COUNTY LODGING TAX—

## REPEAL AND AUTHORIZATION OF USE OF REVENUES COLLECTED

Effective Date: 4/1/92

AN ACT Relating to special excise taxes authorized for aquatic and academy facilities; amending RCW 67.28.250; creating new sections; and declaring an emergency.

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

**NEW SECTION. Sec. 1.** It is the intent of the legislature to provide for the disposition of proceeds of the special excise tax under RCW 67.28.250 that was invalidated in *Dare vs. Thurston County, et al.*, Thurston county superior court docket number 91-2-00715-0.

**Sec. 2.** RCW 67.28.250 and 1988 ex.s. c 1 s 22 are each amended to read as follows:

(1) The legislative body of Pierce (~~and Thurston counties are~~) county is authorized to levy and collect a special excise tax not to exceed three percent on the sale of or charge made for the furnishing of lodging by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property. For the purposes of this tax, it shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or to enjoy the same.

(2) The tax authorized in subsection (1) of this section is in addition to any other tax authorized by law.

(3) Any seller, as defined in RCW 82.08.010, who is required to collect any tax under this section shall pay over such tax to the county as provided in RCW 67.28.200. The deduction from state taxes under RCW 67.28.190 does not apply to (~~taxes~~) the tax imposed under this section.

(4) All taxes levied and collected under this section shall be credited to a special fund in the treasury of the county. Such taxes shall be levied only for the purpose of paying all or any part of the cost of the siting, acquisition, construction, operation, and maintenance of an indoor aquatic facility in Pierce county (~~and an Olympic academy facility in Thurston county,~~) and may be used for and pledged to the payment of bonds, leases, or other obligations issued or incurred for such purposes.

**NEW SECTION. Sec. 3.** The proceeds of any tax levied under RCW 67.28.250 before the effective date of this act may be used only to pay for or to establish an endowment to pay for the capital or operating costs of the following:

- (1) Projects, including educational activities, that attract visitors to or promote tourism in the county;
- (2) Arts or cultural activities;
- (3) Historical activities; or
- (4) Park and recreational sites with historical significance.

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

Passed the House February 15, 1992.

Passed the Senate March 6, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

## CHAPTER 157

[Engrossed Substitute House Bill 2985]

### LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' RETIREMENT SYSTEM— SERVICE CREDIT FOR SERVICE UNDER PRIOR RETIREMENT SYSTEM

Effective Date: 6/1/92 - Except Sections 3 & 4 which take effect on 4/1/92.

AN ACT Relating to establishing pension credit for law enforcement officers and fire fighters who qualified under a prior pension system; adding new sections to chapter 41.26 RCW; adding new sections to chapter 41.40 RCW; and declaring an emergency.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 41.26 RCW under the subchapter heading "PLAN I" to read as follows:

If a member of plan I served as a law enforcement officer or fire fighter under a prior pension system and that service is not creditable to plan I because the member withdrew his or her contributions plus accrued interest from the prior pension system, the member's prior service as a law enforcement officer shall be credited to plan I if the member pays to the retirement system by June 30, 1993, an amount equal to that which the member withdrew from the prior pension system together with interest as determined by the director.

**NEW SECTION. Sec. 2.** A new section is added to chapter 41.26 RCW under the subchapter heading "PLAN I" to read as follows:

If a plan I member's prior service as a law enforcement officer or fire fighter under a prior pension system is not creditable because, although employed in a position covered by a prior pension act, the member had not yet become a member of the pension system governed by the act, the member's prior service as a law enforcement officer or fire fighter shall be creditable under plan I, if the member pays to the plan, on or before June 30, 1993, an amount equal to the employee's and the employer's contributions that would have been required under the prior act when the member's service was rendered if the member had been a member of the prior pension system during that period, together with interest as determined by the director.

**NEW SECTION. Sec. 3.** A new section is added to chapter 41.40 RCW to read as follows:

Any active member of this retirement system who has previously established ten or more years' service credit in the city of Seattle's police relief and pension

fund system, who withdrew his or her contributions from Seattle's police relief and pension fund system prior to July 1, 1961, and who has never been a member of the law enforcement officers' and fire fighters' pension system created in chapter 41.26 RCW, may receive credit in this retirement system for such service, subject to the terms and conditions specified in section 4 of this act.

**NEW SECTION.** Sec. 4. A new section is added to chapter 41.40 RCW to read as follows:

(1) A member who fulfills the requirements of section 3 of this act may file a written declaration no later than September 30, 1992, with the department and the Seattle police relief and pension fund system indicating the member's desire to make an irrevocable transfer of credit from the Seattle system to this retirement system. The member shall restore his or her contributions, with interest since the date of withdrawal as determined by the director, no later than December 31, 1992.

(2) Upon receipt of the written declaration, the Seattle police relief and pension fund system shall send the department a report of the member's service credit. It shall also transfer to the department the portion of such member's contributions that was retained in the Seattle police relief and pension fund pursuant to RCW 41.20.150, plus a sum equal to such member's total contributions to the Seattle police relief and pension fund, which shall be treated as matching contributions by the employer, plus the compound interest that would have been generated by such sums, as determined by the Seattle city treasurer. The Seattle police relief and pension fund system shall send the service credit report and transfer the funds within ninety days of receiving the member's written declaration.

**NEW SECTION.** Sec. 5. Sections 3 and 4 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 9, 1992.

Passed the Senate March 6, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

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**CHAPTER 158**

[House Bill 2896]

**FERRY BOND ISSUE AUTHORIZED**

Effective Date: 6/11/92

AN ACT Relating to state ferry bonds; and adding new sections to chapter 47.60 RCW.

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

**NEW SECTION.** Sec. 1. In order to provide funds necessary for vessel and terminal acquisition, construction, and major and minor improvements, including long lead time materials acquisition for the Washington state ferries, there shall be issued and sold upon the request of the Washington state transportation commission and legislative appropriation a total of two hundred ten million dollars of general obligation bonds of the state of Washington.

**NEW SECTION.** Sec. 2. (1) Upon request being made by the transportation commission, the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds authorized by sections 1 through 5 of this act in accordance with chapter 39.42 RCW. The bonds may be sold from time to time in such amounts as may be necessary for the purposes under section 1 of this act. The bonds shall be sold in such manner, at such time or times, in such amounts, and at such price or prices as the state finance committee shall determine. No such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

(2) The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purposes of retiring the bonds during the life of the project for which they were issued.

**NEW SECTION.** Sec. 3. The proceeds from the sale of bonds authorized by sections 1 through 5 of this act shall be deposited in the Puget Sound capital construction account of the motor vehicle fund and such proceeds shall be available only for the purposes under section 1 of this act, for the payment of bond anticipation notes, if any, and for the payment of bond issuance costs, including the costs of underwriting.

**NEW SECTION.** Sec. 4. Bonds issued under the authority of sections 1 through 5 of this act shall distinctly state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay such principal and interest as the same shall become due. The principal and interest shall be first payable in the manner provided in sections 1 through 5 of this act from the proceeds of the state excise taxes on motor vehicle and special fuels imposed by chapters 82.36, 82.37, and 82.38 RCW and distributed to the state pursuant to RCW 46.68.130 and shall never constitute a charge against any allocations of such funds to counties, cities,

and towns unless and until the amount of the motor vehicle fund arising from the excise taxes on motor vehicle and special fuels and available for state highway purposes proves insufficient to meet the requirements for bond retirement or interest on any such bonds. Proceeds of such excise taxes are hereby pledged to the payment of any bonds and the interest thereon issued under the authority of sections 1 through 5 of this act, and the legislature agrees to continue to impose these excise taxes on motor vehicle and special fuels in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the authority of sections 1 through 5 of this act.

**NEW SECTION. Sec. 5.** Both principal and interest on the bonds issued for the purposes of sections 1 through 5 of this act shall be payable from the ferry bond retirement fund authorized in RCW 47.60.600. Whenever, pursuant to sections 1 and 4 of this act, the state treasurer transfers funds from the motor vehicle fund to the ferry bond retirement fund, the state treasurer may at the same time reimburse the motor vehicle fund in an identical amount from the Puget Sound capital construction account.

**NEW SECTION. Sec. 6.** Sections 1 through 5 of this act are each added to chapter 47.60 RCW.

Passed the House February 19, 1992.

Passed the Senate March 7, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

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## CHAPTER 159

[Engrossed Substitute House Bill 2518]

### EDUCATIONAL EMPLOYEES—CRIMINAL HISTORY CHECKS—REVISIONS

Effective Date: 6/11/92

AN ACT Relating to educational employees; amending RCW 28A.410.090, 28A.410.100, and 43.43.838; reenacting and amending RCW 28A.410.010; adding new sections to chapter 28A.400 RCW; adding a new section to chapter 28A.410 RCW; adding a new section to chapter 43.43 RCW; and creating a new section.

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

**NEW SECTION. Sec. 1.** The legislature finds that additional safeguards are necessary to ensure the safety of Washington's school children. The legislature further finds that the results from state patrol record checks are more complete when fingerprints of individuals are provided, and that information from the federal bureau of investigation also is necessary to obtain information on out-of-state criminal records. The legislature further finds that confidentiality safeguards in state law are in place to ensure that the rights of applicants for certification or jobs and newly hired employees are protected.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.400 RCW to read as follows:

School districts, educational service districts, and their contractors hiring employees who will have regularly scheduled unsupervised access to children shall require a record check through the Washington state patrol criminal identification system under RCW 43.43.830 through 43.43.834, 10.97.030, and 10.97.050 and through the federal bureau of investigation before hiring an employee. The record check shall include a fingerprint check using a complete Washington state criminal identification fingerprint card. The requesting entity shall provide a copy of the record report to the applicant. When necessary, applicants may be employed on a conditional basis pending completion of the investigation. If the applicant has had a record check within the previous two years, the district or contractor may waive the requirement. The district, pursuant to chapter 41.59 or 41.56 RCW, or contractor hiring the employee shall determine who shall pay costs associated with the record check.

**Sec. 3.** RCW 28A.410.010 and 1988 c 172 s 3 and 1988 c 97 s 1 are each reenacted and amended to read as follows:

The state board of education shall establish, publish, and enforce rules and regulations determining eligibility for and certification of personnel employed in the common schools of this state, including certification for emergency or temporary, substitute or provisional duty and under such certificates or permits as the board shall deem proper or as otherwise prescribed by law. ~~((Except for applicants who are applying for certificates which restrict the holder of the certificate to the teaching of students who are sixteen years of age or older,))~~ The rules shall require that the initial application for certification shall require a ~~((background))~~ record check of the applicant through the Washington state patrol criminal identification system and through the federal bureau of investigation at the applicant's expense. The record check shall include a fingerprint check using a complete Washington state criminal identification fingerprint card. The superintendent of public instruction may waive the record check for any applicant who has had a record check within the two years before application.

In establishing rules pertaining to the qualifications of instructors of sign language the state board shall consult with the national association of the deaf, "sign instructors guidance network" (s.i.g.n.), and the Washington state association of the deaf for evaluation and certification of sign language instructors.

The superintendent of public instruction shall act as the administrator of any such rules and regulations and have the power to issue any certificates or permits and revoke the same in accordance with board rules and regulations.

**Sec. 4.** RCW 28A.410.090 and 1990 c 33 s 408 are each amended to read as follows:

(1) Any certificate or permit authorized under the provisions of this chapter, chapter 28A.405 RCW, or rules and regulations promulgated thereunder may be revoked or suspended by the authority authorized to grant the same upon complaint of any school district superintendent ~~((or))~~ educational service district

superintendent, or private school administrator for immorality, violation of written contract, unprofessional conduct, intemperance, or crime against the law of the state.

If the superintendent of public instruction has reasonable cause to believe that an alleged violation of this chapter or rules adopted under it has occurred, but no complaint has been filed pursuant to this chapter, and that a school district superintendent, educational service district superintendent, or private school administrator has sufficient notice of the alleged violation and opportunity to file a complaint, the superintendent of public instruction may cause an investigation to be made of the alleged violation, together with such other matters that may be disclosed in the course of the investigation related to certificated personnel.

(2) Any such certificate or permit authorized under this chapter or chapter 28A.405 RCW shall be revoked by the authority authorized to grant the certificate upon a guilty plea or the conviction of any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (excepting motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction. The person whose certificate is in question shall be given an opportunity to be heard. Mandatory permanent revocation upon a guilty plea or the conviction of felony crimes specified under this subsection shall apply to such convictions or guilty pleas which occur after July 23, 1989. Revocation of any certificate or permit authorized under this chapter or chapter 28A.405 RCW for a guilty plea or criminal conviction occurring prior to July 23, 1989, shall be subject to the provisions of subsection (1) of this section.

NEW SECTION. Sec. 5. A new section is added to chapter 28A.410 RCW to read as follows:

(1) The superintendent of public instruction may initiate and conduct investigations as may be reasonably necessary to establish the existence of any alleged violations of or noncompliance with this chapter or any rules adopted under it. For the purpose of any investigation or proceeding under this chapter, the superintendent or any officer designated by the superintendent may administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records that the superintendent deems relevant and material to the inquiry.

(2) If any person fails to obey a subpoena or obeys a subpoena but refuses to give evidence, any court of competent jurisdiction, upon application by the superintendent, may issue to that person an order requiring him or her to appear before the court and to show cause why he or she should not be compelled to

obey the subpoena, and give evidence material to the matter under investigation. The failure to obey an order of the court may be punishable as contempt.

**Sec. 6.** RCW 28A.410.100 and 1990 c 33 s 409 are each amended to read as follows:

Any teacher whose certificate to teach has been questioned (~~(by the filing of a complaint by a school district superintendent or educational service district superintendent)~~) under RCW 28A.410.090 shall have a right to be heard by the issuing authority before his or her certificate is revoked. Any teacher whose certificate to teach has been revoked shall have a right of appeal to the state board of education if notice of appeal is given by written affidavit to the board within thirty days after the certificate is revoked.

An appeal to the state board of education within the time specified shall operate as a stay of revocation proceedings until the next regular or special meeting of said board and until the board's decision has been rendered.

**Sec. 7.** RCW 43.43.838 and 1990 c 3 s 1104 are each amended to read as follows:

(1) After January 1, 1988, and notwithstanding any provision of RCW 43.43.700 through 43.43.810 to the contrary, the state patrol shall furnish a transcript of the conviction record, disciplinary board final decision and any subsequent criminal charges associated with the conduct that is the subject of the disciplinary board final decision, or civil adjudication record pertaining to any person for whom the state patrol or the federal bureau of investigation has a record upon the written request of:

- (a) The subject of the inquiry;
- (b) Any business or organization for the purpose of conducting evaluations under RCW 43.43.832;
- (c) The department of social and health services;
- (d) Any law enforcement agency, prosecuting authority, or the office of the attorney general; or
- (e) The department of social and health services for the purpose of meeting responsibilities set forth in chapter 74.15, 18.51, 18.20, or 72.23 RCW, or any later-enacted statute which purpose is to regulate or license a facility which handles vulnerable adults. However, access to conviction records pursuant to this subsection (1)(e) does not limit or restrict the ability of the department to obtain additional information regarding conviction records and pending charges as set forth in RCW 74.15.030(2)(b).

After processing the request, if the conviction record, disciplinary board final decision and any subsequent criminal charges associated with the conduct that is the subject of the disciplinary board final decision, or adjudication record shows no evidence of a crime against children or other persons or, in the case of vulnerable adults, no evidence of crimes relating to financial exploitation in which the victim was a vulnerable adult, an identification declaring the showing of no evidence shall be issued to the applicant by the state patrol and shall be

issued within fourteen working days of the request. Possession of such identification shall satisfy future ((background)) record check requirements for the applicant for a two-year period unless the prospective employee is any current school district employee who has applied for a position in another school district.

(2) The state patrol shall by rule establish fees for disseminating records under this section to recipients identified in subsection (1)(a) and (b) of this section. The state patrol shall also by rule establish fees for disseminating records in the custody of the national crime information center. The revenue from the fees shall cover, as nearly as practicable, the direct and indirect costs to the state patrol of disseminating the records: PROVIDED, That no fee shall be charged to a nonprofit organization((, including school districts and educational service districts,)) for the records check: PROVIDED FURTHER, That in the case of record checks using fingerprints requested by school districts and educational service districts, the state patrol shall charge only for the incremental costs associated with checking fingerprints in addition to name and date of birth. Record checks requested by school districts and educational service districts using only name and date of birth shall continue to be provided free of charge.

(3) No employee of the state, employee of a business or organization, or the business or organization is liable for defamation, invasion of privacy, negligence, or any other claim in connection with any lawful dissemination of information under RCW 43.43.830 through 43.43.840 or 43.43.760.

(4) Before July 26, 1987, the state patrol shall adopt rules and forms to implement this section and to provide for security and privacy of information disseminated under this section, giving first priority to the criminal justice requirements of this chapter. The rules may include requirements for users, audits of users, and other procedures to prevent use of civil adjudication record information or criminal history record information inconsistent with this chapter.

(5) Nothing in RCW 43.43.830 through 43.43.840 shall authorize an employer to make an inquiry not specifically authorized by this chapter, or be construed to affect the policy of the state declared in chapter 9.96A RCW.

NEW SECTION. Sec. 8. A new section is added to chapter 43.43 RCW to read as follows:

The fingerprint identification account is created in the custody of the state treasurer. All receipts from incremental charges of fingerprint checks requested by school districts shall be deposited in the account. Receipts for fingerprint checks by the federal bureau of investigation may also be deposited in the account. Expenditures from the account may be used only for the cost of record checks. Only the chief of the state patrol or the chief's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW. No appropriation is required for expenditures prior

to July 1, 1995. After June 30, 1995, the account shall be subject to appropriation.

**NEW SECTION. Sec. 9.** A new section is added to chapter 28A.400 RCW to read as follows:

The state patrol shall accept fingerprints obtained under this chapter only if it can ensure that the patrol will not retain a record of the fingerprints after the check is complete. It shall not forward fingerprints obtained under this chapter to the federal bureau of investigation unless it can ensure that the federal bureau of investigation will not retain a record of the fingerprints after the check is complete. The state patrol shall report to the house of representatives appropriations committee and the senate ways and means committee on measures taken to implement this section before accepting any fingerprints obtained under this chapter.

Passed the House March 9, 1992.

Passed the Senate March 5, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

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## CHAPTER 160

[Substitute Senate Bill 6393]

### DAIRY AND FOOD PROCESSING PLANT INSPECTIONS

Effective Date: 6/11/92

AN ACT Relating to milk producers and distributors and food processors; amending RCW 69.07.040, 69.07.050, and 69.07.120; and adding new sections to chapter 15.36 RCW.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 15.36 RCW to read as follows:

There is levied on all milk processed in this state an assessment not to exceed one-half of one cent per hundredweight. The director shall determine, by rule, an assessment, that with contribution from the general fund, will support an inspection program to maintain compliance with the provisions of the pasteurized milk ordinance of the national conference on interstate milk shipment. All assessments shall be levied on the operator of the first milk plant receiving the milk for processing. This shall include milk plants that produce their own milk for processing and milk plants that receive milk from other sources. All moneys collected under this section shall be paid to the director by the twentieth day of the succeeding month for the previous month's assessments. The director shall deposit the funds into the dairy inspection account hereby created within the agricultural local fund established in RCW 43.23.230. The funds shall be used only to provide inspection services to the dairy industry. If the operator of a milk plant fails to remit any assessments, that sum shall be a lien on any property owned by him or her, and shall be reported by the director and collected

in the manner and with the same priority over other creditors as prescribed for the collection of delinquent taxes under chapters 84.60 and 84.64 RCW.

This section shall take effect July 1, 1992, and shall expire June 30, 1994.

**NEW SECTION.** **Sec. 2.** A new section is added to chapter 15.36 RCW to read as follows:

(1) There is created a dairy inspection program advisory committee. The committee shall consist of nine members. The committee shall be appointed by the director from names submitted by dairy producer organizations or from handlers of milk products. The committee shall consist of four members who are producers of milk or their representatives, and four members who are handlers or their representatives, and one member who must be a producer-handler.

(2) The purpose of this advisory committee is to assist the director by providing recommendations regarding the dairy inspection program, that are consistent with the pasteurized milk ordinance. The advisory committee shall (a) review and evaluate the program including the efficiency of the administration of the program, the adequacy of the level of inspection staff, the ratio of inspectors to number of dairy farm inspections per year, and the ratio of inspectors to management employees; and (b) consider alternatives to the state program, which may include privatization of various elements of the inspection program.

(3) The committee shall meet as necessary to complete its work. Meetings of the committee are subject to the open public meetings act.

(4) Not later than October 15, 1992, the advisory committee shall issue a preliminary report of its findings to the dairy industry. The committee shall solicit comments from the dairy industry which shall be reflected in the committee's final report.

(5) Not later than December 1, 1992, the advisory committee shall report to the agricultural committees of the house of representatives and senate its recommendations for long-term structure and funding of the dairy inspection program.

**Sec. 3.** RCW 69.07.040 and 1991 c 137 s 3 are each amended to read as follows:

It shall be unlawful for any person to operate a food processing plant or process foods in the state without first having obtained an annual license from the department, which shall expire on a date set by rule by the director. License fees shall be prorated where necessary to accommodate staggering of expiration dates. Application for a license shall be on a form prescribed by the director and accompanied by ~~((a twenty five dollar annual))~~ the license fee. The license fee is determined by computing the gross annual sales for the accounting year immediately preceding the license year. If the license is for a new operator, the license fee shall be based on an estimated gross annual sales for the initial license period.

<u>If gross annual sales are:</u>	<u>The license fee is:</u>
<u>\$0 to \$50,000</u>	<u>\$50.00</u>
<u>\$50,001 to \$500,000</u>	<u>\$100.00</u>
<u>\$500,001 to \$1,000,000</u>	<u>\$200.00</u>
<u>\$1,000,001 to \$5,000,000</u>	<u>\$350.00</u>
<u>\$5,000,001 to \$10,000,000</u>	<u>\$500.00</u>
<u>Greater than \$10,000,000</u>	<u>\$750.00</u>

Such application shall include the full name of the applicant for the license and the location of the food processing plant he or she intends to operate. If such applicant is an individual, receiver, trustee, firm, partnership, association or corporation, the full name of each member of the firm or partnership, or names of the officers of the association or corporation shall be given on the application. Such application shall further state the principal business address of the applicant in the state and elsewhere and the name of a person domiciled in this state authorized to receive and accept service of summons of legal notices of all kinds for the applicant. The application shall also specify the type of food to be processed and the method or nature of processing operation or preservation of that food and any other necessary information. Upon the approval of the application by the director and compliance with the provisions of this chapter, including the applicable regulations adopted hereunder by the department, the applicant shall be issued a license or renewal thereof.

Licenses shall be issued to cover only those products, processes, and operations specified in the license application and approved for licensing. Wherever a license holder wishes to engage in processing a type of food product that is different than the type specified on the application supporting the licensee's existing license and processing that type of food product would require a major addition to or modification of the licensee's processing facilities or has a high potential for harm, the licensee shall submit an amendment to the current license application. In such a case, the licensee may engage in processing the new type of food product only after the amendment has been approved by the department.

If upon investigation by the director, it is determined that a person is processing food for retail sale and is not under permit, license, or inspection by a local health authority, then that person may be considered a food processor and subject to the provisions of this chapter.

**Sec. 4.** RCW 69.07.050 and 1991 c 137 s 4 are each amended to read as follows:

If the application for renewal of any license provided for under this chapter is not filed prior to the expiration date as established by rule by the director, an additional fee of (~~fifteen dollars~~) ten percent of the cost of the license shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license shall be issued: PROVIDED, That such additional fee shall not be charged if the applicant furnishes an affidavit certifying that he or she has

not operated a food processing plant or processed foods subsequent to the expiration of his or her license.

**Sec. 5.** RCW 69.07.120 and 1967 ex.s. c 121 s 12 are each amended to read as follows:

All moneys received by the department under the provisions of this chapter shall be paid into the ~~((state treasury))~~ food processing inspection account hereby created within the agricultural local fund established in RCW 43.23.230 and shall be used solely to carry out the provisions of this chapter and chapter 69.04 RCW.

Passed the Senate March 9, 1992.

Passed the House March 5, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

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## CHAPTER 161

[Substitute House Bill 2495]

### RURAL PUBLIC HOSPITAL DISTRICTS COOPERATION

Effective Date: 6/11/92

AN ACT Relating to cooperative activities by local governments; amending RCW 39.34.030, 39.34.040, 39.34.050, and 39.34.060; adding new sections to chapter 70.44 RCW; and creating a new section.

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

**NEW SECTION. Sec. 1.** The legislature finds that maintaining the viability of health care service delivery in rural areas of Washington is a primary goal of state health policy. The legislature also finds that most hospitals located in rural Washington are operated by public hospital districts authorized under chapter 70.44 RCW and declares that it is not cost-effective, practical, or desirable to provide quality health and hospital care services in rural areas on a competitive basis because of limited patient volume and geographic isolation. It is the intent of this act to foster the development of cooperative and collaborative arrangements among rural public hospital districts by specifically authorizing cooperative agreements and contracts for these entities under the interlocal cooperation act.

**NEW SECTION. Sec. 2.** A new section is added to chapter 70.44 RCW to read as follows:

Unless the context clearly requires otherwise, the definition in this section applies throughout section 3 of this act.

"Rural public hospital district" means a public hospital district authorized under chapter 70.44 RCW whose geographic boundaries do not include a city with a population greater than thirty thousand.

**NEW SECTION.** **Sec. 3.** A new section is added to chapter 70.44 RCW to read as follows:

In addition to other powers granted to public hospital districts by chapter 39.34 RCW, rural public hospital districts may enter into cooperative agreements and contracts with other rural public hospital districts in order to provide for the health care needs of the people served by the hospital districts. These agreements and contracts are specifically authorized to include:

(1) Allocation of health care services among the different facilities owned and operated by the districts;

(2) Combined purchases and allocations of medical equipment and technologies;

(3) Joint agreements and contracts for health care service delivery and payment with public and private entities; and

(4) Other cooperative arrangements consistent with the intent of chapter --, Laws of 1992 (this act). The provisions of chapter 39.34 RCW shall apply to the development and implementation of the cooperative contracts and agreements.

**Sec. 4.** RCW 39.34.030 and 1990 c 33 s 568 are each amended to read as follows:

(1) Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state may be exercised and enjoyed jointly with any other public agency of this state having the power or powers, privilege or authority, and jointly with any public agency of any other state or of the United States to the extent that laws of such other state or of the United States permit such joint exercise or enjoyment. Any agency of the state government when acting jointly with any public agency may exercise and enjoy all of the powers, privileges and authority conferred by this chapter upon a public agency.

(2) Any two or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to the provisions of this chapter: **PROVIDED**, That any such joint or cooperative action by public agencies which are educational service districts and/or school districts shall comply with the provisions of RCW 28A.320.080. Appropriate action by ordinance, resolution or otherwise pursuant to law of the governing bodies of the participating public agencies shall be necessary before any such agreement may enter into force.

(3) Any such agreement shall specify the following:

(a) Its duration;

(b) The precise organization, composition and nature of any separate legal or administrative entity created thereby together with the powers delegated thereto, provided such entity may be legally created. Such entity may include a nonprofit corporation organized pursuant to chapter 24.03 or 24.06 RCW whose membership is limited solely to the participating public agencies or a partnership organized pursuant to chapter 25.04 RCW whose partners are limited solely to participating public agencies and the funds of any such corporation or

partnership shall be subject to audit in the manner provided by law for the auditing of public funds;

(c) Its purpose or purposes;

(d) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor;

(e) The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination;

(f) Any other necessary and proper matters.

(4) In the event that the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement shall, in addition to items (a), (c), (d), (e) and (f) enumerated in subdivision (3) hereof, contain the following:

(a) Provision for an administrator or a joint board responsible for administering the joint or cooperative undertaking. In the case of a joint board, public agencies party to the agreement shall be represented;

(b) The manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking. Any joint board is authorized to establish a special fund with a state, county, city, or district treasurer servicing an involved public agency designated "Operating fund of ..... joint board".

(5) No agreement made pursuant to this chapter shall relieve any public agency of any obligation or responsibility imposed upon it by law except that to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made hereunder, ~~((said))~~ the performance may be offered in satisfaction of the obligation or responsibility.

(6) Financing of joint projects by agreement shall be as provided by law.

**Sec. 5.** RCW 39.34.040 and 1967 c 239 s 5 are each amended to read as follows:

Prior to its entry into force, an agreement made pursuant to this chapter shall be filed with the ~~((city-clerk-and))~~ county auditor and with the secretary of state. In the event that an agreement entered into pursuant to this chapter is between or among one or more public agencies of this state and one or more public agencies of another state or of the United States ~~((said))~~ the agreement shall have the status of an interstate compact, but in any case or controversy involving performance or interpretation thereof or liability thereunder, the public agencies party thereto shall be real parties in interest and the state may maintain an action to recoup or otherwise make itself whole for any damages or liability which it may incur by reason of being joined as a party therein. Such action shall be maintainable against any public agency or agencies whose default, failure of performance, or other conduct caused or contributed to the incurring of damage or liability by the state.

**Sec. 6.** RCW 39.34.050 and 1967 c 239 s 6 are each amended to read as follows:

In the event that an agreement made pursuant to this chapter shall deal in whole or in part with the provision of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force, be submitted to the state officer or agency having such power of control ~~((and)).~~ The agreement shall be approved or disapproved by ((him or it as to all matters within his or its jurisdiction)) the state officer or agency with regard to matters within his, her, or its jurisdiction within ninety days after receipt of the agreement. If a state officer or agency fails to act within the ninety-day time limit, the agreement shall be deemed approved by that state officer or agency.

**Sec. 7.** RCW 39.34.060 and 1967 c 239 s 7 are each amended to read as follows:

Any public agency entering into an agreement pursuant to this chapter may appropriate funds and may sell, lease, give, or otherwise supply property, personnel, and services to the administrative joint board or other legal or administrative entity created to operate the joint or cooperative undertaking ~~((by providing such personnel or services therefor as may be within its legal power to furnish))~~.

Passed the House March 7, 1992.

Passed the Senate March 3, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

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## CHAPTER 162

[Substitute Senate Bill 6085]

### BOUNDARY REVIEW BOARDS—ACTIONS NOT SUBJECT TO REVIEW—REVISIONS

Effective Date: 6/1/92

AN ACT Relating to boundary review boards; amending RCW 36.93.100; and adding a new section to chapter 36.93 RCW.

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

**Sec. 1.** RCW 36.93.100 and 1991 c 363 s 96 are each amended to read as follows:

The board shall review and approve, disapprove, or modify any of the actions set forth in RCW 36.93.090 when any of the following shall occur within forty-five days of the filing of a notice of intention:

(1) Three members of a five-member boundary review board or five members of a boundary review board in a county with a population of one million or more files a request for review: PROVIDED, That the members of the boundary review board shall not be authorized to file a request for review of the following actions:

(a) The incorporation or change in the boundary of any city, town, or special purpose district;

(b) The extension of permanent water service outside of its existing corporate boundaries by a city, town, or special purpose district (~~where such~~) if (i) the extension is through the installation of water mains of six inches or less in diameter or (ii) the county legislative authority for the county in which the proposed extension is to be built is required or chooses to plan under RCW 36.70A.040 and has by a majority vote waived the authority of the board to initiate review of all other extensions; or

(c) The extension of permanent sewer service outside of its existing corporate boundaries by a city, town, or special purpose district (~~where such~~) if (i) the extension is through the installation of sewer mains of eight inches or less in diameter or (ii) the county legislative authority for the county in which the proposed extension is to be built is required or chooses to plan under RCW 36.70A.040 and has by a majority vote waived the authority of the board to initiate review of all other extensions;

(2) Any governmental unit affected, including the governmental unit for which the boundary change or extension of permanent water or sewer service is proposed, or the county within which the area of the proposed action is located, files a request for review of the specific action;

(3) A petition requesting review is filed and is signed by:

(a) Five percent of the registered voters residing within the area which is being considered for the proposed action (as determined by the boundary review board in its discretion subject to immediate review by writ of certiorari to the superior court); or

(b) An owner or owners of property consisting of five percent of the assessed valuation within such area;

(4) The majority of the members of boundary review boards concur with a request for review when a petition requesting the review is filed by five percent of the registered voters who deem themselves affected by the action and reside within one-quarter mile of the proposed action but not within the jurisdiction proposing the action.

If a period of forty-five days shall elapse without the board's jurisdiction having been invoked as set forth in this section, the proposed action shall be deemed approved.

If a review of a proposal is requested, the board shall make a finding as prescribed in RCW 36.93.150 within one hundred twenty days after the filing of such a request for review. If this period of one hundred twenty days shall elapse without the board making a finding as prescribed in RCW 36.93.150, the proposal shall be deemed approved unless the board and the person who submitted the proposal agree to an extension of the one hundred twenty day period.

NEW SECTION. Sec. 2. A new section is added to chapter 36.93 RCW to read as follows:

The decisions of a boundary review board located in a county that is required or chooses to plan under RCW 36.70A.040 must be consistent with RCW 36.70A.020, 36.70A.110, and 36.70A.210.

Passed the Senate March 9, 1992.

Passed the House March 3, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

**CHAPTER 163**

[Substitute House Bill 2319]

**ADMINISTRATION OF ELECTIONS**

Effective Date: 6/11/92 - Except Sections 5 through 13 which take effect on 7/1/93.

AN ACT Relating to election administration; adding new sections to chapter 43.07 RCW; adding new sections to chapter 36.22 RCW; adding a new chapter to Title 29 RCW; creating a new section; and providing an effective date.

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

NEW SECTION. Sec. 1. A new section is added to chapter 43.07 RCW to read as follows:

The secretary of state shall establish a division of elections within the office of the secretary of state and under the secretary's supervision. The division shall be under the immediate supervision of a director of elections who shall be appointed by the secretary of state and serve at the secretary's pleasure.

NEW SECTION. Sec. 2. A new section is added to chapter 43.07 RCW to read as follows:

The secretary of state, through the division of elections, is responsible for the following duties, as prescribed by Title 29 RCW:

(1) The filing, verification of signatures, and certification of state initiative, referendum, and recall petitions;

(2) The production and distribution of a state voters' and candidates' pamphlet;

(3) The examination, testing, and certification of voting equipment, voting devices, and vote-tallying systems;

(4) The administration, canvassing, and certification of the presidential primary, state primaries, and state general elections;

(5) The administration of motor voter and other voter registration and voter outreach programs;

(6) The training, testing, and certification of state and local elections personnel as established in section 5 of this act;

(7) The training of state and local party observers required by section 6 of this act;

(8) The conduct of postelection reviews as established in section 9 of this act; and

(9) Other duties that may be prescribed by the legislature.

**NEW SECTION. Sec. 3.** (1) The Washington state election administration and certification board is established and has the responsibilities and authorities prescribed by this chapter. The board is composed of the following members:

(a) The secretary of state or the secretary's designee;

(b) The state director of elections or the director's designee;

(c) Four county auditors appointed by the Washington state association of county auditors or their alternates who are county auditors designated by the association to serve as such alternates, each appointee and alternate to serve at the pleasure of the association;

(d) One member from each of the two largest political party caucuses of the house of representatives designated by and serving at the pleasure of the legislative leader of the respective caucus;

(e) One member from each of the two largest political party caucuses of the senate designated by and serving at the pleasure of the legislative leader of the respective caucus; and

(f) One representative from each major political party, as defined by RCW 29.01.090, designated by and serving at the pleasure of the chair of the party's state central committee.

(2) The board shall elect a chair from among its number; however, neither the secretary of state nor the state director of elections nor their designees may serve as the chair of the board. A majority of the members appointed to the board constitutes a quorum for conducting the business of the board. Chapter 42.30 RCW, the open public meetings act, and RCW 42.32.030 regarding minutes of meetings, apply to the meetings of the board.

(3) Members of the board shall serve without compensation. The secretary of state shall reimburse members of the board, other than those who are members of the legislature, for travel expenses in accordance with RCW 43.03.050 and 43.03.060. Members of the board who are members of the legislature shall be reimbursed as provided in chapter 44.04 RCW.

**NEW SECTION. Sec. 4.** (1) The secretary of state and the board created in section 3 of this act shall jointly adopt rules, in the manner specified for the adoption of rules under the administrative procedure act, chapter 34.05 RCW, governing:

(a) The training of persons officially designated by major political parties as elections observers under this title, and the training and certification of election administration officials and personnel;

(b) The policies and procedures for conducting election reviews under section 9 of this act; and

(c) The policies and standards to be used by the board in reviewing and rendering decisions regarding appeals filed under section 9 of this act.

The initial policies and standards adopted under (c) of this subsection shall be adopted concurrently with adoption of the initial policies and procedures adopted under (b) of this subsection.

(2) The board created in section 3 of this act shall review appeals filed under section 7 or 9 of this act. A decision of the board regarding such an appeal shall be supported by not less than a majority of the members appointed to the board. A decision of the board regarding an appeal filed under section 9 of this act concerning an election review conducted under that section is final. If a decision of the board regarding an appeal filed under section 7 of this act includes a recommendation that a certificate be issued, the certificate shall be issued by the secretary of state as recommended by the board.

(3) The board created in section 3 of this act may adopt rules governing its procedures.

**NEW SECTION. Sec. 5.** The secretary of state shall:

(1) Establish and operate, or provide by contract, training and certification programs for state and county elections administration officials and personnel and training programs for political party observers which conform to the rules for such programs established under section 4 of this act;

(2) Administer tests for state and county officials and personnel who have received such training and issue certificates to those who have successfully completed the training and passed such tests;

(3) Maintain a record of those individuals who have received such training and certificates; and

(4) Provide the staffing and support services required by the board created under section 3 of this act.

**NEW SECTION. Sec. 6.** A person having responsibility for the administration or conduct of elections, other than precinct election officers, shall, within eighteen months of undertaking those responsibilities or within eighteen months of the effective date of this section, whichever is later, receive general training regarding the conduct of elections and specific training regarding their responsibilities and duties as prescribed by this title or by rules adopted by the secretary of state under this title. Included among those persons for whom such training is mandatory are the following:

(1) Secretary of state elections division personnel;

(2) County elections administrators under section 12 of this act;

(3) County canvassing board members;

(4) Persons officially designated by each major political party as elections observers; and

(5) Any other person or group charged with election administration responsibilities if the person or group is designated by rule adopted by the secretary of state as requiring the training.

The secretary of state shall reimburse election observers in accordance with RCW 43.03.050 and 43.03.060 for travel expenses incurred to receive training required under subsection (4) of this section.

Neither this section nor section 5 of this act may be construed as requiring an elected official to receive training or a certificate of training as a condition for seeking or holding elective office or as a condition for carrying out constitutional duties.

**NEW SECTION. Sec. 7.** (1) A decision of the secretary of state to deny certification under section 5 of this act shall be entered in the manner specified for orders under the administrative procedure act, chapter 34.05 RCW. Such a decision shall not be effective for a period of twenty days following the date of the decision, during which time the person denied certification may file a petition with the secretary of state requesting the secretary to reconsider the decision and to grant certification. The petitioner shall include, in the petition, an explanation of the reasons why the initial decision is incorrect and certification should be granted, and may include a request for a hearing on the matter. The secretary of state shall reconsider the matter if the petition is filed in a proper and timely manner. If a hearing is requested, the secretary of state shall conduct the hearing within sixty days after the date on which the petition is filed. The secretary of state shall render a final decision on the matter within ninety days after the date on which the petition is filed.

(2) Within twenty days after the date on which the secretary of state makes a final decision denying a petition under this section, the petitioner may appeal the denial to the board created in section 3 of this act. In deciding appeals, the board shall restrict its review to the record established when the matter was before the secretary of state. The board shall affirm the decision if it finds that the record supports the decision and that the decision is not inconsistent with other decisions of the secretary of state in which the same standards were applied and certification was granted. Similarly, the board shall reverse the decision and recommend to the secretary of state that certification be granted if the board finds that such support is lacking or that such inconsistency exists.

(3) Judicial review of certification decisions shall be as prescribed under RCW 34.05.510 through 34.05.598, but shall be limited to the review of board decisions denying certification.

**NEW SECTION. Sec. 8.** An election review section is established in the elections division of the office of the secretary of state. Permanent staff of the elections division, trained and certified as required by section 6 of this act, shall perform the election review functions prescribed by section 9 of this act. The staff may also be required to assist in training, certification, and other duties as may be assigned by the secretary of state to ensure the uniform and orderly conduct of elections in this state.

**NEW SECTION. Sec. 9.** (1)(a) The election review staff of the office of the secretary of state shall conduct a review of election-related policies, procedures, and practices in an affected county or counties:

(i) If the unofficial returns of a primary or general election for a position in the state legislature indicate that a mandatory recount is likely for that position; or

(ii) If unofficial returns indicate a mandatory recount is likely in a state-wide election or an election for federal office.

Reviews conducted under (ii) of this subsection shall be performed in as many selected counties as time and staffing permit. Reviews conducted as a result of mandatory recounts shall be performed between the time the unofficial returns are complete and the time the recount is to take place, if possible.

(b) In addition to conducting reviews under (a) of this subsection, the election review staff shall also conduct such a review in a county periodically after a county primary or special or general election at the direction of the secretary of state or at the request of the county auditor. If any resident of this state believes that an aspect of a primary or election has been conducted inappropriately in a county, the resident may file a complaint with the secretary of state. The secretary shall consider such complaints in scheduling periodic reviews under this section.

(c) Each county shall be reviewed under this section not less than once every four years. Before an election review is conducted in a county, the secretary of state shall provide the county auditor of the affected county and the chair of the state central committee of each major political party with notice that the review is to be conducted. When a periodic review is to be conducted in a county at the direction of the secretary of state under (b) of this subsection, the secretary shall provide the affected county auditor not less than thirty days' notice.

(2) Reviews shall be conducted in conformance with rules adopted under section 4 of this act. In performing a review in a county under this chapter, the election review staff shall evaluate the policies and procedures established for conducting the primary or election in the county and the practices of those conducting it. As part of the review, the election review staff shall issue to the county auditor and the members of the county canvassing board a report of its findings and recommendations regarding such policies, procedures, and practices. A review conducted under this chapter shall not include any evaluation, finding, or recommendation regarding the validity of the outcome of a primary or election or the validity of any canvass of returns nor does the election review staff have any jurisdiction to make such an evaluation, finding, or recommendation under this title.

(3) The county auditor of the county in which a review is conducted under this section or a member of the canvassing board of the county may appeal the

findings or recommendations of the election review staff regarding the review by filing an appeal with the board created under section 3 of this act.

**NEW SECTION. Sec. 10.** The county auditor may designate any person who has been certified under this chapter, other than the auditor, to participate in a review conducted in the county under this chapter. Each county auditor and canvassing board shall cooperate fully during an election review by making available to the reviewing staff any material requested by the staff. The reviewing staff shall have full access to ballot pages, absentee voting materials, any other election material normally kept in a secure environment after the election, and other requested material. If ballots are reviewed by the staff, they shall be reviewed in the presence of the canvassing board or its designees. Ballots shall not leave the custody of the canvassing board. During the review and after its completion, the review staff may make appropriate recommendations to the county auditor or canvassing board, or both, to bring the county into compliance with the training required under this chapter, and the laws or rules of the state of Washington, to safeguard election material or to preserve the integrity of the elections process.

**NEW SECTION. Sec. 11.** The secretary of state shall establish within the elections division an election assistance and clearinghouse program, which shall provide regular communication between the secretary of state, local election officials, and major and minor political parties regarding newly enacted elections legislation, relevant judicial decisions affecting the administration of elections, and applicable attorney general opinions, and which shall respond to inquiries from elections administrators, political parties, and others regarding election information. This section does not empower the secretary of state to offer legal advice or opinions, but the secretary may discuss the construction or interpretation of election law, case law, or legal opinions from the attorney general or other competent legal authority.

**NEW SECTION. Sec. 12.** A new section is added to chapter 36.22 RCW to read as follows:

The county auditor of each county, as ex officio supervisor of all primaries and elections, general or special, within the county under Title 29 RCW, may appoint one or more well-qualified persons to act as assistants or deputies; however, not less than two persons of the auditor's office who conduct primaries and elections in the county shall be certified under chapter 29.— RCW (sections 3 through 11 of this act) as elections administrators.

**NEW SECTION. Sec. 13.** A new section is added to chapter 36.22 RCW to read as follows:

Each deputy or assistant appointed under section 12 of this act shall have been graduated from an accredited high school or shall have passed a high school equivalency examination. Each shall be knowledgeable in the rules and laws of conducting elections.

NEW SECTION. **Sec. 14.** Sections 3 through 11 of this act shall constitute a new chapter in Title 29 RCW.

NEW SECTION. **Sec. 15.** Sections 5 through 13 of this act shall take effect July 1, 1993.

*\*NEW SECTION. Sec. 16. If specific funding for the purposes of sections 5 through 13 of this act, referencing sections 5 through 13 of this act by bill and section number, is not provided by June 30, 1993, in the omnibus appropriations act, sections 5 through 13 of this act shall be null and void.*

\*Sec. 16 was vetoed, see message at end of chapter.

Passed the House March 9, 1992.

Passed the Senate March 6, 1992.

Approved by the Governor April 1, 1992, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 1, 1992.

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

"I am returning herewith, without my approval as to section 16, Substitute House Bill No. 2319 entitled:

"AN ACT Relating to election administration."

Substitute House Bill No. 2319 creates the Election Administration and Certification Board to assure that elections are fair and efficient and that persons who work on elections are trained and well qualified.

Section 16 puts this program in jeopardy by providing that if specific funding is not included in the 1993 appropriations act, this act will become null and void. In recognition of the importance of this new program, I am eliminating this "null and void" provision.

For this reason, I have vetoed section 16 of Substitute House Bill No. 2319.

With the exception of section 16, Substitute House Bill No. 2319 is approved."

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**CHAPTER 164**

[Substitute House Bill 2766]

**SHERIFFS' FEES—REVISIONS**

**Effective Date: 6/11/92**

AN ACT Relating to sheriffs' fees and costs; and amending RCW 36.18.040.

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

**Sec. 1.** RCW 36.18.040 and 1981 c 194 s 1 are each amended to read as follows:

(1) Sheriffs shall collect the following fees for their official services:

(a) For service of each summons and complaint, notice and complaint, summons and petition, and notice of small claim on ~~((each defendant, besides mileage, six dollars))~~ one defendant at any location, ten dollars, and on two or more defendants at the same residence, twelve dollars, besides mileage;

(b) For making a return, besides mileage actually traveled, ~~((five))~~ seven dollars;

(c) For levying each writ of attachment or writ of execution upon real or personal property, besides mileage, ~~((fifteen))~~ thirty dollars per hour;

(d) For filing copy of writ of attachment or writ of execution with auditor, ~~((five))~~ ten dollars plus auditor's filing fee;

(e) For serving writ of possession or restitution without aid of the county, besides mileage, ~~((fifteen))~~ twenty-five dollars;

(f) For serving writ of possession or restitution with aid of the county, besides mileage, ~~((twenty-five))~~ forty dollars plus ((fifteen)) thirty dollars for each hour after one hour;

~~((For summoning each juror, besides mileage, five dollars;))~~

(g) For serving an arrest warrant in any action or proceeding, besides mileage, ~~((fifteen))~~ thirty dollars;

(h) For executing any other writ or process in a civil action or proceeding, besides mileage, ~~((fifteen))~~ thirty dollars per hour;

(i) For each mile actually and necessarily traveled ~~((by him))~~ in going to or returning from any place of service, or attempted service, ~~((twenty-five))~~ thirty-five cents;

(j) For making a deed to lands sold upon execution or order of sale or other decree of court, to be paid by the purchaser, ~~((twenty))~~ thirty dollars;

(k) For making copies of papers when sufficient copies are not furnished, one dollar for first page and fifty cents per each additional page;

(l) For the service of any other document and supporting papers for which no other fee is provided for herein, ~~((six\*))~~ twelve dollars;

(m) For posting a notice of sale, or postponement, ~~((five))~~ ten dollars besides mileage;

(n) For certificate or bill of sale of property, or certificate of redemption, ~~((twenty))~~ thirty dollars;

(o) For conducting a sale of property ~~(([+] fifteen))~~, thirty dollars per hour spent at a sheriff's sale;

(p) For notarizing documents, five dollars for each document;

(q) For fingerprinting for noncriminal purposes, ten dollars for each person for up to two sets, three dollars for each additional set;

(r) For mailing required by statute, whether regular, certified, or registered, the actual cost of postage;

(s) For an internal criminal history records check, ten dollars;

(t) For the reproduction of audio, visual, or photographic material, to include magnetic microfilming, the actual cost including personnel time.

(2) Fees allowable under this section may be recovered by the prevailing party incurring the same as court costs. Nothing contained in this section permits the expenditure of public funds to defray costs of private litigation. Such costs shall be borne by the party seeking action by the sheriff, and may be recovered from the proceeds of any subsequent judicial sale, or may be added to any judgment upon proper application to the court entering the judgment.

(3) Notwithstanding subsection (1) of this section, a county legislative authority may set the amounts of fees that shall be collected by the sheriff under subsection (1) of this section to cover the costs of administration and operation.

Passed the House March 8, 1992.

Passed the Senate March 5, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

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**CHAPTER 165**

[Substitute House Bill 2983]

**PUBLIC ASSISTANCE WORK EXPERIENCE AND JOB TRAINING PROGRAMS**

**Effective Date:** 6/11/92

AN ACT Relating to job training or work experience for public assistance recipients; amending RCW 74.04.005 and 74.25.020; creating new sections; providing an effective date; and declaring an emergency.

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

**Sec. 1.** RCW 74.04.005 and 1991 sp.s. c 10 s 1 are each amended to read as follows:

For the purposes of this title, unless the context indicates otherwise, the following definitions shall apply:

(1) "Public assistance" or "assistance"—Public aid to persons in need thereof for any cause, including services, medical care, assistance grants, disbursing orders, work relief, general assistance and federal-aid assistance.

(2) "Department"—The department of social and health services.

(3) "County or local office"—The administrative office for one or more counties or designated service areas.

(4) "Director" or "secretary" means the secretary of social and health services.

(5) "Federal-aid assistance"—The specific categories of assistance for which provision is made in any federal law existing or hereafter passed by which payments are made from the federal government to the state in aid or in respect to payment by the state for public assistance rendered to any category of needy persons for which provision for federal funds or aid may from time to time be made, or a federally administered needs-based program.

(6)(a) "General assistance"—Aid to persons in need who:

(i) Are not eligible to receive federal-aid assistance, other than food stamps and medical assistance; however, an individual who refuses or fails to cooperate in obtaining federal-aid assistance, without good cause, is not eligible for general assistance;

(ii) Are either:

(A) Pregnant: PROVIDED, That need is based on the current income and resource requirements of the federal aid to families with dependent children

program: PROVIDED FURTHER, That during any period in which an aid for dependent children employable program is not in operation, only those pregnant women who are categorically eligible for medicaid are eligible for general assistance; or

(B) Subject to section 2 of this act, incapacitated from gainful employment by reason of bodily or mental infirmity that will likely continue for a minimum of ninety days as determined by the department.

(C) Persons who are unemployable due to alcohol or drug addiction are not eligible for general assistance. Persons receiving general assistance on July 26, 1987, or becoming eligible for such assistance thereafter, due to an alcohol or drug-related incapacity, shall be referred to appropriate assessment, treatment, shelter, or supplemental security income referral services as authorized under chapter 74.50 RCW. Referrals shall be made at the time of application or at the time of eligibility review. Alcoholic and drug addicted clients who are receiving general assistance on July 26, 1987, may remain on general assistance if they otherwise retain their eligibility until they are assessed for services under chapter 74.50 RCW. ((This)) Subsection (6)(a)(ii)(B) of this section shall not be construed to prohibit the department from granting general assistance benefits to alcoholics and drug addicts who are incapacitated due to other physical or mental conditions that meet the eligibility criteria for the general assistance program;

(iii) Are citizens or aliens lawfully admitted for permanent residence or otherwise residing in the United States under color of law; and

(iv) Have furnished the department their social security account number. If the social security account number cannot be furnished because it has not been issued or is not known, an application for a number shall be made prior to authorization of assistance, and the social security number shall be provided to the department upon receipt.

(b) Notwithstanding the provisions of subsection (6)(a)(i), (ii), and (c) of this section, general assistance shall be provided to the following recipients of federal-aid assistance:

(i) Recipients of supplemental security income whose need, as defined in this section, is not met by such supplemental security income grant because of separation from a spouse; or

(ii) To the extent authorized by the legislature in the biennial appropriations act, to recipients of aid to families with dependent children whose needs are not being met because of a temporary reduction in monthly income below the entitled benefit payment level caused by loss or reduction of wages or unemployment compensation benefits or some other unforeseen circumstances. The amount of general assistance authorized shall not exceed the difference between the entitled benefit payment level and the amount of income actually received.

(c) General assistance shall be provided only to persons who are not members of assistance units receiving federal aid assistance, except as provided

in subsection (6)(a)(ii)(A) and (b) of this section, and will accept available services which can reasonably be expected to enable the person to work or reduce the need for assistance unless there is good cause to refuse. Failure to accept such services shall result in termination until the person agrees to cooperate in accepting such services and subject to the following maximum periods of ineligibility after reapplication:

(i) First failure: One week;

(ii) Second failure within six months: One month;

(iii) Third and subsequent failure within one year: Two months.

(d) The department shall adopt by rule medical criteria for general assistance eligibility to ensure that eligibility decisions are consistent with statutory requirements and are based on clear, objective medical information.

(e) The process implementing the medical criteria shall involve consideration of opinions of the treating or consulting physicians or health care professionals regarding incapacity, and any eligibility decision which rejects uncontroverted medical opinion must set forth clear and convincing reasons for doing so.

(f) Recipients of general assistance based upon a finding of incapacity from gainful employment who remain otherwise eligible shall not have their benefits terminated absent a clear showing of material improvement in their medical or mental condition or specific error in the prior determination that found the recipient eligible by reason of incapacitation. Recipients of general assistance based upon pregnancy who relinquish their child for adoption, remain otherwise eligible, and are not eligible to receive benefits under the federal aid to families with dependent children program shall not have their benefits terminated until the end of the month in which the period of six weeks following the birth of the recipient's child falls. Recipients of the federal aid to families with dependent children program who lose their eligibility solely because of the birth and relinquishment of the qualifying child may receive general assistance through the end of the month in which the period of six weeks following the birth of the child falls.

(7) "Applicant"—Any person who has made a request, or on behalf of whom a request has been made, to any county or local office for assistance.

(8) "Recipient"—Any person receiving assistance and in addition those dependents whose needs are included in the recipient's assistance.

(9) "Standards of assistance"—The level of income required by an applicant or recipient to maintain a level of living specified by the department.

(10) "Resource"—Any asset, tangible or intangible, owned by or available to the applicant at the time of application, which can be applied toward meeting the applicant's need, either directly or by conversion into money or its equivalent: PROVIDED, That an applicant may retain the following described resources and not be ineligible for public assistance because of such resources.

(a) A home, which is defined as real property owned and used by an applicant or recipient as a place of residence, together with a reasonable amount

of property surrounding and contiguous thereto, which is used by and useful to the applicant. Whenever a recipient shall cease to use such property for residential purposes, either for himself or his dependents, the property shall be considered as a resource which can be made available to meet need, and if the recipient or his dependents absent themselves from the home for a period of ninety consecutive days such absence, unless due to hospitalization or health reasons or a natural disaster, shall raise a rebuttable presumption of abandonment: PROVIDED, That if in the opinion of three physicians the recipient will be unable to return to the home during his lifetime, and the home is not occupied by a spouse or dependent children or disabled sons or daughters, such property shall be considered as a resource which can be made available to meet need.

(b) Household furnishings and personal effects and other personal property having great sentimental value to the applicant or recipient, as limited by the department consistent with limitations on resources and exemptions for federal aid assistance.

(c) A motor vehicle, other than a motor home, used and useful having an equity value not to exceed one thousand five hundred dollars.

(d) All other resources, including any excess of values exempted, not to exceed one thousand dollars or other limit as set by the department, to be consistent with limitations on resources and exemptions necessary for federal aid assistance.

(e) Applicants for or recipients of general assistance may retain the following described resources in addition to exemption for a motor vehicle or home and not be ineligible for public assistance because of such resources:

(i) Household furnishings, personal effects, and other personal property having great sentimental value to the applicant or recipient;

(ii) Term and burial insurance for use of the applicant or recipient;

(iii) Life insurance having a cash surrender value not exceeding one thousand five hundred dollars; and

(iv) Cash, marketable securities, and any excess of values above one thousand five hundred dollars equity in a vehicle and above one thousand five hundred dollars in cash surrender value of life insurance, not exceeding one thousand five hundred dollars for a single person or two thousand two hundred fifty dollars for a family unit of two or more. The one thousand dollar limit in subsection (10)(d) of this section does not apply to recipients of or applicants for general assistance.

(f) If an applicant for or recipient of public assistance possesses property and belongings in excess of the ceiling value, such value shall be used in determining the need of the applicant or recipient, except that: (i) The department may exempt resources or income when the income and resources are determined necessary to the applicant's or recipient's restoration to independence, to decrease the need for public assistance, or to aid in rehabilitating the applicant or recipient or a dependent of the applicant or recipient; and (ii) the department

may provide grant assistance for a period not to exceed nine months from the date the agreement is signed pursuant to this section to persons who are otherwise ineligible because of excess real property owned by such persons when they are making a good faith effort to dispose of that property: PROVIDED, That:

(A) The applicant or recipient signs an agreement to repay the lesser of the amount of aid received or the net proceeds of such sale;

(B) If the owner of the excess property ceases to make good faith efforts to sell the property, the entire amount of assistance may become an overpayment and a debt due the state and may be recovered pursuant to RCW 43.20B.630;

(C) Applicants and recipients are advised of their right to a fair hearing and afforded the opportunity to challenge a decision that good faith efforts to sell have ceased, prior to assessment of an overpayment under this section; and

(D) At the time assistance is authorized, the department files a lien without a sum certain on the specific property.

(11) "Income"—(a) All appreciable gains in real or personal property (cash or kind) or other assets, which are received by or become available for use and enjoyment by an applicant or recipient during the month of application or after applying for or receiving public assistance. The department may by rule and regulation exempt income received by an applicant for or recipient of public assistance which can be used by him to decrease his need for public assistance or to aid in rehabilitating him or his dependents, but such exemption shall not, unless otherwise provided in this title, exceed the exemptions of resources granted under this chapter to an applicant for public assistance. In determining the amount of assistance to which an applicant or recipient of aid to families with dependent children is entitled, the department is hereby authorized to disregard as a resource or income the earned income exemptions consistent with federal requirements. The department may permit the above exemption of earnings of a child to be retained by such child to cover the cost of special future identifiable needs even though the total exceeds the exemptions or resources granted to applicants and recipients of public assistance, but consistent with federal requirements. In formulating rules and regulations pursuant to this chapter, the department shall define income and resources and the availability thereof, consistent with federal requirements. All resources and income not specifically exempted, and any income or other economic benefit derived from the use of, or appreciation in value of, exempt resources, shall be considered in determining the need of an applicant or recipient of public assistance.

(b) If, under applicable federal requirements, the state has the option of considering property in the form of lump sum compensatory awards or related settlements received by an applicant or recipient as income or as a resource, the department shall consider such property to be a resource.

(12) "Need"—The difference between the applicant's or recipient's standards of assistance for himself and the dependent members of his family, as measured

by the standards of the department, and value of all nonexempt resources and nonexempt income received by or available to the applicant or recipient and the dependent members of his family.

(13) For purposes of determining eligibility for public assistance and participation levels in the cost of medical care, the department shall exempt restitution payments made to people of Japanese and Aleut ancestry pursuant to the Civil Liberties Act of 1988 and the Aleutian and Pribilof Island Restitution Act passed by congress, P.L. 100-383, including all income and resources derived therefrom.

(14) In the construction of words and phrases used in this title, the singular number shall include the plural, the masculine gender shall include both the feminine and neuter genders and the present tense shall include the past and future tenses, unless the context thereof shall clearly indicate to the contrary.

**NEW SECTION. Sec. 2.** (1) The department of social and health services shall implement a community work experience program for general assistance-unemployable (GA-U) recipients who are not expected to qualify for supplemental security income and who are judged physically and mentally able to perform and benefit from highly supervised noncompetitive public service work. The department shall identify these recipients upon their initial approval for GA-U and at each incapacity review as needed.

(2) The program shall operate as a pilot project in three sites for a period of twelve months. There shall be one site in each of the three most populated counties in the state. The department, within available funds, shall refer recipients identified for participation in the program to determine their suitability to participate in the program. First priority for the program shall be recipients who have been on GA-U for twelve months or longer. Recipients deemed to be not appropriate for participation in the program shall be exempted.

(3) A recipient identified as appropriate for participation shall be referred to the department or an agent designated by the department which, within available funds, shall contract with a referral agency to place the recipient in a work experience setting. The recipient shall be required, as a condition of GA-U eligibility, to perform community work experience, subject to the following conditions:

(a) The community work experience shall be within the recipient's capabilities in light of his or her incapacity and not detrimental to his or her health or well-being;

(b) The community work experience shall be performed under the auspices of a public or nonprofit placement agency which the referral agency deems to be appropriate based on the assessment. The placement agency shall be responsible for orienting, training, and supervising the recipient, and for providing information on performance to the referral agency;

(c) The goals of the community work experience program shall be to provide opportunities for highly supervised noncompetitive employment and to

develop the ability to perform gainful employment, consistent with the vocational assessment and may include methods for removing barriers to employment, such as vocational rehabilitation services, job preparedness services, short-term training, and medical treatment;

(d) Failure to participate in the program without good cause shall subject the recipient to the sanction process under RCW 74.04.005(6)(c). The department shall report to the house of representatives appropriations committee and the senate ways and means committee on the status of the community work program and its participants. The report shall include but is not limited to: Criteria for participation; exemptions granted; sanctions imposed for noncompliance; and statistics on the number and characteristics of the exempted, sanctioned, and participating populations. Data on characteristics shall include but is not limited to participant length-of-stay on the general assistance program, type of disability, and the type of work experience provided. The report shall be submitted to the committees by January 30, 1993;

(e) If the placement agency determines that the recipient is incapable of performing the assigned community work experience, the recipient shall be evaluated for his or her fitness to continue in the program before being reassigned to another placement agency.

**Sec. 3.** RCW 74.25.020 and 1991 c 126 s 6 are each amended to read as follows:

(1) The department of social and health services is authorized to contract with public and private employment and training agencies and other public service entities to provide services prescribed or allowed under the federal social security act, as amended, to carry out the purposes of the jobs training program. The department of social and health services has sole authority and responsibility to carry out the job opportunities and basic skills training program. No contracting entity shall have the authority to review, change, or disapprove any administrative decision, or otherwise substitute its judgment for that of the department of social and health services as to the application of policies and rules adopted by the department of social and health services.

(2) To the extent feasible under federal law, the department of social and health services and all entities contracting with it shall give first priority of service to individuals volunteering for program participation: PROVIDED, That the department shall require nonexempt parents under age twenty-four to actively participate in orientation, assessment, and either education, vocational training, or employment programs. At least one nonexempt parent in the aid to families with dependent children-employable program shall actively participate in orientation, assessment, and either job search, education, training, or employment. Social services shall be offered to participants in accordance with federal law. The department shall adopt appropriate sanctions to ensure compliance with the requirements and policies of this chapter.

(3) The department of social and health services shall adopt rules under chapter 34.05 RCW establishing criteria constituting circumstances of good cause for an individual failing or refusing to participate in an assigned program component, or failing or refusing to accept or retain employment. These criteria shall include, but not be limited to, the following circumstances: (a) If the individual is a parent or other relative personally providing care for a child under age six years, and the employment would require the individual to work more than twenty hours per week; (b) if child care, or day care for an incapacitated individual living in the same home as a dependent child, is necessary for an individual to participate or continue participation in the program or accept employment, and such care is not available, and the department of social and health services fails to provide such care; (c) the employment would result in the family of the participant experiencing a net loss of cash income; or (d) circumstances that are beyond the control of the individual's household, either on a short-term or on an ongoing basis.

(4) The department of social and health services shall adopt rules under chapter 34.05 RCW as necessary to effectuate the intent and purpose of this chapter.

***\*NEW SECTION. Sec. 4. If specific authority to expend funds to implement this program, referencing this act by bill number, is not provided in the operating appropriations act, this act shall be null and void.***

\*Sec. 4 was vetoed, see message at end of chapter.

***\*NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect April 1, 1992.***

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

Passed the House March 6, 1992.

Passed the Senate March 11, 1992.

Approved by the Governor April 1, 1992, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 1, 1992.

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

"I am returning herewith, without my approval as to sections 4 and 5, Substitute House Bill No. 2983, entitled:

"AN ACT Relating to job training or work experience for public assistance recipients."

Substitute House Bill No. 2983 contains a null and void clause that refers to an unfunded proviso in the budget, requiring the Department of Social and Health Services to expend at least \$1.5 million on the newly created work experience pilot program. Since the proviso is unfunded, I am vetoing the null and void clause (section 4) and directing the department to implement this program within available funds. I believe this program will provide an opportunity to learn ways to benefit persons with long-term incapacities.

Section 5 contains an effective date of April 1st that is impossible to meet. It will take time to promulgate rules in accordance with the Administrative Procedures Act and it will take a reasonable period of time to contract with agencies for the work experience program.

For these reasons, I have voted sections 4 and 5 of Substitute House Bill No. 2983.

With the exception of sections 4 and 5, Substitute House Bill No. 2983 is approved."

## CHAPTER 166

[Engrossed Substitute House Bill 2553]

### SUPPLEMENTAL TRANSPORTATION BUDGET

Effective Date: 4/1/92

AN ACT Relating to transportation appropriations; amending 1991 sp.s. c 15 s 1 (uncodified), 1991 sp.s. c 15 s 21 (uncodified), 1991 sp.s. c 15 s 5 (uncodified), 1991 sp.s. c 15 s 6 (uncodified), 1991 sp.s. c 15 s 14 (uncodified), 1991 sp.s. c 15 s 8 (uncodified), 1991 sp.s. c 15 s 9 (uncodified), 1991 sp.s. c 15 s 10 (uncodified), 1991 sp.s. c 15 s 11 (uncodified), 1991 sp.s. c 15 s 12 (uncodified), 1991 sp.s. c 15 s 13 (uncodified), 1991 sp.s. c 15 s 18 (uncodified), 1991 sp.s. c 15 s 22 (uncodified), 1991 sp.s. c 15 s 23 (uncodified), 1991 sp.s. c 15 s 25 (uncodified), 1991 sp.s. c 15 s 27 (uncodified), 1991 sp.s. c 15 s 28 (uncodified), 1991 sp.s. c 15 s 32 (uncodified), 1991 sp.s. c 15 s 33 (uncodified), 1991 sp.s. c 15 s 35 (uncodified), 1991 sp.s. c 15 s 36 (uncodified), 1991 sp.s. c 15 s 38 (uncodified), 1991 sp.s. c 15 s 39 (uncodified), 1991 sp.s. c 15 s 41 (uncodified), 1991 sp.s. c 15 s 57 (uncodified), and 1991 sp.s. c 14 s 29 (uncodified); adding new sections to 1991 sp.s. c 15; repealing 1991 c 342 s 15; and declaring an emergency.

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

**Sec. 1.** 1991 sp.s. c 15 s 1 (uncodified) is amended to read as follows:

The transportation budget of the state is hereby adopted and, subject to the provisions hereinafter set forth, the several amounts hereinafter specified, or as much thereof as may be necessary to accomplish the purposes designated, are hereby appropriated from the several accounts and funds hereinafter named to the designated state agencies and offices for salaries, wages, and other expenses, for capital projects, and for other specified purposes, including the payment of any final judgments arising out of such activities, for the period ending June 30, 1993. No moneys are provided in this act for major relocation of the Washington state patrol (~~or the department of licensing~~). The department of general administration shall evaluate space requirements for all transportation agencies, including the Washington state patrol headquarters, through the year 2010, and make recommendations regarding how these space requirements shall be met to the office of financial management, the legislative transportation committee, the house of representatives capital facilities and financing committee, and the senate ways and means committee, by January 1, 1993. No moneys from any transportation fund or account may be expended for this purpose. Any bill enacted during the 1991 or 1992 legislative sessions requiring expenditure from a transportation related fund or account that was not heard by either of the respective transportation committees is not funded in this act.

**Sec. 2.** 1991 sp.s. c 15 s 21 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF AGRICULTURE**

Motor Vehicle Fund—State Appropriation . . . . . \$ 409,000  
 ((\$209,000 or as much thereof as is necessary, is appropriated from)) The  
motor vehicle fund—state appropriation is provided solely for the motor fuel  
quality testing program. ((Annual)) Semi-annual reports shall be submitted to  
the legislative transportation committee commencing January 15, 1992.

**Sec. 3.** 1991 sp.s. c 15 s 5 (uncodified) is amended to read as follows:

**FOR THE COUNTY ROAD ADMINISTRATION BOARD**

Motor Vehicle Fund—County Arterial Preservation  
Account—State Appropriation . . . . . \$ ((22,427,000))  
23,732,000

Motor Vehicle Fund—Rural Arterial Trust Account—  
State Appropriation . . . . . \$ 37,413,000  
Motor Vehicle Fund—Private Local Appropriation . . . . \$ 62,409  
Motor Vehicle Fund—State Appropriation . . . . . \$ ((1,190,000))  
1,241,420  
**TOTAL APPROPRIATION . . . . . \$ ((61,030,000))**  
62,448,829

\$153,319 of the motor vehicle fund—county arterial preservation account—state appropriation and \$153,319 of the motor vehicle fund—rural arterial trust account—state appropriation, or as much thereof as may be necessary, are provided solely to provide transportation planning assistance to counties.

**Sec. 4.** 1991 sp.s. c 15 s 6 (uncodified) is amended to read as follows:

**FOR THE TRANSPORTATION IMPROVEMENT BOARD**

Motor Vehicle Fund—Transportation Improvement  
Account—State Appropriation . . . . . \$ 104,000,000

Motor Vehicle Fund—Urban Arterial Trust Account—  
State Appropriation . . . . . \$ 51,848,000  
**TOTAL APPROPRIATION . . . . . \$ 155,848,000**

((The legislative transportation committee shall evaluate methods to improve legislative oversight of transportation improvement account projects.)) The appropriations in this section are subject to the following conditions and limitations:

(1) The legislative transportation committee shall designate an interim committee of house and senate transportation committee members to evaluate the transportation improvement account and urban arterial trust account programs of the transportation improvement board to determine the appropriateness of project selection criteria and the structure of the two programs based on current transportation needs. Recommendations shall include but not be limited to changes to selection criteria, changes to the method of implementing selection criteria, changes in level of funding for the two programs, whether to combine the small cities components of the two programs, suggested limits on the

obligation of funds, and methods to improve legislative oversight of projects in terms of total cost and scope. The recommendations shall be submitted to the legislative transportation committee by December 15, 1992.

(2) The transportation improvement board may consider any application for project funding it receives within ninety days of its application deadline for that year's transportation improvement account program, if it is accompanied by a feasibility study that is submitted within thirty days prior to the application deadline and is done in cooperation with the department of transportation.

Sec. 5. 1991 sp.s. c 15 s 14 (uncodified) is amended to read as follows:

**FOR THE LEGISLATIVE TRANSPORTATION COMMITTEE**

Motor Vehicle Fund—State Appropriation . . . . .	\$	((3,028,000))
		<u>2,905,000</u>
High Capacity Transportation Account—		
State Appropriation . . . . .	\$	950,000
TOTAL APPROPRIATION . . . . .	\$	((3,978,000))
		<u>3,855,000</u>

(1) Of the high capacity transportation account appropriation provided for in this section, \$550,000 is a reappropriation for continuation of stage 1 of the public transportation study described in section 12(4), chapter 298, Laws of 1990, and \$400,000 is for a portion of the cost of stage 2.

(2) The appropriation provided for in section 41, chapter 15, Laws of 1991 sp.s., includes funds to carry out the studies described in section 12 (5) and (6), chapter 298, Laws of 1990: PROVIDED, That the completion dates for both studies shall be June 30, 1993.

(3) The committee is authorized to conduct performance analysis and other reviews of state transportation agencies and programs to ensure that the agencies and programs: (a) Are being conducted in accordance with legislative intent; (b) are being conducted in an efficient and effective manner; and (c) continue to serve their intended purposes. The findings and recommendations of any such reviews shall be reported to the legislature.

Sec. 6. 1991 sp.s. c 15 s 8 (uncodified) is amended to read as follows:

**FOR THE STATE PATROL—FIELD OPERATIONS BUREAU**

Motor Vehicle Fund—State Patrol Highway Account—		
State Appropriation . . . . .	\$	((131,301,000))
		<u>136,892,000</u>
Motor Vehicle Fund—State Patrol Highway Account—		
Federal Appropriation . . . . .	\$	3,033,000
TOTAL APPROPRIATION . . . . .	\$	((134,334,000))
		<u>139,925,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Any user of Washington state patrol aircraft shall pay its pro rata share of all operating and maintenance costs including capitalization.

(2) \$482,000 of the state patrol highway account—state appropriation is provided solely for implementation of House Bill No. 2693, or Senate Bill No. 6286. The appropriation provided in this subsection is contingent upon passage during the 1992 legislative session of House Bill No. 2693 or Senate Bill No. 6286.

Sec. 7. 1991 sp.s. c 15 s 9 (uncodified) is amended to read as follows:

**FOR THE STATE PATROL—SUPPORT SERVICES BUREAU**

Motor Vehicle Fund—State Patrol Highway Account—

State Appropriation . . . . . \$ ((52,914,000))  
52,894,000

The appropriations in this section are subject to the following conditions and limitations. \$54,000 of the state patrol highway account-state appropriation is provided solely for implementation of House Bill No. 2693 or Senate Bill No. 6286. The appropriation provided in this subsection is contingent upon passage during the 1992 legislative session of House Bill No. 2693 or Senate Bill No. 6286.

Sec. 8. 1991 sp.s. c 15 s 10 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LICENSING—VEHICLE SERVICES**

Motor Vehicle Fund—State Appropriation . . . . . \$ ((47,105,000))  
45,695,000

General Fund—Marine Fuel Tax Refund Account—

State Appropriation . . . . . \$ 25,000

General Fund—Wildlife Account—State Appropriation . . \$ ((502,000))  
504,000

TOTAL APPROPRIATION . . . . . \$ ((47,632,000))  
46,224,000

~~((The legislature recognizes the need to address issues remaining unresolved from the 1991 title and registration study required by the legislature and the governor. The intent of the legislature is to better align the fee structure with the costs associated with providing services for the state. Evidence from the 1991 study indicates inequities exist in cost recovery and/or profits realized between large and small county auditors and their subagents. Further, no policy exists regarding how counties treat excess revenues generated from providing this service. The Washington association of counties, the Washington association of county officials, representatives of the subagents, and the department of licensing, under the direction of the legislative transportation committee, shall report to the legislative transportation committee by December 1, 1991, their recommendations for resolving these policy issues and inequities.))~~

Sec. 9. 1991 sp.s. c 15 s 11 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LICENSING—DRIVER SERVICES**

General Fund—Public Safety and Education Account—	
State Appropriation . . . . .	\$ ((4,388,000))
	<u>4,394,000</u>
Highway Safety Fund—State Appropriation . . . . .	\$ ((48,376,000))
	<u>48,256,000</u>
Highway Safety Fund—Motorcycle Safety Education	
Account—State Appropriation . . . . .	\$ 884,000
TOTAL APPROPRIATION . . . . .	\$ ((53,648,000))
	<u>53,534,000</u>

Sec. 10. 1991 sp.s. c 15 s 12 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LICENSING—MANAGEMENT OPERATIONS**

General Fund—Wildlife Account—State Appropriation . .	\$ ((47,000))
	<u>45,000</u>
Highway Safety Fund—State Appropriation . . . . .	\$ ((4,796,000))
	<u>4,660,000</u>
Highway Safety Fund—Motorcycle Safety Education	
Account—State Appropriation . . . . .	\$ ((95,000))
	<u>92,000</u>
Motor Vehicle Fund—State Appropriation . . . . .	\$ ((4,424,000))
	<u>4,300,000</u>
General Fund—Public Safety and Education Account—	
State Appropriation . . . . .	\$ ((418,000))
	<u>406,000</u>
TOTAL APPROPRIATION . . . . .	\$ ((9,780,000))
	<u>9,503,000</u>

Sec. 11. 1991 sp.s. c 15 s 13 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LICENSING—INFORMATION SYSTEMS**

General Fund—Wildlife Account—State Appropriation . .	\$ ((56,000))
	<u>53,000</u>
Highway Safety Fund—State Appropriation . . . . .	\$ ((3,506,000))
	<u>5,970,000</u>
Highway Safety Fund—Motorcycle Safety Education	
Account—State Appropriation . . . . .	\$ ((58,000))
	<u>55,000</u>
Motor Vehicle Fund—State Appropriation . . . . .	\$ ((5,961,000))
	<u>9,620,000</u>
General Fund—Public Safety and Education Account—	
State Appropriation . . . . .	\$ ((252,000))
	<u>241,000</u>
TOTAL APPROPRIATION . . . . .	\$ ((9,833,000))
	<u>15,939,000</u>

The appropriation for the licensing application migration project (LAMP) is conditioned upon compliance with the provisions of section ~~((54 of chapter 15, Laws of 1991 sp.s))~~ 30 of this act. If section 30 of this act is not enacted during the 1992 legislative session, then the \$6,652,000 appropriation, of which \$3,991,000 is motor vehicle fund—state and \$2,661,000 highway safety fund—state, for the licensing application migration project (LAMP) shall lapse. Of the \$6,652,000 appropriation provided for LAMP, \$333,000 is provided solely as a contingency amount.

Sec. 12. 1991 sp.s. c 15 s 18 (uncodified) is amended to read as follows:

**FOR THE AIR TRANSPORTATION COMMISSION**

Transportation Fund—State Appropriation . . . . . \$ ~~((553,000))~~  
909,000

(1) The appropriation contained in this section shall be reduced on a dollar for dollar basis if federal funding for any element of the commission’s work plan is granted after July 1, 1992.

(2) \$206,000 of the appropriation contained in this section is null and void if House Bill No. 2609 is not enacted by July 1, 1992.

NEW SECTION. Sec. 13. A new section is added to 1991 sp.s. c 15 to read as follows:

Recognizing that the federal 1991 intermodal surface transportation efficiency act establishes an eighty million dollar national "Scenic Byways" grant program and a new apportionment program called "Transportation Enhancement Activities" that will provide forty-four million dollars to Washington state, the department of transportation is directed to place high priority on obtaining such funds for further development of a scenic and recreational highways program.

In developing the scenic and recreational highways program, the department shall consult with the department of trade and economic development, the department of community development, the department of natural resources, the parks and recreation commission, affected cities, towns, and counties, regional transportation planning organizations, and other interested parties. The scenic and recreational highways program shall identify entire highway loops or similar tourist routes that could be developed to promote tourist activity and provide concurrent economic growth while protecting the scenic and recreational quality surrounding state highways.

Sec. 14. 1991 sp.s. c 15 s 22 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY CONSTRUCTION—PROGRAM A**

Motor Vehicle Fund—State Appropriation . . . . . \$ 149,838,000  
Motor Vehicle Fund—Federal Appropriation . . . . . \$ 98,600,000  
Motor Vehicle Fund—Local Appropriation . . . . . \$ 2,000,000  
TOTAL APPROPRIATION . . . . . \$ 250,438,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriations in this section are provided for the location, design, right of way, and construction of state highway projects designated as category "A" under RCW 47.05.030. It is the intent of the legislature that this appropriation does not commit the legislature to the transportation commission's proposed category "A" program update.

(2) The department shall study a highway heritage program to preserve Washington's unique scenic character along its highway corridors and provide travelers with a continuing opportunity to appreciate and obtain information regarding unique natural, cultural, and historic features that are near or accessible by highways.

The department shall:

(a) Work with the parks and recreation commission, the Washington state historical society, the department of trade and economic development, and cities and counties to identify projects, establish priorities for expenditures of funds under this program, and recommend a strategy for implementing an ongoing program and sources of funding;

(b) Work with public and private landowners, local governments, and private organizations and associations to propose actions to achieve the purposes of this section without land acquisition, to the greatest extent possible, including coordination with local land use and open space plans, state agency programs relating to open space, conservation, urban forestry, and natural resources management;

(c) Study acquisition by purchase, gift, devise, bequest, grant, or exchange, title to or interest or right in real property adjacent to state highways to accomplish any of the following: Preserve natural beauty or viewpoints, preserve natural buffers between highways, or enhance the visual quality of entrances to cities or other land uses;

(d) Study provision of directional signs and signs with information regarding historical or cultural sites and significant natural features.

The department shall report its findings to the legislative transportation committee by December 1, 1992.

The appropriation to carry out the study in this subsection is provided in section 41, chapter 15, Laws of 1991 sp.s. and shall lapse unless \$10,000 is received from the department of trade and economic development by October 1, 1991.

(3) The department shall complete the six fish barrier removal projects identified as high priority by the department of fisheries. The department shall cooperate with the departments of fisheries and wildlife to identify, estimate costs of, and prioritize additional fish barrier removal projects on state highways.

(4) In order to accommodate the federal 1991 intermodal surface transportation efficiency act (P.L. 101-240; 105 Stat. 1914), the department of transporta-

tion may transfer dollar for dollar from the motor vehicle fund—state appropriation to the motor vehicle fund—federal appropriation.

**\*Sec. 15.** 1991 sp.s. c 15 s 23 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY CONSTRUCTION—PROGRAM B**

Motor Vehicle Fund—State Appropriation . . . . .	\$	<del>((42,000,000))</del>
		<u>50,658,000</u>
Motor Vehicle Fund—Federal Appropriation . . . . .	\$	<del>((407,000,000))</del>
		<u>483,492,000</u>
Motor Vehicle Fund—Local Appropriation . . . . .	\$	8,000,000
TOTAL APPROPRIATION . . . . .	\$	<del>((457,000,000))</del>
		<u>542,150,000</u>

The appropriations in this section are provided for the location, design, right of way, and construction of state highway projects on the interstate system designated as category "B" under RCW 47.05.030. The appropriations in this section are subject to the following conditions and limitations:

(1) ~~((42,000,000))~~ \$47,000,000 of the motor vehicle fund—state appropriation includes a maximum of ~~((32,000,000))~~ \$37,000,000 in proceeds from the sale of bonds authorized by RCW 47.10.790 and 47.10.801: PROVIDED, That the transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.

(2) Should cash flow demands exceed the motor vehicle fund—federal appropriation, the motor vehicle fund—state appropriation is increased proportionally to provide matching state funds from the sale of bonds authorized by RCW 47.10.801 and 47.10.790 not to exceed \$10,000,000 and it is understood that the department shall seek authority to expend unanticipated receipts for the federal portion.

(3) It is further recognized that the department may make use of federal cash flow obligations on interstate construction contracts in order to complete the interstate highway system as expeditiously as possible.

(4) It is the intent of the legislature that the department shall place special emphasis on delivering the HOV projects contained in the document dated March, 1991, entitled "Puget Sound HOV Core Lane Needs: 2000". The department shall report progress on program delivery to the legislative transportation committee by November 1, 1991 and December 1, 1992.

(5) Up to \$2,150,000 of the appropriation in this section is provided for the construction of the demonstration projects specified in the federal 1991 intermodal surface transportation efficiency act (P.L. 101-240; 105 Stat. 1914).

**(6) No funds appropriated under this section shall be expended for wetland mitigation unless the wetlands are delineated under the 1987 federal delineation manual for delineating jurisdictional wetlands.**

\*Sec. 15 was partially vetoed, see message at end of chapter.

Sec. 16. 1991 sp.s. c 15 s 25 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY CONSTRUCTION—PROGRAM C**

Motor Vehicle Fund—State Appropriation . . . . .	\$ ((66,800,000))	
		77,300,000
Transportation Fund—State Appropriation . . . . .	\$ ((119,000,000))	
		115,500,000
Motor Vehicle Fund—Federal Appropriation . . . . .	\$ ((16,000,000))	
		28,006,000
Motor Vehicle Fund—Local Appropriation . . . . .	\$ 4,000,000	
TOTAL APPROPRIATION . . . . .	\$ ((205,800,000))	224,806,000

The appropriations in this section are provided for the location, design, right of way acquisition, and construction of state highway projects designated as category "C" under RCW 47.05.030.

(1) In order to accommodate the federal 1991 intermodal surface transportation efficiency act (P.L. 101-240; 105 Stat. 1914), the department of transportation may transfer dollar for dollar from the motor vehicle fund—state appropriation to the motor vehicle fund—federal appropriation.

(2) The department is authorized to proceed with construction of rest areas provided local and/or private contributions of at least forty percent of total project costs are made. Local and/or private contributions may be in the form of in-kind contributions including but not limited to donations of property and services. The department is further authorized to construct rest areas if the department successfully obtains federal funds from either the federal "Scenic Byways" grant program and/or the "Transportation Enhancement Activities" program. If such federal funds are obtained, the department of transportation may transfer dollar for dollar from the motor vehicle fund—state appropriation to the motor vehicle fund—federal appropriation.

(3) Up to \$12,006,000 of the appropriation in this section is provided for the construction of the demonstration projects specified in the federal 1991 intermodal surface transportation efficiency act (P.L. 101-240; 105 Stat. 1914).

(4) The legislature finds that state route 160 currently requires extraordinary and unexpected repair and maintenance due to a major slide, and that the local jurisdiction which was to have assumed responsibility for the route pursuant to section 15, chapter 342, Laws of 1991, does not have adequate resources available to repair and maintain this route. Up to \$5,000,000 of the motor vehicle fund—state appropriation is provided for state route 160 and it is the intent of the legislature that this appropriation shall be used solely for state route

160, and that this route remain part of the state highway system until further legislative action.

**Sec. 17.** 1991 sp.s. c 15 s 27 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY CONSTRUCTION—PROGRAM C**

Motor Vehicle Fund—Puyallup Tribal Settlement	
Account—State Appropriation . . . . .	\$ ((3,450,000))
	<u>9,450,000</u>
Motor Vehicle Fund—Puyallup Tribal Settlement	
Account—Federal Appropriation . . . . .	\$ 2,550,000
<u>Motor Vehicle Fund—Puyallup Tribal Settlement</u>	
<u>Account—Local Appropriation . . . . .</u>	<u>\$ 2,000,000</u>
TOTAL APPROPRIATION . . . . .	\$ ((6,000,000))
	<u>14,000,000</u>

Up to \$8,000,000 of the appropriation contained in this section is provided for the SR 509 project.

**Sec. 18.** 1991 sp.s. c 15 s 28 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY MANAGEMENT AND FACILITIES—PROGRAM D**

Motor Vehicle Fund—State Appropriation . . . . .	
	\$ ((39,302,000))
	<u>39,599,000</u>
Motor Vehicle Fund—Transportation Capital Facilities	
Account—State Appropriation . . . . .	\$ ((33,149,000))
	<u>36,634,000</u>
TOTAL APPROPRIATION . . . . .	\$ ((72,451,000))
	<u>76,233,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,700,000 of the transportation capital facilities account—state appropriation is contingent upon the sale of bonds authorized in RCW 47.02.120.

(2) The transportation capital facilities account—state appropriation will be funded by a state treasurer revenue transfer of ~~(((\$31,449,000))~~ \$34,934,000 from the motor vehicle fund to the transportation capital facilities account.

~~(3) ((No later than August, 1991, the department shall present a comprehensive plan to the legislative transportation committee for creation of an urban mobility office including recommendations on HOV programs, growth management, the freeway and arterial management effort (FAME), and other associated programs or activities. The plan shall include recommended methods for quantifying reductions in congestion))~~ Up to \$2,200,000 of the transportation capital facilities account—state appropriation is provided for emergency environmental projects. The department shall seek state and/or federal moneys from environmental regulatory agencies for the purpose set forth in this

subsection. If such moneys are obtained, the department shall transfer dollar for dollar from the motor vehicle fund—state appropriation—transportation capital facilities account to the new fund source or sources.

Sec. 19. 1991 sp.s. c 15 s 32 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—NONINTERSTATE BRIDGES—PROGRAM H**

Motor Vehicle Fund—State Appropriation . . . . .	\$	53,200,000
Motor Vehicle Fund—Federal Appropriation . . . . .	\$	52,400,000
Motor Vehicle Fund—Local Appropriation . . . . .	\$	1,000,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>106,600,000</b>

The appropriations in this section are provided to preserve the structural and operating integrity of existing bridges. It is the intent of the legislature that this appropriation does not commit the legislature to the transportation commission’s proposed twenty-year bridge program.

In order to accommodate the federal 1991 intermodal surface transportation efficiency act (P.L. 101-240; 105 Stat. 1914) the department of transportation may transfer dollar for dollar from the motor vehicle fund—state appropriation to the motor vehicle fund—federal appropriation.

Sec. 20. 1991 sp.s. c 15 s 33 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY MAINTENANCE AND OPERATIONS—PROGRAM M**

Motor Vehicle Fund—State Appropriation . . . . .	\$	<del>((215,160,000))</del>
		<u>217,750,000</u>
Motor Vehicle Fund—Local Appropriation . . . . .	\$	750,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<del>((215,910,000))</del>
		<u>218,500,000</u>

~~((The department shall place emphasis on the development and construction of rest areas. The department shall establish criteria for prioritizing rest area construction state wide. The department shall report the criteria and priority array to the legislative transportation committee by August 1, 1991.))~~

The department may, as part of its regular maintenance program, begin correcting existing fish passage barriers.

Up to \$742,000 is provided for the incident response program. This program may not be used to compete with private industry in removing or relocating vehicles, but shall be for the purpose of assisting in coordinating the response of both public and private efforts to clear obstructions in an efficient manner.

Sec. 21. 1991 sp.s. c 15 s 35 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—TRANSPORTATION MANAGEMENT AND SUPPORT—PROGRAM S**

Transportation Fund—State Appropriation . . . . .	\$	700,000
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Motor Vehicle Fund—Puget Sound Capital Construction		
Account—State Appropriation . . . . .	\$	465,000
Motor Vehicle Fund—Puget Sound Ferry Operations		
Account—State Appropriation . . . . .	\$	885,000
Motor Vehicle Fund—State Appropriation . . . . .	\$	((33,770,000))
		<u>33,855,000</u>
TOTAL APPROPRIATION . . . . .	\$	((35,820,000))
		<u>35,905,000</u>

\*Sec. 22. 1991 sp.s. c 15 s 36 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—PLANNING,  
RESEARCH, AND PUBLIC TRANSPORTATION—PROGRAM T**

For public transportation and rail programs:

Transportation Fund—State Appropriation . . . . .	\$	((8,295,000))
		<u>9,849,000</u>
Transportation Fund—Federal/Local Appropriation . . . . .	\$	((5,518,000))
		<u>5,735,000</u>

<u>Public Transportation Systems Account—State</u>		
<u>Appropriation</u> . . . . .	\$	<u>300,000</u>

<u>Central Puget Sound Public Transportation Account—</u>		
<u>State Appropriation</u> . . . . .	\$	<u>100,000</u>

High Capacity Transportation Account—State		
Appropriation . . . . .	\$	15,640,000

For planning and research:

Motor Vehicle Fund—State Appropriation . . . . .	\$	((17,830,000))
		<u>18,526,000</u>
Motor Vehicle Fund—Federal Appropriation . . . . .	\$	((9,000,000))
		<u>9,346,000</u>
TOTAL APPROPRIATION . . . . .	\$	((56,283,000))
		<u>59,496,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~((By December 15, 1991, the department of transportation, in cooperation with local units of government and Amtrak, shall submit to the legislative transportation committee a program to improve Amtrak services in Washington. The program may include but is not limited to the following:~~

- ~~(a) Improvements to tracks, grade crossings, and signal systems necessary to increase operating speeds. In developing these recommendations, the department shall involve the utilities and transportation commission and other affected state and local agencies;~~
- ~~(b) Station improvements;~~
- ~~(c) Resumption of service between Seattle, Washington, and Vancouver, British Columbia; and~~

~~(d) New or additional service on other routes for which there is adequate demand and reasonable opportunity for cost recovery))~~ The transportation fund—state appropriation contained in this section includes up to \$5,000,000 to implement the recommendations contained in the 1991 Amtrak study for capital improvements to stations and crossings. Improvements may be made to those locations where Amtrak services are currently provided. The expenditure of state moneys for station and crossing improvements at locations where Amtrak services are not currently provided, is conditioned on a prior commitment in writing by Amtrak to the department of transportation to expand service to additional Washington state locations. Prior to the expenditure of state moneys for capital improvements, the department of transportation shall seek additional funding from federal, local government and private sources, which includes, but is not limited to, in-kind and cash contributions. Funding priorities for station improvements shall be based on the level of local in-kind and cash contributions.

~~(2) ((Funds are provided for acquisition of rail rights of way under RCW 47.76.140: PROVIDED, That funds expended for the Stampede Pass corridor connecting Ravensdale in King County and Cle Elum in Kittitas County may be expended only if the corridor is acquired jointly with the city of Tacoma. The department shall enter into an agreement with the City of Tacoma to develop appropriate restrictions on the use of the right of way designed to protect Tacoma's Green River water supply. Following acquisition, the department may not expend or authorize the expenditure of funds for improvements to tracks, bridges, and associated elements without prior legislative approval. Funds may be expended for necessary maintenance and preservation, such as fire and weed control. This appropriation shall lapse if \$1,100,000 is not reappropriated for the purchase of corridors from the essential rail banking account.~~

~~(3))~~ Moneys in this appropriation for the Spokane intermodal transportation center may be expended only after the Washington state transportation commission has received funding commitments from all other project participants.

~~((4))~~ (3) Of the amount provided for regional transportation planning organizations, funds not allocated to such organizations may be used for a discretionary grant program for special regional planning projects, to be administered by the department of transportation.

~~((5))~~ (4) The amount provided for implementation of the universal bus pass program at the University of Washington shall be expended solely for one-time infrastructure costs for modification of roads to accommodate buses, modification of parking facilities, bus shelters, security lighting for night shuttle programs, and bike storage facilities. It is the intent of the legislature that comparable comprehensive programs be developed in the near future for all universities and colleges within the greater Seattle area. To that end, Metro, community transit and Pierce transit, and Seattle area colleges and universities shall work together and submit a plan to the legislative transportation committee identifying potential

services, costs and implementation schedules. The plan shall be submitted by November 1992.

(5) In order to accommodate the federal 1991 intermodal surface transportation efficiency act (P.L. 101-240; 105 Stat. 1914) the department of transportation may transfer dollar for dollar from the motor vehicle fund—state appropriation to the motor vehicle fund—federal appropriation.

(6) The legislature finds that there is a significant state interest in transportation systems and facilities that serve regional and state-wide travel. Further, the state growth management act gives local governments significant authority to develop plans for all transportation systems, including regional and state-wide facilities. While the department of transportation and the transportation commission have broad authority to develop state-wide transportation plans, the relationship between these plans and local growth management plans is unclear.

The department of transportation is directed to report to the 1993 legislature on a proposed definition of transportation issues of state-wide significance, the recommended role of the state, regions, and local governments in addressing these issues, and a proposed process for their inclusion in local comprehensive plans. The department shall involve local governments, regional transportation planning organizations, and the department of community development in the development of these recommendations.

(7) Up to \$415,000 of the appropriation in this section is provided for funding of the demonstration projects specified in the federal 1991 intermodal surface transportation efficiency act (P.L. 101-240; 105 Stat 1914).

(8) Up to \$300,000 of the public transportation systems account—state appropriation in this section is provided for grants to transit agencies with populations of less than 200,000 to assist in preparation of the agencies' transit development plans, due June 1, 1993, pursuant to RCW 35.58.2795.

(9) In order to fulfill the purposes of the 1991 federal intermodal surface transportation efficiency act (P.L. 101-240; 105 Stat. 1914) the Central Puget Sound Public Transportation Account—State Appropriation is to fund a study on the interrelationships of land-use planning and zoning to transit ridership. The study shall be conducted by a county of more than 1,000,000 persons: PROVIDED, That the county provide matching funds of \$50,000: AND PROVIDED FURTHER, That this appropriation be contingent on the passage of Senate Bill No. 6209 (Chapter --, Laws of 1992) or Engrossed House Bill No. 2830. A report on the findings shall be provided to the legislative transportation committee, the department of transportation, and the office of the governor no later than November 30, 1993.

\*Sec. 22 was partially vetoed, see message at end of chapter.

Sec. 23. 1991 sp.s. c 15 s 38 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF TRANSPORTATION—MARINE  
 CONSTRUCTION—PROGRAM W**

Motor Vehicle Fund—Puget Sound Capital Construction	
Account—State Appropriation . . . . .	\$ ((107,324,000))
	<u>117,849,000</u>
Motor Vehicle Fund—Puget Sound Capital Construction	
Account—Federal Appropriation . . . . .	\$ 16,937,000
Motor Vehicle Fund—Puget Sound Capital Construction	
Account—Private/Local Appropriation . . . . .	\$ 1,500,000
TOTAL APPROPRIATION . . . . .	\$ ((125,761,000))
	<u>136,286,000</u>

The appropriations in this section are provided for improving the Washington state ferry system, including, but not limited to, vessel acquisition, vessel construction, major and minor vessel improvements, and terminal construction and improvements. The appropriations in this section are subject to the following conditions and limitations:

The appropriations in this section are provided to carry out only the projects in the department of transportation's 1991-93 biennial budget request dated March 1991, as approved by the transportation commission. The department of transportation shall revise these projects to reconcile them with the 1989-91 actual expenditures within sixty days of the beginning of the biennium. The department shall also reevaluate such projects, based on the findings and recommendations of the April 5, 1991, Final Report by Booz.Allen, Hamilton and M. Rosenblatt and Son, Inc. on the Washington State Ferries' Vessel Refurbishment Programs, and, if appropriate, make the necessary project revisions, after consultation with the legislative transportation committee, prior to September 1, 1991.

The Puget Sound capital construction account—state appropriation includes the reappropriation of \$18,965,000 and \$15,000,000 in proceeds from the sale of bonds authorized by RCW 47.60.560 and \$10,000,000 in proceeds from the sale of bonds authorized by House Bill No. 2896, Laws of 1992, which shall be used toward the completion of auto or passenger vessels or jumbo-class vessels; PROVIDED, That the department of transportation may use current revenues available to the Puget Sound capital construction account in lieu of bond proceeds for any part of the state appropriation.

The legislature intends that the construction and assembly of any auto passenger vessel or vessels-jumbo class resulting from bond sale proceeds authorized by House Bill No. 2896, Laws of 1992, occur within Washington state.

The appropriation in this section contains an amount for prerefurbishment inspections as identified in Recommendation 8 of the April 5, 1991, Final Report by Booz.Allen, Hamilton and M. Rosenblatt and Son, Inc. on the Washington State Ferries' Vessel Refurbishment Programs.

The Puget Sound capital construction account—state appropriation includes \$1,082,000 to be expended solely for the design of a jumbo class automobile ferry vessel.

The department shall consult the legislative transportation committee regarding the expenditure of moneys appropriated in this section and shall provide the committee with a monthly report concerning the status of the capital program authorized in this section.

\$300,000 of the Puget Sound capital construction account—state appropriation is provided to implement Recommendation Numbers 7 and 19 of the April 5, 1991, Final Report by Booz.Allen, Hamilton and M. Rosenblatt and Son, Inc. on the Washington State Ferries' Vessel Refurbishment Programs. Of that amount \$200,000 is provided for implementing a formal hazardous materials program and \$100,000 is provided for audiogauge steel testing.

The department of transportation shall establish a task force to assess and oversee the implementation of the recommendations contained in the April 5, 1991, Final Report by Booz.Allen, Hamilton and M. Rosenblatt and Son, Inc. on the Washington State Ferries' Vessel Refurbishment Programs. The task force shall be comprised of department of transportation management, representatives of Washington state ferry system employee organizations, the shipbuilding industry, the legislative transportation committee, and any other entity or individual as deemed appropriate by the department. The task force shall provide a progress report to the legislative transportation committee by December 1, 1991 and December 1, 1992.

In order to accommodate the federal 1991 intermodal surface transportation efficiency act (P.L. 101-240; 105 Stat. 1914), the department may transfer on a dollar for dollar basis, motor vehicle fund—Puget Sound capital construction account—state appropriation to the motor vehicle fund—Puget Sound capital construction account—federal appropriation.

Sec. 24. 1991 sp.s. c 15 s 39 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—MARINE—PROGRAM X**

Marine Operating Fund—State Appropriation . . . . . \$ ((204,767,000))  
205,755,000

The appropriation in this section is subject to the following conditions and limitations:

(1) The marine operating fund is hereby created in the state treasury.

To fund the appropriations in this act, the department shall transfer operating subsidies from the Puget Sound ferry operations account and ferry user revenues from the ferry system revolving account to the marine operating fund.

The department shall transfer moneys from the ferry system revolving account to the marine operating fund so as to minimize the need for revenues from the Puget Sound ferry operations account during June of each respective

fiscal year in support of the expenditures necessary for the operation and maintenance of the state ferry system as authorized in this section.

(2) The appropriation is based on the budgeted expenditure of \$24,562,547 for vessel operating fuel in the 1991-93 biennium. If the actual cost of fuel is less than this budgeted amount, the excess amount shall not be expended. If the actual cost exceeds this amount, the department shall request a supplemental appropriation.

(3) The appropriation contained in this section provides for the compensation of ferry employees, including increases. The expenditures for compensation paid to ferry employees during the 1991-93 biennium shall not exceed ~~(\$135,862,000)~~ \$136,582,000 plus a dollar amount, as prescribed by the office of financial management, that is equal to any insurance benefit increase granted general government employees in excess of \$256.07 a month annualized per eligible marine employee multiplied by the number of eligible marine employees for the respective fiscal year, a dollar amount as prescribed by the office of financial management for salary increases during the 1991-93 biennium, and a dollar amount as prescribed by the office of financial management for costs associated with pension amortization charges and cost of living allowances. For the purposes of this section, the expenditures for compensation paid to ferry employees shall be limited to salaries and wages and employee benefits as defined in the office of financial management's policies, regulations, and procedures named under objects of expenditure "A" and "B" (7.2.6.2). Of the ~~(\$135,862,000)~~ \$136,582,000 provided for compensation, plus the prescribed insurance benefit, pension, and salary increase dollar amount:

(a) The maximum dollar amount that shall be allocated from the governor's compensation salary appropriation is in addition to the appropriation contained in this section and may be used to increase compensation costs, effective January 1, 1992;

(b) The maximum dollar amount that shall be allocated from the governor's compensation salary appropriation is in addition to the appropriation contained in this section and shall be used to maintain any 1991-92 compensation increase and may be used to increase compensation costs, effective January 1, 1993.

In no event may the June 30, 1992, hourly salary rate increase exceed any average hourly salary rate increase granted during the 1991-92 fiscal year.

In no event may the June 30, 1993, hourly salary rate increase exceed any salary rate increase granted during the 1992-93 fiscal year.

(c) The prescribed insurance benefit increase dollar amount that shall be allocated from the governor's compensation insurance benefits appropriation is in addition to the appropriation contained in this section and may be used to increase compensation costs, effective July 1, 1991;

(d) The prescribed insurance benefit increase dollar amount that shall be allocated from the governor's compensation insurance benefits appropriation is in addition to the appropriation contained in this section and may be used to increase compensation costs, effective July 1, 1992.

(4) The intent of the legislature is to eliminate the current passenger-only service between Seattle and Bremerton. The transportation commission is responsible for evaluating other potential passenger-only routes and determining the location of a new passenger-only route. The transfer of the Seattle/Bremerton passenger-only vessel to a new route should be implemented as soon as it is feasible.

(5) The appropriation in this section includes \$1,091,290 for an additional eight-hour automobile ferry service between Seattle and Bremerton during the 1992-93 fiscal period commencing with the elimination of the passenger only service.

(6) The department of transportation shall provide the legislative transportation committee with a monthly report concerning the status of the operating program authorized in this section.

(7) The transportation commission is directed to continue its evaluation of passenger-only vessel designs capable of providing high speed service between Seattle and Bremerton. The commission shall provide the legislative transportation committee with a report concerning the status of the evaluation by September 30, 1991 and December 1, 1992.

**Sec. 25.** 1991 sp.s. c 15 s 41 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—LOCAL PROGRAMS—PROGRAM Z**

Motor Vehicle Fund—State Appropriation . . . . .	\$	11,132,000
Motor Vehicle Fund—Federal Appropriation . . . . .	\$	((95,300,000))
		<u>96,383,000</u>
Motor Vehicle Fund—Local Appropriation . . . . .	\$	10,000,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>((116,432,000))</b>
		<u>117,515,000</u>

(1) The appropriations in this section include \$3,150,000 from the motor vehicle fund—state appropriation for transportation expenditures related to the United States navy home port in Everett.

(2) The appropriations contain \$309,000 of state funds from the proceeds of bonds for Columbia Basin county roads authorized in chapter 121, Laws of 1951; chapter 311, Laws of 1955; and chapter 121, Laws of 1965 for reimbursable expenditures on cooperative projects authorized by state or federal laws. If these moneys are not expended during 1991-93, this appropriation shall revert to the motor vehicle fund.

(3) Up to \$1,083,000 of the appropriation in this section is provided for the construction of the demonstration projects specified in the federal 1991 intermodal surface transportation efficiency act (P.L. 101-240; 105 Stat. 1914).

**Sec. 26.** 1991 sp.s. c 15 s 57 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE PATROL—CAPITAL**

As used in this section, "St Patrol Hiwy Acct" means the State Patrol Highway Account.

(1) Design and construct WSP/DOL district offices-Tacoma (90-2-013)

	Reappropriation	Appropriation
St Patrol Hiwy Acct		5,413,000
Motor Vehicle Acct—State		924,000
Highway Safety Fund—State		924,000
Total Appropriation		7,261,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/91 and	Costs
6/30/91	Thereafter	
750,000		8,011,000

((3)) (2) Complete Construction District Headquarters-Everett (90-2-018)

	Reappropriation	Appropriation
St Patrol Hiwy Acct	3,200,000	<u>1,300,000</u>
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/91 and	Costs
6/30/91	Thereafter	
300,000	((3,200,000))	((3,500,000))
	<u>4,500,000</u>	<u>4,800,000</u>

((4)) (3) Replace underground storage tanks-Ten locations (92-1-002)

	Reappropriation	Appropriation
St Patrol Hiwy Acct		((1,656,000))
		<u>1,469,000</u>
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/91 and	Costs
6/30/91	Thereafter	
376,000		((2,032,000))
		<u>1,932,000</u>

((5)) (4) Minor works (92-2-004)

	Reappropriation	Appropriation
St Patrol Hiwy Acct		((435,000))
		<u>278,000</u>

Project Costs Through 6/30/91	Estimated Costs 7/1/91 and Thereafter	Estimated Total Costs
1,654,000	((759,200)) <u>602,200</u>	((2,848,200)) <u>2,691,200</u>

((6)) (5) Property acquisition for communications site-Maple Falls (92-2-0064)

St Patrol Hiwy Acct	Reappropriation	Appropriation
		17,000
Project Costs Through 6/30/91	Estimated Costs 7/1/91 and Thereafter	Estimated Total Costs
	<u>17,000</u>	17,000

((7)) (6) BAW FAW replacement communication tower (92-2-010)

St Patrol Hiwy Acct	Reappropriation	Appropriation
		((234,000)) <u>184,000</u>
Project Costs Through 6/30/91	Estimated Costs 7/1/91 and Thereafter	Estimated Total Costs
	<u>184,000</u>	((234,000)) <u>184,000</u>

The state patrol and the department of licensing shall coordinate their activities when siting facilities. This coordination shall result in the colocation of driver and vehicle licensing and vehicle inspection service facilities whenever possible.

The department and state patrol shall explore alternative state services, such as vehicle emission testing, that would be feasible to colocate in these joint facilities. The department and state patrol shall reach agreement with the department of transportation for the purposes of offering department of transportation permits at these one-stop transportation centers. All services provided by the department or the state patrol at these transportation service facilities shall be provided at cost to the participating agencies.

In those instances where the community need or the agencies needs do not warrant colocation this proviso shall not apply.

The state patrol shall examine, whenever possible, the colocation of the emergency response activities of the state patrol and other agencies responsible

for emergency response activities. The examination shall include an evaluation of the Camp Murray site. The state patrol shall report to the legislature by December 1, 1992 on the examination.

**Sec. 27.** 1991 sp.s. c 14 s 29 (uncodified) is amended to read as follows:  
**FOR THE WASHINGTON STATE PATROL**

- (1) Crime laboratory, Tacoma: To design and construct a new eight thousand-square foot crime lab facility in Tacoma, to be co-located with the Washington State Patrol/Department of Licensing District headquarters (92-1-008)

The appropriation in this section shall not be expended for consolidation of laboratory services currently being performed in the Kelso and Kennewick crime laboratories.

**Appropriation:**

St Bldg Constr Acct .....	\$	2,017,000
Prior Biennia (Expenditures) .....	\$	20,000
Future Biennia (Projected Costs) .....	\$	0
TOTAL .....	\$	2,037,000

- (2) Spokane crime laboratory: For safety enhancements (92-1-008)

**Appropriation:**

St Bldg Constr Acct .....	\$	192,000
Prior Biennia (Expenditures) .....	\$	4,500
Future Biennia (Projected Costs) .....	\$	0
TOTAL .....	\$	196,500

- (3) Headquarters: Design a new headquarters facility in Olympia (90-2-040)

**Appropriation:**

WSP Highway Acct .....	\$	<del>((3,400,000))</del>
		750,000
Prior Biennia (Expenditures) .....	\$	250,000
Future Biennia (Projected Costs) .....	\$	<del>((45,323,000))</del>
		0
TOTAL .....	\$	<del>((48,973,000))</del>
		1,000,000

(4) Everett district headquarters—Crime laboratory (90-2-018)

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	455,000
Prior Biennia (Expenditures) . . . . .	\$	15,000
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	470,000

**NEW SECTION. Sec. 28.** A new section is added to 1991 sp.s. c 15 to read as follows:

**FOR DEPARTMENT OF TRANSPORTATION**

Motor Vehicle Fund—State Appropriation Transfer:

For transfer to transportation equipment fund . . . . .	\$	146,000
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This appropriation is provided to replace equipment lost and other associated costs in the Kent maintenance facility fire.

**\*NEW SECTION. Sec. 29.** A new section is added to 1991 sp.s. c 15 to read as follows:

*The office of financial management shall conduct a study, in conjunction with the department of transportation, the department of licensing, and the Washington state patrol, of the methods used by the revolving fund agencies to determine actual services provided to the transportation agencies. The study shall determine whether or not allocation methodologies used to assign these costs to transportation agencies are consistent with accepted accounting principles.*

\*Sec. 29 was vetoed, see message at end of chapter.

**NEW SECTION. Sec. 30.** A new section is added to 1991 sp.s. c 15 to read as follows:

Agencies shall comply with the following requirements regarding information technology projects if directed to do so by specific appropriation proviso within this act.

It is the intent of the legislature that information technology projects in state government be managed and completed successfully. Information technology projects should be divided into distinct phases. Each phase of a project should be successfully completed before subsequent phases are commenced. In addition to the post-implementation review, project reviews and quality assurance measures are to be conducted throughout the project.

The legislature, department of information services and office of financial management, should evaluate each project's scope, duration, and risk in determining whether appropriations should be for a fiscal year or a biennium, and whether specific phases or the entire project can be accomplished within a specified time period.

Work shall not commence on any task in a subsequent phase of a project after a key decision point review unless there is approval to proceed, based upon

approval of the deliverables from the preceding phase and approval of the updated project management plan for the subsequent phase, by the project agreement participants and written notification to the legislative transportation committee.

(1) Prior to requesting moneys from the legislature, or as a condition of receiving an appropriation for planning or development of information technology projects, an agency shall complete a project needs assessment process. The needs assessment process shall detail the key issues to be addressed by the information technology project. The needs assessment process shall precede the feasibility study.

The needs assessment process must include: The project's scope; key business and technical issues to be addressed; major business objectives; alternative project approaches; project justifications; project management approach including phases necessary to complete the project; and evaluation of initial feasibility of the project. The purpose of the needs assessment process is to provide the legislature, office of financial management, and the department of information services with the high level information that is needed to grant approval to proceed with the project.

(2) The agency shall produce a feasibility study for each information systems project in accordance with published department of information services instructions. The study shall examine and evaluate the costs and benefits of maintaining the current technology or process versus the costs and benefits of the proposed system. The study shall identify if and in what amounts any fiscal savings, costs, and benefits will occur, and what programs or fund sources will be affected. Benefits of information technology projects shall not be limited to future fiscal savings, but may include maintenance of, or improvements in service delivery by the agency to the citizens of the state. The feasibility study shall be an evolving document. The feasibility study shall be accompanied by the project management plan described in subsection (3) of this section.

(3) The agency shall produce a project management plan which shall document how the agency will manage the project identified in the feasibility study. The plan shall be an evolving document. Each subsequent phase of the project shall have an updated project management plan submitted as a prerequisite for approval to begin the next phase.

The project management plan shall cover all factors critical to the entire project; shall specifically address management plans for successfully completing the subsequent phase; and shall address all factors critical to the overall project, including, but not limited to, the following elements:

(a) Project organization: Define agency executive personnel accountable for project success; define oversight and management committee structures; identify key personnel including key project positions that are not yet filled; address agency and vendor staffing requirements, including backfilling requirements; and other key resources needed for successful project implementation.

- (b) A description of scope change and cost control procedures.
- (c) A risk assessment and risk mitigation plan.
- (d) A description of project oversight and quality assurance procedures.
- (e) A project workplan: Explaining the appropriately defined phases, key management decision points, scheduling of other activities, estimated costs for the next phase or phases to be conducted in a specified time period, a description of project management procedures including communication strategies, documentation control, and issues management.

(4) A project agreement shall be prepared by the sponsoring agency, in a format prescribed by the department of information services, following approval of the project management plan and feasibility study by the department of information services, the office of financial management, and appropriation by the legislature.

The project agreement shall address all pertinent information included in the needs assessment, project management plan, feasibility study, and the budget request information submitted to the office of financial management and the legislature.

The agency head, the director of the department of information services, and the director of the office of financial management shall evaluate and approve the project agreement. A copy of the final project agreement shall be provided to the legislative transportation committee. Any changes to the agreement shall be made with the mutual written consent of the parties. The legislative transportation committee shall receive written prior notification of all proposed changes in a timely manner and may provide written comments on such proposed changes.

(5) Prior to reaching key decision points identified in the project management plan a project status report shall be submitted to the department of information services, the office of financial management, and the legislative transportation committee for each project. Project status reports shall examine and evaluate project management, accomplishments, budget, action to address variances, risk management, and other significant issues critical to completion of a project.

(6) In instances where a project review is requested in accordance with department of information services policies, the review shall examine and evaluate: System requirements specifications; scope; executive commitment and project management procedures system architecture; change controls; documentation; user involvement; training; availability and capability of resources; programming languages and techniques; system inputs and outputs; plans for testing, conversion, implementation, and post-implementation; and other aspects critical to successful construction, integration, and implementation of information technology projects as appropriate. Copies of written project review reports shall be forwarded to the office of financial management and the legislative transportation committee by the agency.

(7) The agency and the department of information services shall provide the legislative transportation committee and the office of financial management with a written bi-monthly project oversight and risk assessment report for each project. The report shall include, but not be limited to, the following: Project name, agency undertaking the project, a description of the project, key project activities during the next sixty to ninety days, base-line cost data, costs to date, schedule to date, risk assessments, risk management, and recommendations.

(8) A written post-implementation review report shall be prepared by the agency for each information systems project in accordance with published department of information services instructions. In addition to the information requested pursuant to the department of information services instructions, post-implementation reports shall evaluate the degree to which a project accomplished its major objectives including, but not limited to, a comparison of original cost and benefit estimates to actual costs and benefits achieved. Copies of post-implementation review reports shall be provided to the department of information services, the office of financial management, and the legislative transportation committee.

(9) Where major variances in project scope, cost, or risk occur, the sponsoring agency shall inform the department of information services of the change. The director of the sponsoring agency and the director of the department of information services shall jointly report such findings in writing to the legislative transportation committee and office of financial management. A major variance is defined as a budget change in excess of \$1,000,000 or ten percent, whichever is lower; an increase in risk category to high; or a change in scope that could result in major change in budget or risk.

NEW SECTION. Sec. 31. 1991 c 342 s 15 is repealed.

NEW SECTION. Sec. 32. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 11, 1992.

Passed the Senate March 11, 1992.

Approved by the Governor April 1, 1992, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 1, 1992.

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

"I am returning herewith, without my approval as to sections 15(6), 22 (page 20 lines 12 and 13), 22(9), and 29 of Engrossed Substitute House Bill No. 2553 entitled:

"AN ACT Relating to Transportation Appropriations."

Section 15(6), Highway Construction - Program B

Section 15(6) requires the Department of Transportation to adhere to the 1987 federal delineation of wetlands for mitigation purposes. As drafted, this proviso only applies to the interstate construction program rather than the non-interstate new construction program.

Since local jurisdictions may require the Department of Transportation to adhere to more stringent guidelines than those set forth in the 1987 federal delineation manual, this language could confuse the delivery of necessary interstate projects. Further, it is inappropriate to adopt state wetland standards on a piecemeal basis within a budget document.

Section 22 (page 20 lines 12 and 13), and Section 22(9), Planning, Research, and Public Transportation - Program T

This \$100,000 appropriation and proviso fund a study on the interrelationship of land use planning and zoning to transit ridership. The study funding is contingent on the enactment of the METRO Municipal Corporation bill (Senate Bill No. 6209) or the Transportation Authorities bill (Engrossed House Bill No. 2830). The Legislature did not pass either of these bills. Therefore, the study and funding are no longer appropriate.

Section 29, Office of Financial Management Study of General Administration Charges

Section 29 requires the Office of Financial Management to conduct a study of the methods used by the revolving fund agencies to charge for services provided to the transportation agencies. Such a review is currently underway. Therefore, this study is not necessary. My staff will coordinate the transportation agencies and the revolving fund agencies to discuss services provided, allocation methodologies, and rate charges.

For these reasons, I have vetoed sections 15(6), 22 (page 20 lines 12 and 13), 22(9), and 29 of Engrossed Substitute House Bill No. 2553.

With the exception of sections 15(6), 22 (page 20 lines 12 and 13), 22(9), and 29, Engrossed Substitute House Bill No. 2553 is approved."

## CHAPTER 167

[Engrossed Senate Bill 6161]

### DEPARTMENT OF NATURAL RESOURCES—

#### DISPOSITION OF REAL PROPERTY WITHOUT PUBLIC AUCTION

Effective Date: 4/1/92

AN ACT Relating to the disposition of real property by the commissioner of public lands; adding a new section to chapter 43.30 RCW; adding a new section to chapter 79.01 RCW; and declaring an emergency.

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

NEW SECTION. Sec. 1. A new section is added to chapter 43.30 RCW to read as follows:

(1) The legislature finds that the department of natural resources has a need to maintain the real property asset base it manages and needs an accounting mechanism to complete transactions without reducing the real property asset base.

(2) The natural resources real property replacement account is created in the state treasury. This account shall consist of funds transferred or paid for the disposal or transfer of real property by the department of natural resources under section 2 of this act. The funds in this account shall be used solely for the acquisition of replacement real property and may be spent only when, and as, authorized by legislative appropriation.

NEW SECTION. Sec. 2. A new section is added to chapter 79.01 RCW to read as follows:

(1) For the purposes of this section, "public agency" means any agency, political subdivision, or unit of local government of this state including, but not limited to, municipal corporations, quasi-municipal corporations, special purpose districts, and local service districts; any agency of the state government; any agency of the United States; and any Indian tribe recognized as such by the federal government.

(2) With the approval of the board of natural resources, the department of natural resources may directly transfer or dispose of real property, without public auction, in the following circumstances:

- (a) Transfers in lieu of condemnations;
- (b) Transfers to public agencies; and
- (c) Transfers to resolve trespass and property ownership disputes.

(3) Real property to be transferred or disposed of under this section shall be transferred or disposed of only after appraisal and for at least fair market value, and only if such transaction is in the best interest of the state or affected trust.

**NEW SECTION. Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 7, 1992.

Passed the House March 4, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

## CHAPTER 168

[Substitute House Bill 2373]

### CONCEALED WEAPONS PERMIT ELIGIBILITY—REVISIONS

Effective Date: 6/11/92

AN ACT Relating to eligibility for a concealed weapon permit; amending RCW 9.41.070, 9.41.040, and 71.05.240; and prescribing penalties.

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

**Sec. 1.** RCW 9.41.070 and 1990 c 195 s 6 are each amended to read as follows:

(1) The judge of a court of record, the chief of police of a municipality, or the sheriff of a county, shall within thirty days after the filing of an application of any person issue a license to such person to carry a pistol concealed on his or her person within this state for four years from date of issue, for the purposes of protection or while engaged in business, sport, or while traveling. However, if the applicant does not have a valid permanent Washington driver's license or Washington state identification card or has not been a resident of the state for the previous consecutive ninety days, the issuing authority shall have up to sixty days after the filing of the application to issue a license. Such applicant's constitutional right to bear arms shall not be denied (~~to him~~), unless he or she:

- (a) Is ineligible to own a pistol under the provisions of RCW 9.41.040; or
- (b) Is under twenty-one years of age; or
- (c) Is subject to a court order or injunction regarding firearms pursuant to RCW 10.99.040, 10.99.045, or 26.09.060; or
- (d) Is free on bond or personal recognizance pending trial, appeal, or sentencing for a crime of violence; or
- (e) Has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor; or
- (f) Has been ordered to forfeit a firearm under RCW 9.41.098(1)(d) within one year before filing an application to carry a pistol concealed on his or her person; or

(g) Has been convicted of any of the following offenses: Assault in the third degree, indecent liberties, malicious mischief in the first degree, possession of stolen property in the first or second degree, or theft in the first or second degree. Any person who becomes ineligible for a concealed pistol permit as a result of a conviction for a crime listed in this subsection (1)(g) and then successfully completes all terms of his or her sentence, as evidenced by a certificate of discharge issued under RCW 9.94A.220 in the case of a sentence under chapter 9.94A RCW, and has not again been convicted of any crime and is not under indictment for any crime, may, one year or longer after such successful sentence completion, petition the district court for a declaration that the person is no longer ineligible for a concealed pistol permit under this subsection (1)(g).

(2) Any person whose firearms rights have been restricted and who has been granted relief from disabilities by the secretary of the treasury under 18 U.S.C. Sec. 925(c) or who is exempt under 18 U.S.C. Sec. 921(a)(20) shall have his or her right to acquire, receive, transfer, ship, transport, carry, and possess firearms in accordance with Washington state law restored.

(3) The license shall be revoked by the issuing authority immediately upon conviction of a crime which makes such a person ineligible to own a pistol or upon the third conviction for a violation of this chapter within five calendar years.

~~((2))~~ (4) Upon an order to forfeit a firearm under RCW 9.41.098(1)(d) the ((license)) issuing authority shall:

~~(a) On the first forfeiture, ((be revoked by the department of licensing))~~ revoke the license for one year;

~~(b) On the second forfeiture, ((be revoked by the department of licensing))~~ revoke the license for two years;

~~(c) On the third or subsequent forfeiture, ((be revoked by the department of licensing))~~ revoke the license for five years.

Any person whose license is revoked as a result of a forfeiture of a firearm under RCW 9.41.098(1)(d) may not reapply for a new license until the end of the revocation period. The issuing authority shall notify, in writing, the

department of licensing upon revocation of a license. The department of licensing shall record the revocation.

(5) The license shall be in triplicate, in form to be prescribed by the department of licensing, and shall bear the name, address, and description, fingerprints, and signature of the licensee, and the licensee's driver's license number or state identification card number if used for identification in applying for the license. The license application shall contain a warning substantially as follows:

**CAUTION:** Although state and local laws do not differ, federal law and state law on the possession of firearms differ. If you are prohibited by federal law from possessing a firearm, you may be prosecuted in federal court. A state license is not a defense to a federal prosecution.

The license application shall contain a description of the major differences between state and federal law and an explanation of the fact that local laws and ordinances on firearms are preempted by state law and must be consistent with state law. The application shall contain questions about the applicant's place of birth, whether the applicant is a United States citizen, and if not a citizen whether the applicant has declared the intent to become a citizen and whether he or she has been required to register with the state or federal government and any identification or registration number, if applicable. The applicant shall not be required to produce a birth certificate or other evidence of citizenship. An applicant who is not a citizen shall provide documentation showing resident alien status and the applicant's intent to become a citizen. A person who makes a false statement regarding citizenship on the application is guilty of a misdemeanor. A person who is not a citizen of the United States, or has not declared his or her intention to become a citizen shall meet the additional requirements of RCW 9.41.170.

The original thereof shall be delivered to the licensee, the duplicate shall within seven days be sent by registered mail to the director of licensing and the triplicate shall be preserved for six years, by the authority issuing said license.

~~((3))~~ (6) The fee for the original issuance of a four-year license shall be twenty-three dollars: PROVIDED, That no other additional charges by any branch or unit of government shall be borne by the applicant for the issuance of the license: PROVIDED FURTHER, That the fee shall be distributed as follows:

(a) Four dollars shall be paid to the state general fund;

(b) Four dollars shall be paid to the agency taking the fingerprints of the person licensed;

(c) Twelve dollars shall be paid to the issuing authority for the purpose of enforcing this chapter; and

(d) Three dollars to the firearms range account in the general fund.

~~((4))~~ (7) The fee for the renewal of such license shall be fifteen dollars: PROVIDED, That no other additional charges by any branch or unit of

government shall be borne by the applicant for the renewal of the license: PROVIDED FURTHER, That the fee shall be distributed as follows:

(a) Four dollars shall be paid to the state general fund;

(b) Eight dollars shall be paid to the issuing authority for the purpose of enforcing this chapter; and

(c) Three dollars to the firearms range account in the general fund.

~~((5))~~ (8) Payment shall be by cash, check, or money order at the option of the applicant. Additional methods of payment may be allowed at the option of the issuing authority.

~~((6))~~ (9) A licensee may renew a license if the licensee applies for renewal within ninety days before or after the expiration date of the license. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing after the expiration date of the license must pay a late renewal penalty of ten dollars in addition to the renewal fee specified in subsection ~~((4))~~ (7) of this section. The fee shall be distributed as follows:

(a) Three dollars shall be deposited in the state wildlife fund and used exclusively for the printing and distribution of a pamphlet on the legal limits of the use of firearms, firearms safety, and the preemptive nature of state law. The pamphlet shall be given to each applicant for a license; and

(b) Seven dollars shall be paid to the issuing authority for the purpose of enforcing this chapter.

~~((7))~~ (10) Notwithstanding the requirements of subsections (1) through ~~((6))~~ (9) of this section, the chief of police of the municipality or the sheriff of the county of the applicant's residence may issue a temporary emergency license for good cause pending review under subsection (1) of this section.

~~((8))~~ (11) A political subdivision of the state shall not modify the requirements of this section or chapter, nor may a political subdivision ask the applicant to voluntarily submit any information not required by this section. A civil suit may be brought to enjoin a wrongful refusal to issue a license or a wrongful modification of the requirements of this section or chapter. The civil suit may be brought in the county in which the application was made or in Thurston county at the discretion of the petitioner. Any person who prevails against a public agency in any action in the courts for a violation of this chapter shall be awarded costs, including reasonable attorneys' fees, incurred in connection with such legal action.

**Sec. 2.** RCW 9.41.040 and 1983 c 232 s 2 are each amended to read as follows:

(1) A person is guilty of the crime of unlawful possession of a short firearm or pistol, if, having previously been convicted in this state or elsewhere of a crime of violence or of a felony in which a firearm was used or displayed, the person owns or has in his possession any short firearm or pistol.

(2) Unlawful possession of a short firearm or pistol shall be punished as a class C felony under chapter 9A.20 RCW.

(3) As used in this section, a person has been "convicted" at such time as a plea of guilty has been accepted or a verdict of guilty has been filed, notwithstanding the pendency of any future proceedings including but not limited to sentencing, post-trial motions, and appeals. A person shall not be precluded from possession if the conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted or the conviction has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence.

(4) Except as provided in subsection (5) of this section, a person is guilty of the crime of unlawful possession of a short firearm or pistol if, after having been convicted of any felony violation of the uniform controlled substances act, chapter 69.50 RCW, or equivalent statutes of another jurisdiction, ~~((or after any period of confinement under RCW 71.05.320 or an equivalent statute of another jurisdiction, or following a record of commitment pursuant to chapter 10.77 RCW or equivalent statutes of another jurisdiction, he))~~ the person owns or has in his or her possession or under his or her control any short firearm or pistol.

(5) Notwithstanding subsection (1) of this section, a person convicted of an offense other than murder, manslaughter, robbery, rape, indecent liberties, arson, assault, kidnapping, extortion, burglary, or violations with respect to controlled substances under RCW 69.50.401(a) and 69.50.410, who received a probationary sentence under RCW 9.95.200, and who received a dismissal of the charge under RCW 9.95.240, shall not be precluded from ownership, possession, or control of a firearm as a result of the conviction.

(6)(a) A person who has been committed by court order for treatment of mental illness under RCW 71.05.320 or chapter 10.77 RCW, or equivalent statutes of another jurisdiction, may not possess, in any manner, a firearm as defined in RCW 9.41.010.

(b) At the time of commitment, the court shall specifically state to the person under (a) of this subsection and give the person notice in writing that the person is barred from possession of firearms.

(c) The secretary of social and health services shall develop appropriate rules to create an approval process under this subsection. The rules must provide for the immediate restoration of the right to possess a firearm upon a showing in a court of competent jurisdiction that a person no longer is required to participate in an inpatient or outpatient treatment program, and is no longer required to take medication to treat any condition related to the commitment. Unlawful possession of a firearm under this subsection shall be punished as a class C felony under chapter 9A.20 RCW.

**Sec. 3.** RCW 71.05.240 and 1987 c 439 s 5 are each amended to read as follows:

If a petition is filed for fourteen day involuntary treatment or ninety days of less restrictive alternative treatment, the court shall hold a probable cause hearing

within seventy-two hours of the initial detention of such person as determined in RCW 71.05.180, as now or hereafter amended. If requested by the detained person or his or her attorney, the hearing may be postponed for a period not to exceed forty-eight hours. The hearing may also be continued subject to the conditions set forth in RCW 71.05.210 or subject to the petitioner's showing of good cause for a period not to exceed twenty-four hours.

At the conclusion of the probable cause hearing, if the court finds by a preponderance of the evidence that such person, as the result of mental disorder, presents a likelihood of serious harm to others or himself or herself, or is gravely disabled, and, after considering less restrictive alternatives to involuntary detention and treatment, finds that no such alternatives are in the best interests of such person or others, the court shall order that such person be detained for involuntary treatment not to exceed fourteen days in a facility certified to provide treatment by the department of social and health services. If the court finds that such person, as the result of a mental disorder, presents a likelihood of serious harm to others or himself or herself, or is gravely disabled, but that treatment in a less restrictive setting than detention is in the best interest of such person or others, the court shall order an appropriate less restrictive course of treatment for not to exceed ninety days.

The court shall specifically state to such person and give such person notice in writing that if involuntary treatment beyond the fourteen day period or beyond the ninety days of less restrictive treatment is to be sought, such person will have the right to a full hearing or jury trial as required by RCW 71.05.310. The court shall also provide written notice that the person is barred from the possession of firearms.

NEW SECTION. Sec. 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House March 7, 1992.

Passed the Senate March 3, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

## CHAPTER 169

[House Bill 2681]

## TAX REFUNDS OR CREDITS—WRITTEN WAIVER TO EXTEND TIME FOR MAKING

Effective Date: 7/1/92

AN ACT Relating to the payment of refunds for overpaid taxes; amending RCW 82.32.050, 82.32.060, and 82.32.100; and providing an effective date.

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

**Sec. 1.** RCW 82.32.050 and 1991 c 142 s 9 are each amended to read as follows:

(1) If upon examination of any returns or from other information obtained by the department it appears that a tax or penalty has been paid less than that properly due, the department shall assess against the taxpayer such additional amount found to be due and shall add thereto interest at the rate of nine percent per annum from the last day of the year in which the deficiency is incurred until the date of payment for tax liabilities arising before January 1, 1992. For tax liabilities arising after December 31, 1991, until the date of payment, the rate of interest shall be variable and computed as provided in subsection (2) of this section. The rate so computed shall be adjusted on the first day of January of each year. The department shall notify the taxpayer by mail of the additional amount and the same shall become due and shall be paid within thirty days from the date of the notice, or within such further time as the department may provide.

(2) For the purposes of this section, the rate of interest to be charged to the taxpayer shall be an average of the federal short-term rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points. The rate shall be computed by taking an arithmetical average to the nearest percentage point of the federal short-term rate, compounded annually, for the months of January, April, July, and October of the immediately preceding calendar year as published by the United States secretary of the treasury.

(3) No assessment or correction of an assessment for additional taxes, penalties, or interest due may be made by the department more than four years after the close of the tax year, except (a) against a taxpayer who has not registered as required by this chapter, (b) upon a showing of fraud or of misrepresentation of a material fact by the taxpayer, or (c) where a taxpayer has executed a written waiver of such limitation. The execution of a written waiver shall also extend the period for making a refund or credit as provided in RCW 82.32.060(2).

**Sec. 2.** RCW 82.32.060 and 1991 c 142 s 10 are each amended to read as follows:

(1) If, upon receipt of an application by a taxpayer for a refund or for an audit of the taxpayer's records, or upon an examination of the returns or records of any taxpayer, it is determined by the department that within the statutory period for assessment of taxes, penalties, or interest prescribed by RCW 82.32.050 (a) any amount of tax, penalty, or interest has been paid in excess

of that properly due, the excess amount paid within, or attributable to, such period shall be credited to the taxpayer's account or shall be refunded to the taxpayer, at the taxpayer's option. Except as provided in subsections (2) and (3) of this section, no refund or credit shall be made for taxes, penalties, or interest paid more than four years prior to the beginning of the calendar year in which the refund application is made or examination of records is completed.

(2) The execution of a written waiver under RCW 82.32.050 or 82.32.100 shall extend the time for making a refund or credit of any taxes paid during, or attributable to, the years covered by the waiver if, prior to the expiration of the waiver period, an application for refund of such taxes is made by the taxpayer or the department discovers a refund or credit is due.

(3) Notwithstanding the foregoing limitations there shall be refunded or credited to taxpayers engaged in the performance of United States government contracts or subcontracts the amount of any tax paid, measured by that portion of the amounts received from the United States, which the taxpayer is required by contract or applicable federal statute to refund or credit to the United States, if claim for such refund is filed by the taxpayer with the department within one year of the date that the amount of the refund or credit due to the United States is finally determined and filed within four years of the date on which the tax was paid: PROVIDED, That no interest shall be allowed on such refund.

(4) Any such refunds shall be made by means of vouchers approved by the department and by the issuance of state warrants drawn upon and payable from such funds as the legislature may provide. However, taxpayers who are required to pay taxes by electronic funds transfer under RCW 82.32.080 shall have any refunds paid by electronic funds transfer.

(5) Any judgment for which a recovery is granted by any court of competent jurisdiction, not appealed from, for tax, penalties, and interest which were paid by the taxpayer, and costs, in a suit by any taxpayer shall be paid in ~~((the))~~ the same manner, as provided in subsection (4) of this section, upon the filing with the department of a certified copy of the order or judgment of the court. Except as to the credits in computing tax authorized by RCW 82.04.435, interest at the rate of three percent per annum shall be allowed by the department and by any court on the amount of any refund, credit, or other recovery allowed to a taxpayer for taxes, penalties, or interest paid by the taxpayer before January 1, 1992. For refunds or credits of amounts paid or other recovery allowed to a taxpayer after December 31, 1991, the rate of interest shall be the rate as computed for assessments under RCW 82.32.050(2), less one percentage point.

**Sec. 3.** RCW 82.32.100 and 1989 c 378 s 21 are each amended to read as follows:

(1) If any person fails or refuses to make any return or to make available for examination the records required by this chapter, the department shall proceed, in such manner as it may deem best, to obtain facts and information on which to base its estimate of the tax; and to this end the department may examine the

~~((books,)) records((, and papers)) of any such person ((and may take evidence, on oath, of any person, relating to the subject of inquiry)) as provided in RCW 82.32.110.~~

(2) As soon as the department procures such facts and information as it is able to obtain upon which to base the assessment of any tax payable by any person who has failed or refused to make a return, it shall proceed to determine and assess against such person the tax and any applicable penalties or interest due, but such action shall not deprive such person from appealing ~~((to the superior court as hereinafter provided. To the assessment the department shall add the penalties provided in RCW 82.32.090))~~ the assessment as provided in this chapter. The department shall notify the taxpayer by mail of the total amount of such tax, penalties, and interest, and the total amount shall become due and shall be paid within thirty days from the date of such notice.

(3) No assessment or correction of an assessment may be made by the department more than four years after the close of the tax year, except ~~((4))~~ (a) against a taxpayer who has not registered as required by this chapter, ~~((2))~~ (b) upon a showing of fraud or of misrepresentation of a material fact by the taxpayer, or ~~((3))~~ (c) where a taxpayer has executed a written waiver of such limitation. The execution of a written waiver shall also extend the period for making a refund or credit as provided in RCW 82.32.060(2).

NEW SECTION. Sec. 4. (1) This act shall take effect July 1, 1992.

(2) This act is effective for all written waivers that remain enforceable as of July 1, 1992.

Passed the House March 9, 1992.

Passed the Senate March 3, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

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## CHAPTER 170

[House Bill 2448]

### PESTICIDE LICENSING—REVISIONS

Effective Date: 6/11/92

AN ACT Relating to pesticide licensing; amending RCW 15.58.030, 15.58.200, 15.58.245, 17.21.110, 17.21.122, 17.21.126, 17.21.129, 17.21.200, and 17.21.910; and reenacting and amending RCW 15.58.210.

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

**Sec. 1.** RCW 15.58.030 and 1991 c 264 s 1 are each amended to read as follows:

As used in this chapter the words and phrases defined in this section shall have the meanings indicated unless the context clearly requires otherwise.

(1) "Active ingredient" means any ingredient which will prevent, destroy, repel, control, or mitigate pests, or which will act as a plant regulator, defoliant, desiccant, or spray adjuvant.

(2) "Antidote" means the most practical immediate treatment in case of poisoning and includes first aid treatment.

(3) "Arthropod" means any invertebrate animal that belongs to the phylum arthropoda, which in addition to insects, includes allied classes whose members are wingless and usually have more than six legs; for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

(4) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant with or without causing abscission.

(5) "Department" means the Washington state department of agriculture.

(6) "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissues.

(7) "Device" means any instrument or contrivance intended to trap, destroy, control, repel, or mitigate pests, or to destroy, control, repel or mitigate fungi, nematodes, or such other pests, as may be designated by the director, but not including equipment used for the application of pesticides when sold separately from the pesticides.

(8) "Director" means the director of the department or a duly authorized representative.

(9) "Distribute" means to offer for sale, hold for sale, sell, barter, or supply pesticides in this state.

(10) "EPA" means the United States environmental protection agency.

(11) "EPA restricted use pesticide" means any pesticide with restricted uses as classified for restricted use by the administrator, EPA.

(12) "FIFRA" means the federal insecticide, fungicide, and rodenticide act as amended (61 Stat. 163, 7 U.S.C. Sec. 136 et seq.).

(13) "Fungi" means all nonchlorophyll-bearing thallophytes (all nonchlorophyll-bearing plants of a lower order than mosses and liverworts); for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living persons or other animals.

(14) "Fungicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any fungi.

(15) "Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any weed.

(16) "Inert ingredient" means an ingredient which is not an active ingredient.

(17) "Ingredient statement" means a statement of the name and percentage of each active ingredient together with the total percentage of the inert ingredients in the pesticide, and when the pesticide contains arsenic in any form, the ingredient statement shall also include percentages of total and water soluble arsenic, each calculated as elemental arsenic. In the case of a spray adjuvant the

ingredient statement need contain only the names of the principal functioning agents and the total percentage of the constituents ineffective as spray adjuvants. If more than three functioning agents are present, only the three principal ones need by named.

(18) "Insect" means any of the numerous small invertebrate animals whose bodies are more or less obviously segmented, and which for the most part belong to the class insecta, comprising six-legged, usually winged forms, for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

(19) "Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insects which may be present in any environment whatsoever.

(20) "Label" means the written, printed, or graphic matter on, or attached to, the pesticide, device, or immediate container, and the outside container or wrapper of the retail package.

(21) "Labeling" means all labels and other written, printed, or graphic matter:

(a) Upon the pesticide, device, or any of its containers or wrappers;

(b) Accompanying the pesticide, or referring to it in any other media used to disseminate information to the public; and

(c) To which reference is made on the label or in literature accompanying or referring to the pesticide or device except when accurate nonmisleading reference is made to current official publications of the department, United States departments of agriculture; interior; education; health and human services; state agricultural colleges; and other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.

(22) "Land" means all land and water areas, including airspace and all plants, animals, structures, buildings, devices and contrivances, appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.

(23) "Master license system" means the mechanism established by chapter 19.02 RCW by which master licenses, endorsed for individual state-issued licenses, are issued and renewed using a master application and a master license expiration date common to each renewable license endorsement.

(24) "Nematocide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate nematodes.

(25) "Nematode" means any invertebrate animal of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants or plant parts, may also be called nemas or celworms.

(26) "Person" means any individual, partnership, association, corporation, or organized group of persons whether or not incorporated.

(27) "Pest" means, but is not limited to, any insect, rodent, nematode, snail, slug, weed and any form of plant or animal life or virus, except virus on or in a living person or other animal, which is normally considered to be a pest or which the director may declare to be a pest.

(28) "Pest control consultant" means any individual who acts as a structural pest control inspector, who sells or offers for sale at other than a licensed pesticide dealer outlet or location where they are employed, or who offers or supplies technical advice, supervision, or aid, or makes recommendations to the user of:

(a) Highly toxic pesticides, as determined under RCW 15.58.040;

(b) EPA restricted use pesticides or restricted use pesticides which are restricted by rule to distribution by licensed pesticide dealers only; or

(c) Any other pesticide except those pesticides which are labeled and intended for home and garden use only.

(29) "Pesticide" means, but is not limited to:

(a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus, except virus on or in a living person or other animal which is normally considered to be a pest or which the director may declare to be a pest;

(b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant; and

(c) Any spray adjuvant.

(30) "Pesticide advisory board" means the pesticide advisory board as provided for in the Washington pesticide application act.

(31) "Pesticide dealer" means any person who distributes any of the following pesticides:

(a) Highly toxic pesticides, as determined under RCW 15.58.040;

(b) EPA restricted use pesticides or restricted use pesticides which are restricted by rule to distribution by licensed pesticide dealers only; or

(c) Any other pesticide except those pesticides which are labeled and intended for home and garden use only.

(32) "Pesticide dealer manager" means the owner or other individual supervising pesticide distribution at one outlet holding a pesticide dealer license.

(33) "Plant regulator" means any substance or mixture of substances intended through physiological action, to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of ornamental or crop plants or their produce, but shall not include substances insofar as they are intended to be used as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments.

(34) "Registrant" means the person registering any pesticide under the provisions of this chapter.

(35) "Restricted use pesticide" means any pesticide or device which, when used as directed or in accordance with a widespread and commonly recognized practice, the director determines, subsequent to a hearing, requires additional restrictions for that use to prevent unreasonable adverse effects on the environment including people, lands, beneficial insects, animals, crops, and wildlife, other than pests.

(36) "Rodenticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents, or any other vertebrate animal which the director may declare by rule to be a pest.

(37) "Spray adjuvant" means any wetting agent, spreading agent, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent with or without toxic properties of its own, intended to be used with any other pesticide as an aid to the application or to the effect of the pesticide, and which is in a package or container separate from that of the pesticide with which it is to be used.

(38) "Special local needs registration" means a registration issued by the director pursuant to provisions of section 24(c) of FIFRA.

(39) "Structural pest control inspector" means any individual who (~~commercially~~) performs the service of inspecting a building for (~~the presence of pests destructive to its structural components~~) wood destroying organisms, their damage, or conditions conducive to their infestation.

(40) "Unreasonable adverse effects on the environment" means any unreasonable risk to people or the environment taking into account the economic, social, and environmental costs and benefits of the use of any pesticide, or as otherwise determined by the director.

(41) "Weed" means any plant which grows where not wanted.

**Sec. 2.** RCW 15.58.200 and 1991 c 109 s 38 are each amended to read as follows:

The director shall require each pesticide dealer manager to demonstrate to the director knowledge of pesticide laws and rules; pesticide hazards; and the safe distribution, use and application, and disposal of pesticides by satisfactorily passing a written examination after which the director shall issue a license of qualification. Application for a license shall be accompanied by a license fee of ( ~~fifty~~) fifteen dollars. The pesticide dealer manager license shall be (~~a five-year~~) an annual license expiring on a date set by rule by the director. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses.

**Sec. 3.** RCW 15.58.210 and 1991 c 264 s 4 and 1991 c 109 s 39 are each reenacted and amended to read as follows:

(1) Except as provided in subsection (2) of this section, no individual may perform services as a pest control consultant without obtaining from the director an annual license, which license shall expire annually on a date set by rule by the director. License fees shall be prorated where necessary to accommodate

staggering of expiration dates (~~(or-~~of~~)~~) of a license or licenses. Except as provided in subsection (3) of this section, no individual may act as a structural pest control inspector without first obtaining from the director a pest control consultant license in the special category of structural pest control inspector. Application for a license shall be on a form prescribed by the director and shall be accompanied by a fee of thirty dollars.

(2) The following are exempt from the licensing requirements of subsection (1) of this section when acting within the authorities of their existing licenses issued under chapter 17.21 RCW: Licensed commercial pesticide applicators and operators; licensed private-commercial applicators; and licensed demonstration and research applicators. The following are also exempt from the licensing requirements of subsection (1) of this section: Employees of federal, state, county, or municipal agencies when acting in their official governmental capacities; and pesticide dealer managers and employees working under the direct supervision of the pesticide dealer manager and only at a licensed pesticide dealer's outlet.

(3) The following are exempt from the structural pest control inspector licensing requirement: Individuals inspecting for damage caused by wood destroying organisms if such inspections are solely for the purpose of: (a) Repairing or making specific recommendations for the repair of such damage, or (b) assessing a monetary value for the structure inspected. Individuals performing wood destroying organism inspections that incorporate but are not limited to the activities described in (a) or (b) of this subsection are not exempt from the structural pest control inspector licensing requirement.

**Sec. 4.** RCW 15.58.245 and 1989 c 380 s 21 are each amended to read as follows:

Unless revoked for cause by the director, any registration, license, or permit in effect on July 23, 1989, shall continue in full force until its expiration date. Public pest control consultant and pesticide dealer manager licenses valid on December 31, 1985, shall expire on December 31, 1990, and public pest control and pesticide dealer manager licenses issued subsequent to December 31, 1985, and valid on December 31, 1986, shall expire on December 31, 1991. Unless revoked for cause, any pesticide dealer manager license issued prior to the effective date of this act shall be valid until its expiration date.

**Sec. 5.** RCW 17.21.110 and 1991 c 109 s 31 are each amended to read as follows:

It shall be unlawful for any person to act as an employee of a commercial pesticide applicator and apply pesticides manually or as the operator directly in charge of any apparatus which is licensed or should be licensed under the provisions of this chapter for the application of any pesticide, without having obtained a commercial pesticide operator license from the director. The commercial pesticide operator license shall be in addition to any other license or permit required by law for the operation or use of any such apparatus.

Application for a (~~license to apply pesticides manually and/or to operate ground apparatuses~~) commercial operator license shall be accompanied by a license fee of thirty dollars. (~~Application for a license to operate an aerial apparatus shall be accompanied by a license fee of thirty dollars.~~) The provisions of this section shall not apply to any individual who is a licensed commercial pesticide applicator. Commercial pesticide operator licenses shall expire annually on a date set by rule by the director. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses.

**Sec. 6.** RCW 17.21.122 and 1991 c 109 s 32 are each amended to read as follows:

It shall be unlawful for any person to act as a private-commercial applicator without having obtained a private-commercial applicator license from the director. Application for a private-commercial applicator license shall be accompanied by a license fee of (~~fifty~~) fifteen dollars before a license may be issued. Private-commercial applicator licenses issued by the director shall be (~~five-year~~) annual licenses expiring on a date set by rule by the director. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses.

**Sec. 7.** RCW 17.21.126 and 1991 c 109 s 33 are each amended to read as follows:

It shall be unlawful for any person to act as a private applicator without first complying with the certification requirements determined by the director as necessary to prevent unreasonable adverse effects on the environment, including injury to the applicator or other persons, for that specific pesticide use. Certification standards to determine the individual's competency with respect to the use and handling of the pesticide or class of pesticides the private applicator is to be certified to use shall be relative to hazards according to RCW 17.21.030 as now or hereafter amended. In determining these standards the director shall take into consideration standards of the EPA and is authorized to adopt by rule these standards. Application for private applicator certification shall be accompanied by a license fee of fifteen dollars before a certification may be issued. Individuals with a valid certified applicator license, pest control consultant license, or dealer manager license who qualify in the appropriate license categories are exempt from this fee requirement provided that licensed public operators exempted from that license fee requirement are not exempted from the private applicator fee requirement. Private applicator certification issued by the director shall expire annually on a date set by rule by the director. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses.

**Sec. 8.** RCW 17.21.129 and 1991 c 109 s 34 are each amended to read as follows:

Except as provided in RCW 17.21.203(1), it is unlawful for a person to use or supervise the use of any pesticide which is restricted to use by certified

applicators, on small experimental plots for research purposes when no charge is made for the pesticide and its application, without a demonstration and research applicator's license.

A license fee of ~~((fifty))~~ fifteen dollars shall be paid before a demonstration and research license may be issued. The demonstration and research applicator license shall be ~~((a five year))~~ an annual license expiring on a date set by rule by the director. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses.

**Sec. 9.** RCW 17.21.200 and 1989 c 380 s 52 are each amended to read as follows:

The provisions of this chapter relating to commercial pesticide applicator licenses and requirements for their issuance shall not apply to any forest landowner, or his or her employees, applying pesticides with ground apparatus or manually, on his or her own lands or any lands or rights of way under his or her control or to any farmer owner of ground apparatus applying pesticides for himself or herself or ~~((other farmers))~~ if applied on an occasional basis not amounting to a principal or regular occupation without compensation other than trading of personal services between producers of agricultural commodities on the land of another person or to any grounds maintenance person conducting grounds maintenance on an occasional basis not amounting to a regular occupation. However, persons exempt under this section shall not use pesticides restricted to use by certified applicators and shall not advertise or publicly hold themselves out as pesticide applicators.

**Sec. 10.** RCW 17.21.910 and 1989 c 380 s 65 are each amended to read as follows:

Unless revoked for cause by the director, any license issued under the provisions of this chapter and in effect on June 7, 1961, shall continue in full force and effect until its expiration date: PROVIDED, That public operator, private commercial applicator and demonstration and research applicator licenses in effect on December 31, 1985, shall expire on December 31, 1990, and any public operator, private commercial applicator and demonstration and research applicator licenses issued after December 31, 1985, and in effect on December 31, 1986, shall expire on December 31, 1991. Unless revoked for cause, any private commercial applicator and demonstration and research licenses issued prior to the effective date of this act shall be valid until their expiration date.

Passed the House February 13, 1992.

Passed the Senate March 10, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

**CHAPTER 171**

[Engrossed Senate Bill 6407]

**PUBLIC WORKS CONTRACT ACTIONS—AWARD OF ATTORNEYS' FEES**

**Effective Date:** 6/11/92

AN ACT Relating to public works construction contracts; and adding a new section to chapter 39.04 RCW.

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

**NEW SECTION.** **Sec. 1.** A new section is added to chapter 39.04 RCW to read as follows:

(1) The provisions of RCW 4.84.250 through 4.84.280 shall apply to an action arising out of a public works contract in which the state or a municipality, or other public body that contracts for public works, is a party, except that: (a) The maximum amount of the pleading shall be two hundred fifty thousand dollars; and (b) in applying RCW 4.84.280, the time period for serving offers of settlement on the adverse party shall be the period not less than thirty days and not more than one hundred twenty days after completion of the service and filing of the summons and complaint.

(2) The rights provided for under this section may not be waived by the parties to a public works contract that is entered into on or after the effective date of this act, and a provision in such a contract that provides for waiver of these rights is void as against public policy. However, this subsection shall not be construed as prohibiting the parties from mutually agreeing to a clause in a public works contract that requires submission of a dispute arising under the contract to arbitration.

Passed the Senate March 12, 1992.

Passed the House March 11, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

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**CHAPTER 172**

[Second Engrossed Senate Bill 6004]

**INDIAN GAMING COMPACTS**

**Effective Date:** 4/1/92

AN ACT Relating to compacts negotiated under the Indian Gaming Regulatory Act of 1988; amending RCW 43.06.010; and adding a new section to chapter 9.46 RCW; and declaring an emergency.

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

**Sec. 1.** RCW 43.06.010 and 1991 c 257 s 22 are each amended to read as follows:

In addition to those prescribed by the Constitution, the governor may exercise the powers and perform the duties prescribed in this and the following sections:

(1) The governor shall supervise the conduct of all executive and ministerial offices;

(2) The governor shall see that all offices are filled, and the duties thereof performed, or in default thereof, apply such remedy as the law allows; and if the remedy is imperfect, acquaint the legislature therewith at its next session;

(3) The governor shall make the appointments and supply the vacancies mentioned in this title;

(4) The governor is the sole official organ of communication between the government of this state and the government of any other state or territory, or of the United States;

(5) Whenever any suit or legal proceeding is pending against this state, or which may affect the title of this state to any property, or which may result in any claim against the state, the governor may direct the attorney general to appear on behalf of the state, and report the same to the governor, or to any grand jury designated by the governor, or to the legislature when next in session;

(6) The governor may require the attorney general or any prosecuting attorney to inquire into the affairs or management of any corporation existing under the laws of this state, or doing business in this state, and report the same to the governor, or to any grand jury designated by the governor, or to the legislature when next in session;

(7) The governor may require the attorney general to aid any prosecuting attorney in the discharge of his duties;

(8) The governor may offer rewards, not exceeding one thousand dollars in each case, payable out of the state treasury, for information leading to the apprehension of any person convicted of a felony who has escaped from a state correctional institution or for information leading to the arrest of any person who has committed or is charged with the commission of a felony;

(9) The governor shall perform such duties respecting fugitives from justice as are prescribed by law;

(10) The governor shall issue and transmit election proclamations as prescribed by law;

(11) The governor may require any officer or board to make, upon demand, special reports to the governor, in writing;

(12) The governor may, after finding that a public disorder, disaster, energy emergency, or riot exists within this state or any part thereof which affects life, health, property, or the public peace, proclaim a state of emergency in the area affected, and the powers granted the governor during a state of emergency shall be effective only within the area described in the proclamation;

(13) The governor shall, when appropriate, submit to the select joint committee created by RCW 43.131.120, lists of state agencies, as defined by RCW 43.131.030, which agencies might appropriately be scheduled for termination by a bill proposed by the select joint committee;

(14) The governor may, after finding that there exists within this state an imminent danger of infestation of plant pests as defined in RCW 17.24.007 or plant diseases which seriously endangers the agricultural or horticultural industries of the state of Washington, or which seriously threatens life, health, or economic well-being, order emergency measures to prevent or abate the infestation or disease situation, which measures, after thorough evaluation of all other alternatives, may include the aerial application of pesticides;

(15) On all compacts forwarded to the governor pursuant to section 2(6) of this act, the governor is authorized and empowered to execute on behalf of the state compacts with federally recognized Indian tribes in the state of Washington pursuant to the federal Indian Gaming Regulatory Act, 25 U.S.C. Sec. 2701 et seq., for conducting class III gaming, as defined in the Act, on Indian lands.

**NEW SECTION. Sec. 2.** A new section is added to chapter 9.46 RCW to read as follows:

(1) The negotiation process for compacts with federally recognized Indian tribes for conducting class III gaming, as defined in the Indian Gaming Regulatory Act, 25 U.S.C. Sec. 2701 et seq., on federal Indian lands is governed by this section.

(2) The gambling commission through the director or the director's designee shall negotiate compacts for class III gaming on behalf of the state with federally recognized Indian tribes in the state of Washington.

(3) When a tentative agreement with an Indian tribe on a proposed compact is reached, the director shall immediately transmit a copy of the proposed compact to all voting and ex officio members of the gambling commission and to the standing committees designated pursuant to subsection (5) of this section.

(4) Notwithstanding RCW 9.46.040, the four ex officio members of the gambling commission shall be deemed voting members of the gambling commission for the sole purpose of voting on proposed compacts submitted under this section.

(5) Within thirty days after receiving a proposed compact from the director, one standing committee from each house of the legislature shall hold a public hearing on the proposed compact and forward its respective comments to the gambling commission. The president of the senate shall designate the senate standing committee that is to carry out the duties of this section, and the speaker of the house of representatives shall designate the house standing committee that is to carry out the duties of this section. The designated committees shall continue to perform under this section until the president of the senate or the speaker of the house of representatives, as the case may be, designates a different standing committee.

(6) The gambling commission may hold public hearings on the proposed compact any time after receiving a copy of the compact from the director. Within forty-five days after receiving the proposed compact from the director, the gambling commission, including the four ex officio members, shall vote on

whether to return the proposed compact to the director with instructions for further negotiation or to forward the proposed compact to the governor for review and final execution.

(7) Notwithstanding provisions in this section to the contrary, if the director forwards a proposed compact to the gambling commission and the designated standing committees within ten days before the beginning of a regular session of the legislature, or during a regular or special session of the legislature, the thirty-day time limit set forth in subsection (5) of this section and the forty-five day limit set forth in subsection (6) of this section are each forty-five days and sixty days, respectively.

(8) Funding for the negotiation process under this section must come from the gambling revolving fund.

(9) In addition to the powers granted under this chapter, the commission, consistent with the terms of any compact, is authorized and empowered to enforce the provisions of any compact between a federally recognized Indian tribe and the state of Washington.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

NEW SECTION. Sec. 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate March 11, 1992.

Passed the House March 12, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

## CHAPTER 173

[Substitute House Bill 2831]

### PESTICIDE RECORDKEEPING AND POSTING REQUIREMENTS REVISED

**Effective Date:** 4/1/92 - Except Section 4 which takes effect on 1/1/93.

AN ACT Relating to pesticides, with respect to pesticide recordkeeping and posting, and reporting of pesticide cases; amending RCW 17.21.100, 49.70.117, 49.70.119, and 70.104.055; prescribing penalties; providing an effective date; and declaring an emergency.

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

**Sec. 1.** RCW 17.21.100 and 1989 c 380 s 39 are each amended to read as follows:

(1) (~~Except as provided in subsection (7) of this section,~~) Pesticide applicators licensed under the provisions of this chapter and all persons applying pesticides to more than one acre of agricultural land in a calendar year, including public entities engaged in roadside spraying of pesticides, shall keep records (~~on~~

~~a form prescribed by the director~~) for each application which shall include the following information:

- (a) The location of the land where the pesticide was applied.
  - (b) The year, month, day and time the pesticide was applied.
  - (c) The product name used on the registered label and the United States environmental protection agency registration number, if applicable, of the pesticide which was applied.
  - (d) The crop or site to which the pesticide was applied.
  - (e) The amount of pesticide applied per acre or other appropriate measure.
  - (f) The concentration of pesticide that was applied.
  - (g) The number of acres, or other appropriate measure, to which the pesticide was applied.
  - (h) The licensed applicator's name, address, and telephone number and the name of the individual or individuals making the application.
  - (i) The direction and estimated velocity of the wind at the time the pesticide was applied: PROVIDED, That this subsection (i) shall not apply to applications of baits in bait stations and pesticide applications within structures.
  - (j) Any other reasonable information required by the director.
- (2)(a) The records shall be updated on the same day that a pesticide is applied.

(b) A commercial pesticide applicator who applies a pesticide to an agricultural crop or agricultural lands shall provide a copy of the records required under subsection (1) of this section for the application to the owner, or to the lessee if applied on behalf of the lessee, of the lands to which the pesticide is applied. Records provided by a commercial pesticide applicator to the owner or lessee of agricultural lands under this subsection need not be provided on a form adopted by the department.

(3) ~~((Such))~~ The records required under this section shall be ((kept for a period of)) maintained and preserved by the licensed applicator or such other person or entity applying the pesticides for no less than seven years from the date of the application of the pesticide to which such records refer((, and the director shall, upon request in writing, be furnished with a copy of such records forthwith by the licensee: PROVIDED, That the director may require the submission of such records within thirty days of the application of any restricted use pesticide in prescribed areas controlling the use of such restricted use pesticide)). If the pesticide was applied by a commercial pesticide applicator to the agricultural crop or agricultural lands of a person who employs one or more employees, as "employee" is defined in RCW 49.70.020, the records shall also be kept by the employer for a period of seven years from the date of the application of the pesticide to which the records refer.

(4)(a) The pesticide records shall be readily ((available to: The department)) accessible to the department for inspection. Copies of the records shall be provided on request to: The department; the department of labor and industries;

treating ~~((medical))~~ health care personnel initiating diagnostic testing or therapy for a patient with a suspected case of pesticide poisoning; the department of ~~((social and))~~ health ~~((services))~~; the pesticide incident reporting and tracking review panel; and, in the case of an industrial insurance claim filed under Title 51 RCW with the department of labor and industries, the employee or the employee's designated representative ~~((and the department of labor and industries))~~. In addition, the director may require the submission of the records on a routine basis within thirty days of the application of any restricted use pesticide in prescribed areas controlling the use of the restricted use pesticide. When a request for records is made under this subsection by treating health care personnel and the record is required for determining treatment, copies of the record shall be provided immediately. For all other requests, copies of the record shall be provided within seventy-two hours.

(b) Copies of records provided to a person or entity under this subsection (4) shall, if so requested, be provided on a form adopted under subsection (7) of this section. Information for treating health care personnel shall be made immediately available by telephone, if requested, with a copy of the records provided within twenty-four hours.

(5) If a request for ~~((information))~~ a copy of the record is made under ~~((subsection (4) of))~~ this section from an applicator referred to in subsection (1) of this section and the applicator refuses to provide a copy ~~((of the records, the department shall be notified))~~, the requester may notify the department of the request and the applicator's refusal. Within seven working days, the department shall request that the applicator provide the department with all pertinent copies of the records, except that in a medical emergency the request shall be made within two working days. The applicator shall provide copies of the records to the department within twenty-four hours after the department's request.

(6) The department shall include inspection of the records required under this section as part of any on-site inspection conducted under this chapter on agricultural lands. The inspection shall determine whether the records are readily transferable to a form adopted by the department and are readily accessible to employees. However, no person subject to a department inspection may be inspected under this subsection (6) more than once in any calendar year, unless a previous inspection has found recordkeeping violations. If recordkeeping violations are found, the department may conduct reasonable multiple inspections, pursuant to rules adopted by the department. Nothing in this subsection (6) limits the department's inspection of records pertaining to pesticide-related injuries, illnesses, fatalities, accidents, or complaints.

(7) The department of agriculture and the department of labor and industries shall jointly adopt, by rule, ~~((one))~~ forms that ~~((satisfies))~~ satisfy the information requirements of this section ~~((and RCW 49.70.119. Records kept on the prescribed form under RCW 49.70.119 may be used to comply with this section.~~

~~(7) This section shall not apply to the owner or operator of a dairy farm with respect to his or her application of pesticides to the farm).~~

**Sec. 2.** RCW 49.70.117 and 1989 c 380 s 76 are each amended to read as follows:

(1) If a pesticide having a reentry interval of greater than twenty-four hours is applied to a labor-intensive agricultural crop, the pesticide-treated area shall be posted with warning signs in accordance with the requirements of this section.

(2) When pesticide warning signs are required under this section, the employer shall post signs visible from all usual points of entry to the pesticide-treated area. If there are no usual points of entry or the area is adjacent to an unfenced public right of way, signs shall be posted (a) at each corner of the pesticide-treated area, and (b) at intervals not exceeding six hundred feet, or (c) at other locations approved by the department that provide maximum visibility.

(3) The signs shall be posted ~~((no sooner than))~~ within twenty-four hours before the scheduled application of the pesticide, remain posted during application and throughout the applicable reentry interval, and be removed within two days after the expiration of the applicable reentry interval and before employee reentry is permitted. Employees working in an area scheduled for a pesticide application shall be informed of the application and shall vacate the area to be sprayed prior to application of the pesticide.

(4) Signs shall be legible for the duration of use. Signs shall contain a prominent symbol approved by the department of agriculture and the department of labor and industries by rule, and wording shall be in English and Spanish or other languages as required by the department. Signs shall meet the minimum specifications of rules adopted by the department, which rules shall include, at a minimum, size and lettering requirements.

**Sec. 3.** RCW 49.70.119 and 1989 c 380 s 77 are each amended to read as follows:

(1) An employer who applies ~~((or stores))~~ pesticides in connection with the production of an agricultural crop, or who causes pesticides to be applied in connection with such production, shall ~~((compile and maintain a workplace pesticide list by crop for each pesticide that is applied to a crop or stored in a work area. The workplace pesticide list shall be kept on a form prescribed by the department and shall contain at least))~~ keep records for each application, which shall include the following information:

(a) The location of the land where the pesticide was applied or site where the pesticide was stored;

(b) The year, month, day, and time the pesticide was applied;

(c) The product name used on the registered label and the United States environmental protection agency registration number, if applicable, of the pesticide that was applied or stored;

(d) The crop or site to which the pesticide was applied;

(e) The amount of pesticide applied per acre, or other appropriate measure;

(f) The concentration of pesticide that was applied;

(g) The number of acres, or other appropriate measure, to which pesticide was applied;

(h) If applicable, the licensed applicator's name, address, and telephone number and the name of the individual or individuals making the application; ~~((and))~~

(i) The direction and estimated velocity of the wind at the time the pesticide was applied: PROVIDED, That this subsection (i) shall not apply to applications of baits in bait stations and pesticide applications within structures; and

(j) Any other reasonable information required by the director.

~~(2) The ((employer shall update the workplace pesticide list)) records shall be updated on the same day that a pesticide is applied ((or is first stored in a work area)).~~ If the employer has been provided a copy of a pesticide application record under RCW 17.21.100(2)(b), the copy may be used as the record of the pesticide application required under this section. The employer shall maintain and preserve the pesticide application records for no less than seven years from the date of the application of the pesticide to which the records refer.

~~(3) ((The workplace pesticide list may be prepared for the workplace as a whole or for each work area and must be readily available to employees and their designated representatives.))~~ The pesticide application records shall be readily accessible to the employer's employees and their designated representatives in a central location in the workplace beginning on the day the application is made and for at least thirty days following the application. The employee or representative shall be entitled to view the pesticide application records and make his or her own record from the information contained in the application records. New or newly assigned employees shall be made aware of the ((pesticide chemical list)) accessibility of the application records before working with pesticides or in a work area containing pesticides.

~~(4)(a) An employer subject to this section ((shall maintain one form for each crop, work area, or workplace as a whole, as appropriate, and shall add information to the form as different pesticides are applied or stored. The forms shall be accessible and available for copying and shall be stored in a location suitable to preserve their physical integrity. The employer shall maintain and preserve the forms required under this section for no less than seven years. The records shall include an estimation of the total amount of each pesticide listed on the forms.))~~ who stores pesticides shall at least once in each calendar year perform an inventory of the pesticides stored in any work area. The pesticide inventory records shall include the following information:

(i) The location of the site where the pesticide is stored;

(ii) The year, month, day, and time the pesticide was first stored;

(iii) The product name used on the registered label and the United States environmental protection agency registration number, if applicable, of the pesticide that is stored; and

(iv) The amount of pesticide in storage at the time of the inventory. The inventory records shall be maintained and preserved for no less than seven years.

(b) In addition to performing the annual pesticide inventory required under this subsection, an employer shall maintain a record of pesticide purchases made between the annual inventory dates. In lieu of this purchase record, an employer may obtain from distributors from whom pesticides are purchased a statement obligating the distributor to maintain the purchase records on behalf of the employer and in satisfaction of the employer's obligations under this subsection. The director may require the submission of all purchase records from employers or distributors, covering the purchases during a specified period of time or in a specified geographical area.

~~(5) (After July 23, 1989, if an employer has failed to maintain and preserve the forms as required, the employer shall be subject to any applicable penalties authorized under this chapter or chapter 49.17 RCW.~~

~~(6)) If activities for which ((forms)) the records are maintained cease ((at a workplace)), the ((forms)) records shall be filed with the department. If an employer subject to this section is succeeded or replaced in that function by another person, the person who succeeds or replaces the employer shall retain the ((forms)) records as required by this section but is not liable for violations committed by the former employer under this chapter or rules adopted under this chapter, including violations relating to the retention and preservation of ((forms)) records.~~

~~((7) The employer shall provide copies of the forms)) (6)(a) The records required under this section shall be readily accessible to the department for inspection. Copies of the records shall be provided, on request, to: An employee or the employee's designated representative in the case of an industrial insurance claim filed under Title 51 RCW with the department of labor and industries, treating ((medical)) health care personnel, the pesticide incident reporting and tracking review panel, or department representative. The designated representative or treating ((medical)) health care personnel are not required to identify the employee represented or treated. The department shall keep the name of any affected employee confidential in accordance with RCW 49.17.080(1). ((If an employee, a designated representative, treating medical personnel, or the pesticide incident reporting and tracking review panel requests a copy of a form)) When a request for records is made under this subsection by treating health care personnel and the record is required for determining treatment, copies of the record shall be provided immediately. For all other requests, copies of the records shall be provided within seventy-two hours.~~

(b) Copies of records provided to any person or entity under this subsection (6) shall, if so requested, be provided or made available on a form adopted under subsection (10) of this section. Information for treating health care personnel

shall be made immediately available by telephone, if requested, with a copy of the records provided within twenty-four hours.

(c) If an employer has reason to suspect that an employee is ill or injured because of an exposure to one or more pesticides, the employer shall immediately provide the employee a copy of the relevant pesticide application records.

(7) If a request for a copy of a record is made under this section and the employer refuses to provide a copy, the requester ((shall)) may notify the department of the request and the employer's refusal. Within seven working days, the department shall request that the employer provide the department with all pertinent copies of the records, except that in a medical emergency the request shall be made within two working days. The employer shall provide copies of the ((form)) records to the department within twenty-four hours after the department's request.

(8) The department shall include inspection of the records required under this section as part of any on-site inspection of a work place conducted under this chapter or chapter 49.17 RCW. The inspection shall determine whether the records are readily transferable to a form adopted by the department, and readily accessible to employees. However, no employer subject to a department inspection may be inspected under this subsection (8) more than once in any calendar year, unless a previous inspection has found recordkeeping violations. If recordkeeping violations are found, the department may conduct reasonable multiple inspections, pursuant to rules adopted by the department. Nothing in this subsection (8) limits the department's inspection of records pertaining to pesticide-related injuries, illnesses, fatalities, accidents, or complaints.

(9) If an employer has failed to maintain and preserve the records or provide access to or copies of the records as required under this section, the employer shall be subject to penalties authorized under RCW 49.17.180.

(10) The department of labor and industries and the department of agriculture shall jointly adopt, by rule, ((one)) forms that ((satisfies)) satisfy the information requirements of this section and RCW 17.21.100. ((Records kept by the employer on the prescribed form under RCW 17.21.100 may be used to comply with the workplace pesticide list information requirements under this section.))

Sec. 4. RCW 70.104.055 and 1991 c 3 s 360 are each amended to read as follows:

(1) Any attending physician or other health care provider recognized as primarily responsible for the diagnosis and treatment of a patient or, in the absence of a primary health care provider, the health care provider initiating diagnostic testing or therapy for a patient shall report a case or suspected case of pesticide poisoning to the department of health in the manner prescribed by, and within the reasonable time periods established by, rules of the state board of health. Time periods established by the board shall range from immediate reporting to reporting within seven days depending on the severity of the case

or suspected case of pesticide poisoning. The reporting requirements shall be patterned after other board rules establishing requirements for reporting of diseases or conditions. Confidentiality requirements shall be the same as the confidentiality requirements established for other reportable diseases or conditions. ~~((The board rules shall determine what information shall be reported.))~~ The information to be reported may include information from relevant pesticide application records and shall include information required under board rules. Reports shall be made on forms provided to health care providers by the department of health. For purposes of any oral reporting, the department of health shall make available a toll-free telephone number.

(2) Within a reasonable time period as established by board rules, the department of health shall investigate the report of a case or suspected case of pesticide poisoning to document the incident. The department shall report the results of the investigation to the health care provider submitting the original report.

(3) Cases or suspected cases of pesticide poisoning shall be reported by the department of health to the pesticide reporting and tracking review panel within the time periods established by state board of health rules.

(4) Upon request of the primary health care provider, pesticide applicators or employers shall ~~((make available to that provider any available information on))~~ provide a copy of records of pesticide applications which may have affected the health of the provider's patient. This information is to be used only for the purposes of providing health care services to the patient.

(5) Any failure of the primary health care provider to make the reports required under this section may be cause for the department of health to submit information about such nonreporting to the applicable disciplining authority for the provider under RCW 18.130.040.

(6) No cause of action shall arise as the result of: (a) The failure to report under this section; or (b) any report submitted to the department of health under this section.

(7) For the purposes of this section, a suspected case of pesticide poisoning is a case in which the diagnosis is thought more likely than not to be pesticide poisoning.

NEW SECTION. Sec. 5. (1) Sections 1 through 3 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

(2) Section 4 of this act shall take effect January 1, 1993.

Passed the House March 7, 1992.

Passed the Senate February 28, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

## CHAPTER 174

[Engrossed Substitute House Bill 2640]

## MUNICIPAL SEWAGE SLUDGE

Effective Date: 6/11/92

AN ACT Relating to municipal sewage sludge; amending RCW 43.19A.010, 43.21B.110, 47.28.220, 70.95.255, 70.95.030, and 90.48.465; adding a new chapter to Title 70 RCW; and prescribing penalties.

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

**NEW SECTION. Sec. 1.** (1) The legislature finds that:

(a) Municipal sewage sludge is an unavoidable byproduct of the wastewater treatment process;

(b) Population increases and technological improvements in wastewater treatment processes will double the amount of sludge generated within the next ten years;

(c) Sludge management is often a financial burden to municipalities and to ratepayers;

(d) Properly managed municipal sewage sludge is a valuable commodity and can be beneficially used in agriculture, silviculture, and in landscapes as a soil conditioner; and

(e) Municipal sewage sludge can contain metals and microorganisms that, under certain circumstances, may pose a risk to public health.

(2) The legislature declares that a program shall be established to manage municipal sewage sludge and that the program shall, to the maximum extent possible, ensure that municipal sewage sludge is reused as a beneficial commodity and is managed in a manner that minimizes risk to public health and the environment.

**NEW SECTION. Sec. 2.** The purpose of this chapter is to provide the department of ecology and local governments with the authority and direction to meet federal regulatory requirements for municipal sewage sludge. The department of ecology may seek delegation and administer the sludge permit program required by the federal clean water act as it existed February 4, 1987.

**NEW SECTION. Sec. 3.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Biosolids" means municipal sewage sludge that is a primarily organic, semisolid product resulting from the waste water treatment process, that can be beneficially recycled and meets all requirements under this chapter. For the purposes of this chapter, "biosolids" includes septic tank sludge, also known as septage, that can be beneficially recycled and meets all requirements under this chapter.

(2) "Department" means the department of ecology.

(3) "Local health department" has the same meaning as "jurisdictional health department" in RCW 70.95.030.

(4) "Municipal sewage sludge" means a semisolid substance consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from a publicly owned wastewater treatment plant.

**NEW SECTION. Sec. 4.** (1) The department shall adopt rules to implement a biosolid management program within twelve months of the adoption of federal rules, 40 C.F.R. Sec. 503, relating to technical standards for the use and disposal of sewage sludge. The biosolid management program shall, at a minimum, conform with all applicable federal rules adopted pursuant to the federal clean water act as it existed on February 4, 1987.

(2) In addition to any federal requirements, the state biosolid management program may include, but not be limited to, an education program to provide relevant legal and scientific information to local governments and citizen groups.

(3) Rules adopted by the department under this section shall provide for public input and involvement for all state and local permits.

(4) Materials that have received a permit as a biosolid shall be regulated pursuant to this chapter.

(5) The transportation of biosolids and municipal sewage sludge shall be governed by Title 81 RCW. Certificates issued by the utilities and transportation commission before the effective date of this section that include or authorize transportation of municipal sewage sludge shall continue in force and effect and be interpreted to include biosolids.

**NEW SECTION. Sec. 5.** The department may work with all appropriate state agencies, local governments, and private entities to establish beneficial uses for biosolids and glassified sewage sludge.

**NEW SECTION. Sec. 6.** If a person violates any provision of this chapter, or a permit issued or rule adopted pursuant to this chapter, the department may issue an appropriate order to assure compliance with the chapter, permit, or rule.

**NEW SECTION. Sec. 7.** The department, with the assistance of the attorney general, may bring an action at law or in equity, including an action for injunctive relief, to enforce this chapter or a permit issued or rule adopted by the department pursuant to this chapter.

**NEW SECTION. Sec. 8.** A person who willfully violates, without sufficient cause, any of the provisions of this chapter, or a permit or order issued pursuant to this chapter, is guilty of a gross misdemeanor. Willful violation of this chapter, or a permit or order issued pursuant to this chapter is a gross misdemeanor punishable by a fine of up to ten thousand dollars and costs of prosecution, or by imprisonment for up to one year, or by both. Each day of violation may be deemed a separate violation.

**NEW SECTION. Sec. 9.** In addition to any other penalty provided by law, a person who violates this chapter or rules or orders adopted or issued

pursuant to it shall be subject to a penalty in an amount of up to five thousand dollars a day for each violation. Each violation shall be a separate violation. In the case of a continuing violation, each day of violation is a separate violation. An act of commission or omission that procures, aids, or abets in the violation shall be considered a violation under this section.

**NEW SECTION. Sec. 10.** The department may delegate to a local health department the powers necessary to issue and enforce permits to use or dispose of biosolids. A delegation may be withdrawn if the department finds that a local health department is not effectively administering the permit program.

**NEW SECTION. Sec. 11.** (1) Any permit issued by a local health department under section 10 of this act may be reviewed by the department to ensure that the proposed site or facility conforms with all applicable laws, rules, and standards under this chapter.

(2) If the department does not approve or disapprove a permit within sixty days, the permit shall be considered approved.

(3) A local health department may appeal the department's decision to disapprove a permit to the pollution control hearings board, as provided in chapter 43.21B RCW.

**Sec. 12.** RCW 43.19A.010 and 1991 c 297 s 2 are each amended to read as follows:

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

(1) "Compost products" means mulch, soil amendments, ground cover, or other landscaping material derived from the biological or mechanical conversion of biosolids or cellulose-containing waste materials.

(2) "Department" means the department of general administration.

(3) "Director" means the director of the department of general administration.

(4) "Local government" means a city, town, county, special purpose district, school district, or other municipal corporation.

(5) "Lubricating oil" means petroleum-based oils for reducing friction in engine parts and other mechanical parts.

(6) "Mixed waste paper" means assorted low-value grades of paper that have not been separated into individual grades of paper at the point of collection.

(7) "Municipal sewage sludge" means a semisolid substance consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from a publicly owned wastewater treatment plant.

(8) "Biosolids" means municipal sewage sludge or septic tank septage sludge that meets the requirements of chapter 70.— RCW (sections 1 through 11 of this act).

(9) "Paper and paper products" means all items manufactured from paper or paperboard.

~~((8))~~ (10) "Postconsumer waste" means a material or product that has served its intended use and has been discarded for disposal or recovery by a final consumer.

~~((9))~~ (11) "Procurement officer" means the person that has the primary responsibility for procurement of materials or products.

~~((10))~~ (12) "State agency" means all units of state government, including divisions of the governor's office, the legislature, the judiciary, state agencies and departments, correctional institutions, vocational technical institutions, and universities and colleges.

~~((11))~~ (13) "Recycled content product" or "recycled product" means a product containing recycled materials.

~~((12))~~ (14) "Recycled materials" means waste materials and by-products that have been recovered or diverted from solid waste and that can be utilized in place of a raw or virgin material in manufacturing a product and consists of materials derived from postconsumer waste, manufacturing waste, industrial scrap, agricultural wastes, and other items, all of which can be used in the manufacture of new or recycled products.

~~((13))~~ (15) "Re-refined oils" means used lubricating oils from which the physical and chemical contaminants acquired through previous use have been removed through a refining process. Re-refining may include distillation, hydrotreating, or treatments employing acid, caustic, solvent, clay, or other chemicals, or other physical treatments other than those used in reclaiming.

~~((14))~~ (16) "USEPA product standards" means the product standards of the United States environmental protection agency for recycled content published in the code of federal regulations.

**Sec. 13.** RCW 43.21B.110 and 1989 c 175 s 102 are each amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, and the air pollution control boards or authorities as established pursuant to chapter 70.94 RCW, or local health departments:

(a) Civil penalties imposed pursuant to RCW 70.94.431, 70.105.080, 70.107.050, 90.03.600, 90.48.144, and ~~((90.48.350))~~ 90.56.330.

(b) Orders issued pursuant to RCW 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 90.14.130, and 90.48.120.

(c) The issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, or the modification of the conditions or the terms of a waste disposal permit.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under section 10 of this act.

(f) Any other decision by the department or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(2) The following hearings shall not be conducted by the hearings board:

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

(c) Proceedings by the department relating to general adjudications of water rights pursuant to chapter 90.03 or 90.44 RCW.

(d) Hearings conducted by the department to adopt, modify, or repeal rules.

(3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

**Sec. 14.** RCW 47.28.220 and 1991 c 297 s 14 are each amended to read as follows:

(1) A contract awarded in whole or in part for the purchase of compost products as a soil cover or soil amendment to state highway rights of way shall specify that compost products be purchased in accordance with the following schedule:

(a) For the period July 1, 1991, through June 30, 1993, twenty-five percent of the total dollar amount purchased;

(b) For the period July 1, 1993, through June 30, 1995, fifty percent of the total dollar amount purchased. The percentages in this subsection apply only to the materials' value, and do not include services or other materials.

(2) In order to carry out the provisions of this section, the department of transportation shall develop and adopt bid specifications for compost products used in state highway construction projects.

(3)(a) For purposes of this section, "compost products" means mulch, soil amendments, ground cover, or other landscaping material derived from the biological or mechanical conversion of biosolids or cellulose-containing waste materials.

(b) For purposes of this section, "biosolids" means municipal sewage sludge or septic tank septage sludge that meets the requirements of chapter 70.— RCW (sections 1 through 11 of this act).

**Sec. 15.** RCW 70.95.255 and 1986 c 297 s 1 are each amended to read as follows:

After January 1, 1988, the department of ecology may prohibit disposal of ((municipal)) sewage sludge or septic tank sludge (septage) in landfills for final

disposal, except on a temporary, emergency basis, if the jurisdictional health department determines that a potentially unhealthful circumstance exists. Beneficial uses of sludge in landfill reclamation is acceptable utilization and not considered disposal.

The department of ecology shall adopt rules that provide exemptions from this section on a case-by-case basis. Exemptions shall be based on the economic infeasibility of using or disposing of the sludge material other than in a landfill.

~~((The department of ecology, after consulting with representatives from cities, counties, special purpose districts, and operators of septic tank pump out services, shall adopt rules for the environmentally safe use of municipal sewage sludge and septage in this state.~~

~~The department of ecology, after consulting with representatives from the pulp and paper industry and the food processing industry, may adopt rules for the environmentally safe use of appropriate industrial sludges, such as pulp and paper sludges or food processing wastes, used to improve the texture or nutrient content of soils.))~~

The department of ecology, in conjunction with the department of ((social and)) health ((services)) and the department of agriculture, shall adopt rules establishing labeling and notification requirements for sludge material sold commercially or given away to the public. The department shall specify mandatory wording for labels and notification to warn the public against improper use of the material.

**Sec. 16.** RCW 70.95.030 and 1991 c 298 s 2 are each amended to read as follows:

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

- (1) "City" means every incorporated city and town.
- (2) "Commission" means the utilities and transportation commission.
- (3) "Committee" means the state solid waste advisory committee.
- (4) "Department" means the department of ecology.
- (5) "Director" means the director of the department of ecology.
- (6) "Disposal site" means the location where any final treatment, utilization, processing, or deposit of solid waste occurs.
- (7) "Energy recovery" means a process operating under federal and state environmental laws and regulations for converting solid waste into usable energy and for reducing the volume of solid waste.
- (8) "Functional standards" means criteria for solid waste handling expressed in terms of expected performance or solid waste handling functions.
- (9) "Incineration" means a process of reducing the volume of solid waste operating under federal and state environmental laws and regulations by use of an enclosed device using controlled flame combustion.
- (10) "Jurisdictional health department" means city, county, city-county, or district public health department.

(11) "Landfill" means a disposal facility or part of a facility at which solid waste is placed in or on land and which is not a land treatment facility.

(12) "Local government" means a city, town, or county.

(13) "Multiple family residence" means any structure housing two or more dwelling units.

(14) "Person" means individual, firm, association, copartnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

(15) "Recyclable materials" means those solid wastes that are separated for recycling or reuse, such as papers, metals, and glass, that are identified as recyclable material pursuant to a local comprehensive solid waste plan. Prior to the adoption of the local comprehensive solid waste plan, adopted pursuant to RCW 70.95.110(2), local governments may identify recyclable materials by ordinance from July 23, 1989.

(16) "Recycling" means transforming or remanufacturing waste materials into usable or marketable materials for use other than landfill disposal or incineration.

(17) "Residence" means the regular dwelling place of an individual or individuals.

(18) "Sewage sludge" means a semisolid substance consisting of settled sewage solids combined with varying amounts of water and dissolved materials, generated from a wastewater treatment system, that does not meet the requirements of chapter 70.— RCW (sections 1 through 11 of this act).

(19) "Solid waste" or "wastes" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, and recyclable materials.

~~((19))~~ (20) "Solid waste handling" means the management, storage, collection, transportation, treatment, utilization, processing, and final disposal of solid wastes, including the recovery and recycling of materials from solid wastes, the recovery of energy resources from solid wastes or the conversion of the energy in solid wastes to more useful forms or combinations thereof.

~~((20))~~ (21) "Source separation" means the separation of different kinds of solid waste at the place where the waste originates.

~~((21))~~ (22) "Vehicle" includes every device physically capable of being moved upon a public or private highway, road, street, or watercourse and in, upon, or by which any person or property is or may be transported or drawn upon a public or private highway, road, street, or watercourse, except devices moved by human or animal power or used exclusively upon stationary rails or tracks.

~~((22))~~ (23) "Waste reduction" means reducing the amount or toxicity of waste generated or reusing materials.

**Sec. 17.** RCW 90.48.465 and 1991 c 307 s 1 are each amended to read as follows:

(1) The department shall establish annual fees to collect expenses for issuing and administering each class of permits under RCW 90.48.160, 90.48.162, ~~((and)) 90.48.260, and sections 4 through 11 of this act.~~ An initial fee schedule shall be established by rule within one year of March 1, 1989, and thereafter the fee schedule shall be adjusted no more often than once every two years. This fee schedule shall apply to all permits, regardless of date of issuance, and fees shall be assessed prospectively. All fees charged shall be based on factors relating to the complexity of permit issuance and compliance and may be based on pollutant loading and toxicity and be designed to encourage recycling and the reduction of the quantity of pollutants. Fees shall be established in amounts to fully recover and not to exceed expenses incurred by the department in processing permit applications and modifications, monitoring and evaluating compliance with permits, conducting inspections, securing laboratory analysis of samples taken during inspections, reviewing plans and documents directly related to operations of permittees, overseeing performance of delegated pretreatment programs, and supporting the overhead expenses that are directly related to these activities.

(2) The annual fee paid by a municipality, as defined in 33 U.S.C. Sec. 1362, for all domestic wastewater facility permits issued under RCW 90.48.162 ~~((and)), 90.48.260, and sections 4 through 11 of this act~~ shall not exceed the total of a maximum of fifteen cents per month per residence or residential equivalent contributing to the municipality's wastewater system. The department shall adopt by rule a schedule of credits for any municipality engaging in a comprehensive monitoring program beyond the requirements imposed by the department, with the credits available for five years from March 1, 1989, and with the total amount of all credits not to exceed fifty thousand dollars in the five-year period.

(3) The department shall ensure that indirect dischargers do not pay twice for the administrative expense of a permit. Accordingly, administrative expenses for permits issued by a municipality under RCW 90.48.165 are not recoverable by the department.

(4) In establishing fees, the department shall consider the economic impact of fees on small dischargers and the economic impact of fees on public entities required to obtain permits for storm water runoff and shall provide appropriate adjustments.

(5) All fees collected under this section shall be deposited in the water quality permit account hereby created in the state treasury. Moneys in the account may be appropriated only for purposes of administering permits under RCW 90.48.160, 90.48.162, ~~((and)) 90.48.260, and sections 4 through 11 of this act.~~

(6) The department shall submit an annual report to the legislature showing detailed information on fees collected, actual expenses incurred, and anticipated expenses for the current and following fiscal years.

(7) The legislative budget committee in 1993 shall review the fees established under this section and report its findings to the legislature in January 1994.

**NEW SECTION. Sec. 18.** Sections 1 through 11 of this act shall constitute a new chapter in Title 70 RCW.

Passed the House March 11, 1992.

Passed the Senate March 11, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

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## CHAPTER 175

[Substitute House Bill 2635]

LITTER CONTROL TAX

Effective Date: 7/1/92

AN ACT Relating to the litter assessment; amending RCW 70.93.010, 70.93.020, 70.93.120, 70.93.130, 70.93.140, 70.93.160, 70.93.170, and 70.93.180; adding a new chapter to Title 82 RCW; recodifying RCW 70.93.120, 70.93.130, 70.93.140, 70.93.160, and 70.93.170; repealing RCW 70.93.150 and 70.93.194; and providing an effective date.

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

**Sec. 1.** RCW 70.93.010 and 1979 c 94 s 1 are each amended to read as follows:

~~((Recognizing the rapid population growth of the state of Washington and the ever increasing mobility of its people, as well as the fundamental need for a healthful, clean and beautiful environment; and further recognizing that the proliferation and accumulation of litter discarded throughout this state impairs this need and constitutes a public health hazard; and further recognizing the need to conserve energy and natural resources; and further recognizing that there is an imperative need to anticipate, plan for, and accomplish effective litter control and recover and recycle waste materials related to litter with the subsequent conservation of resources and energy, there is hereby enacted this))~~ (1) The legislature finds:

(a) Washington state is experiencing rapid population growth and its citizens are increasingly mobile;

(b) There is a fundamental need for a healthful, clean, and beautiful environment;

(c) The proliferation and accumulation of litter discarded throughout this state impairs this need and constitutes a public health hazard;

(d) There is a need to conserve energy and natural resources, and the effective litter control and recovery and recycling of litter materials will serve to accomplish such conservation;

(e) In addition to effective litter control, there must be effective programs to accomplish waste reduction, the state's highest waste management priority; and

(f) There must also be effective systems to accomplish all components of recycling, including collection, processing, and the marketing of recyclable materials and recycled content products.

(2) Recognizing the multifaceted nature of the state's solid waste management problems, the legislation enacted in 1971 and entitled the "Model Litter Control and Recycling Act"((-) is hereby renamed the "waste reduction, recycling, and model litter control act."

**Sec. 2.** RCW 70.93.020 and 1991 c 319 s 101 are each amended to read as follows:

The purpose of this chapter is to accomplish litter control, increase waste reduction, and stimulate ~~((private))~~ all components of recycling ~~((programs))~~ throughout this state by delegating to the department of ecology the authority to:

(1) Conduct a permanent and continuous program to control and remove litter from this state to the maximum practical extent possible;

(2) Recover and recycle waste materials related to litter and littering;

(3) Foster public and private recycling ~~((and markets for))~~ of recyclable materials; and

(4) Increase public awareness of the need for recycling and litter control.

It is further the intent and purpose of this chapter to promote markets for recyclable materials through programs of the clean Washington center and other means.

It is further the intent and purpose of this chapter to create jobs for employment of youth in litter cleanup and related activities and to stimulate and encourage small, private recycling centers. This program shall include the compatible goal of recovery of recyclable materials to conserve energy and natural resources wherever practicable. Every other department of state government and all local governmental units and agencies of this state shall cooperate with the department of ecology in the administration and enforcement of this chapter. The intent of this chapter is to add to and to coordinate existing recycling and litter control and removal efforts and not terminate or supplant such efforts.

**Sec. 3.** RCW 70.93.120 and 1971 ex.s. c 307 s 12 are each amended to read as follows:

In addition to any other taxes, there is hereby levied and there shall be collected by the department of revenue from every person for the privilege of engaging within this state in business as a manufacturer ~~((and/or making sales at wholesale and/or making sales at retail))~~, as a wholesaler, or as a retailer, an

annual litter ~~((assessment))~~ tax equal to the value of products listed in RCW 82.--- (RCW 70.93.130 as recodified by section 10 of this act), including byproducts, manufactured ~~((and sold))~~ within this state ~~((, including by products)),~~ multiplied by ~~((one and one-half hundredths))~~ fifteen one-thousandths of one percent in the case of manufacturers, and equal to the gross proceeds of ~~((the))~~ sales of the ~~((business))~~ products listed in RCW 82.--- (RCW 70.93.130 as recodified by section 10 of this act) that are sold within this state multiplied by ~~((one and one-half hundredths))~~ fifteen one-thousandths of one percent in the case of ~~((sales at wholesale and/or at retail))~~ wholesalers and retailers.

**Sec. 4.** RCW 70.93.130 and 1971 ex.s. c 307 s 13 are each amended to read as follows:

~~((Because it is the express purpose of this chapter))~~ To accomplish effective litter control within the state ~~((of Washington))~~ and ~~((because it is a further purpose of this chapter))~~ to allocate a portion of the cost of administering ~~((it))~~ this chapter to those industries whose products, including the packages, wrappings, and containers thereof, are reasonably related to the litter problem, ~~((in arriving at the amount upon which the assessment is to be calculated))~~ the tax imposed in this chapter shall only apply to the value of products or the gross proceeds of sales of products falling into the following categories ~~((shall be included))~~:

- (1) Food for human or pet consumption.
- (2) Groceries.
- (3) Cigarettes and tobacco products.
- (4) Soft drinks and carbonated waters.
- (5) Beer and other malt beverages.
- (6) Wine.
- (7) Newspapers and magazines.
- (8) Household paper and paper products.
- (9) Glass containers.
- (10) Metal containers.
- (11) Plastic or fiber containers made of synthetic material.
- (12) Cleaning agents and toiletries.
- (13) Nondrug drugstore sundry products.

**Sec. 5.** RCW 70.93.140 and 1971 ex.s. c 307 s 14 are each amended to read as follows:

(1) The department of revenue, by rule ((and regulation made pursuant to chapter 34.05 RCW)), may, if such is required, define ((the categories (1) through (13) as set forth in)) those items subject to tax under RCW 82.--- (RCW 70.93.130 as recodified by section 10 of this act). In making any such definitions, the department of revenue shall be guided by the following standards:

~~((1))~~ (a) It is the purpose of this chapter to accomplish effective control of litter within this state;

~~((2))~~ (b) It is the purpose of this chapter to allocate a portion of the cost of administration of this chapter to those industries manufacturing and/or selling products and the packages, wrappings, or containers thereof which are reasonably related to the litter problem within this state.

(2) Instead of requiring each business to separately account for taxable and nontaxable products under this chapter, the department may provide, by rule, that the tax imposed in this chapter be reported and paid based on a percentage of total sales for a particular type of business if the department determines that the percentage reasonably approximates the taxable activity of the particular type of business.

**Sec. 6.** RCW 70.93.160 and 1971 ex.s. c 307 s 16 are each amended to read as follows:

(1) To the extent applicable, all of the provisions of chapters 82.04 and 82.32 RCW ((such as they apply are incorporated herein)) apply to the tax imposed in this chapter, except RCW 82.04.220 through 82.04.290, and 82.04.330.

(2) Taxes collected under this chapter shall be deposited in the waste reduction, recycling, and litter control account under RCW 70.93.180.

**Sec. 7.** RCW 70.93.170 and 1971 ex.s. c 307 s 17 are each amended to read as follows:

The litter ~~((assessment herein provided for shall not be applied))~~ tax imposed in this chapter does not apply to:

(1) The manufacture or sale of products for use and consumption outside the state; or

(2) The value of products or gross proceeds of the sales of any animal, bird, or insect or the milk, eggs, wool, fur, meat, honey, or other substance obtained therefrom, if the person performs only the growing or raising function of such animal, bird, or insect. ((In all other instances, the assessment shall be applied.))

**Sec. 8.** RCW 70.93.180 and 1991 sp.s. c 13 s 40 are each amended to read as follows:

(1) There is hereby created an account within the state treasury to be known as the "waste reduction, recycling, and litter control account". Moneys in the account may be spent only after appropriation. Expenditures from the waste reduction, recycling, and litter control account shall be used as follows:

(a) From July 1, 1992, to June 30, 1993, funds shall be used for programs to: Control litter; encourage recycling; develop markets for recyclable materials; and enforce compliance with the litter tax imposed in RCW 82.--.-- (RCW 70.93.120 as recodified by section 10 of this act).

(b) After June 30, 1993, funds shall be used as follows:

(i) Not less than forty percent nor more than fifty percent for a litter patrol program to employ youth from the state to remove litter from places and areas that are most visible to the public and to enforce compliance with the litter tax

imposed in RCW 82.---.--- (RCW 70.93.120 as recodified by section 10 of this act); and

(ii) Not more than sixty percent for the following purposes: Public education and awareness programs to control litter; programs to promote public education and awareness of the model litter control and recycling act; programs to foster private local recycling efforts, encourage recycling, and develop markets for recyclable materials; and compliance with the litter tax imposed in RCW 82.---.--- (RCW 70.93.120 as recodified by section 10 of this act).

(2) All ((assessments,)) taxes imposed in RCW 82.---.--- (RCW 70.93.120 as recodified under section 10 of this act) and fines((,)) and bail forfeitures((, and other funds)) collected or received pursuant to this chapter shall be deposited in the waste reduction, recycling, and litter control account and used for ((the administration and implementation of this chapter)) the programs under subsection (1) of this section, and except as required to be otherwise distributed under RCW 70.93.070.

NEW SECTION. Sec. 9. The following acts or parts of acts are each repealed:

- (1) RCW 70.93.150 and 1971 ex.s. c 307 s 15; and
- (2) RCW 70.93.194 and 1979 c 94 s 9.

NEW SECTION. Sec. 10. RCW 70.93.120, 70.93.130, 70.93.140, 70.93.160, and 70.93.170 shall be recodified as a new chapter in Title 82 RCW.

NEW SECTION. Sec. 11. This act shall take effect July 1, 1992.

Passed the House March 8, 1992.

Passed the Senate March 3, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

## CHAPTER 176

[Engrossed Senate Bill 6093]

### PESTICIDE-SENSITIVE PERSONS—PROVISION OF NOTICE TO—REQUIREMENTS

Effective Date: 6/11/92

AN ACT Relating to providing pesticide-sensitive individuals notification of urban pesticide applications; amending RCW 17.21.020; and adding new sections to chapter 17.21 RCW.

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

**Sec. 1.** RCW 17.21.020 and 1989 c 380 s 33 are each amended to read as follows:

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

(1) "Agricultural commodity" means any plant or part of a plant, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists,

orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by people or animals.

(2) "Apparatus" means any type of ground, water, or aerial equipment, device, or contrivance using motorized, mechanical, or pressurized power and used to apply any pesticide on land and anything that may be growing, habitating, or stored on or in such land, but shall not include any pressurized handsized household device used to apply any pesticide, or any equipment, device, or contrivance of which the person who is applying the pesticide is the source of power or energy in making such pesticide application, or any other small equipment, device, or contrivance that is transported in a piece of equipment licensed under this chapter as an apparatus.

(3) "Arthropod" means any invertebrate animal that belongs to the phylum arthropoda, which in addition to insects, includes allied classes whose members are wingless and usually have more than six legs; for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

(4) "Certified applicator" means any individual who is licensed as a commercial pesticide applicator, commercial pesticide operator, public operator, private-commercial applicator, demonstration and research applicator, or certified private applicator, or any other individual who is certified by the director to use or supervise the use of any pesticide which is classified by the EPA as a restricted use pesticide or by the state as restricted to use by certified applicators only.

(5) "Commercial pesticide applicator" means any person who engages in the business of applying pesticides to the land of another.

(6) "Commercial pesticide operator" means any employee of a commercial pesticide applicator who uses or supervises the use of any pesticide and who is required to be licensed under provisions of this chapter.

(7) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant with or without causing abscission.

(8) "Department" means the Washington state department of agriculture.

(9) "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissues.

(10) "Device" means any instrument or contrivance intended to trap, destroy, control, repel, or mitigate pests, or to destroy, control, repel, or mitigate fungi, nematodes, or such other pests, as may be designated by the director, but not including equipment used for the application of pesticides when sold separately from the pesticides.

(11) "Direct supervision" by certified private applicators shall mean that the designated restricted use pesticide shall be applied for purposes of producing any agricultural commodity on land owned or rented by the applicator or the applicator's employer, by a competent person acting under the instructions and control of a certified private applicator who is available if and when needed,

even though such certified private applicator is not physically present at the time and place the pesticide is applied. The certified private applicator shall have direct management responsibility and familiarity of the pesticide, manner of application, pest, and land to which the pesticide is being applied. Direct supervision by all other certified applicators means direct on-the-job supervision. Direct supervision of an aerial apparatus means the pilot of the aircraft must be appropriately certified.

(12) "Director" means the director of the department or a duly authorized representative.

(13) "Engage in business" means any application of pesticides by any person upon lands or crops of another.

(14) "EPA" means the United States environmental protection agency.

(15) "EPA restricted use pesticide" means any pesticide with restricted uses as classified for restricted use by the administrator, EPA.

(16) "FIFRA" means the federal insecticide, fungicide and rodenticide act as amended (61 Stat. 163, 7 U.S.C. Sec. 136 et seq.).

(17) "Fungi" means all nonchlorophyll-bearing thallophytes (all nonchlorophyll-bearing plants of lower order than mosses and liverworts); for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in a living person or other animals.

(18) "Fungicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any fungi.

(19) "Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any weed.

(20) "Immediate service call" means a landscape application to satisfy an emergency customer request for service, or a treatment to control a pest to landscape plants.

~~(21)~~ (21) "Insect" means any of the numerous small invertebrate animals whose bodies are more or less obviously segmented, and which for the most part belong to the class insecta, comprising six-legged, usually winged forms, as, for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

~~((21))~~ (22) "Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insects which may be present in any environment whatsoever.

~~((22))~~ (23) "Land" means all land and water areas, including airspace and all plants, animals, structures, buildings, devices, and contrivances, appurtenant to or situated on, fixed or mobile, including any used for transportation.

~~((23))~~ (24) "Landscape application" means an application by a certified applicator of any EPA registered pesticide to any exterior landscape plants found around residential property, parks, golf courses, or schools. This definition shall not apply to: (a) certified private applicators; (b) state and local health

departments and mosquito control districts when conducting mosquito control operations; and (c) commercial pesticide applicators making structural applications.

~~((24))~~ (25) "Nematocide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate nematodes.

~~((24))~~ (26) "Nematode" means any invertebrate animal of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants or plant parts, may also be called nemas or eelworms.

~~((25))~~ (27) "Person" means any individual, partnership, association, corporation, or organized group of persons whether or not incorporated.

~~((26))~~ (28) "Pest" means, but is not limited to, any insect, rodent, nematode, snail, slug, weed, and any form of plant or animal life or virus, except virus on or in a living person or other animal, which is normally considered to be a pest, or which the director may declare to be a pest.

~~((27))~~ (29) "Pesticide" means, but is not limited to:

(a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus except virus on or in a living person or other animal which is normally considered to be a pest or which the director may declare to be a pest;

(b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant; and

(c) Any spray adjuvant, such as a wetting agent, spreading agent, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent with or without toxic properties of its own intended to be used with any other pesticide as an aid to the application or effect thereof, and sold in a package or container separate from that of the pesticide with which it is to be used.

~~((28))~~ (30) "Pesticide advisory board" means the pesticide advisory board as provided for in this chapter.

~~((29))~~ (31) "Plant regulator" means any substance or mixture of substances intended through physiological action, to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of ornamental or crop plants or their produce, but shall not include substances insofar as they are intended to be used as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments.

~~((30))~~ (32) "Private applicator" means a certified applicator who uses or is in direct supervision of the use of (a) any EPA restricted use pesticide; or (b) any restricted use pesticide restricted to use only by certified applicators by the director, for the purposes of producing any agricultural commodity and for any associated noncrop application on land owned or rented by the applicator or the applicator's employer or if applied without compensation other than trading of

personal services between producers of agricultural commodities on the land of another person.

~~((31))~~ (33) "Private-commercial applicator" means a certified applicator who uses or supervises the use of (a) any EPA restricted use pesticide or (b) any restricted use pesticide restricted to use only by certified applicators for purposes other than the production of any agricultural commodity on lands owned or rented by the applicator or the applicator's employer.

~~((32))~~ (34) "Residential property" includes property less than one acre in size zoned as residential by a city, town, or county, but does not include property zoned as agricultural or agricultural homesites.

(35) "Restricted use pesticide" means any pesticide or device which, when used as directed or in accordance with a widespread and commonly recognized practice, the director determines, subsequent to a hearing, requires additional restrictions for that use to prevent unreasonable adverse effects on the environment including people, lands, beneficial insects, animals, crops, and wildlife, other than pests.

~~((33))~~ (36) "Rodenticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents, or any other vertebrate animal which the director may declare by rule to be a pest.

~~((34))~~ (37) "Snails or slugs" include all harmful mollusks.

~~((35))~~ (38) "Unreasonable adverse effects on the environment" means any unreasonable risk to people or the environment taking into account the economic, social, and environmental costs and benefits of the use of any pesticide, or as otherwise determined by the director.

~~((36))~~ (39) "Weed" means any plant which grows where not wanted.

NEW SECTION. Sec. 2. A new section is added to chapter 17.21 RCW to read as follows:

(1)(a) A certified applicator making a landscape application shall display the name and telephone number of the applicator or the applicator's employer on any power application apparatus. The applicator shall also carry the material safety data sheet for each pesticide being applied.

(b) A certified applicator making a right of way application shall display the name and telephone number of the applicator or the applicator's employer and the words "VEGETATION MANAGEMENT APPLICATION" on any power application apparatus. The applicator shall also carry the material safety data sheet for each pesticide being applied.

(2) If a certified applicator receives a written request for information on a spray application, the applicator shall provide the requestor with the name or names of each pesticide applied and (a) a copy of the material safety data sheet for each pesticide; or (b) a pesticide fact sheet for each pesticide as developed or approved by the department.

(3) The director shall adopt rules establishing the size and lettering requirements of the apparatus display signs required under this section.

**NEW SECTION.** Sec. 3. A new section is added to chapter 17.21 RCW to read as follows:

(1) The department shall develop a list of pesticide-sensitive individuals. The list shall include any person with a documented pesticide sensitivity who submits information to the department on an application form developed by the department indicating the person's pesticide sensitivity.

(2) An applicant for inclusion on the pesticide-sensitive list may apply to the department at any time and shall provide the department, on the department's form, the name, street address, and telephone number of the applicant and of each property owner with property abutting the applicant's principal place of residence. The pesticide sensitivity of an individual shall be certified by a physician who holds a valid license to practice medicine in this state. The lands listed on an application for inclusion on the pesticide-sensitive list shall constitute the pesticide notification area for that applicant.

(3) A person whose name has been included on the pesticide-sensitive list shall notify the department of a need to update the list as soon as possible after: (a) A change of address or telephone number; (b) a change in ownership of property abutting a pesticide-sensitive individual; (c) a change in the applicant's condition; or (d) the sensitivity is deemed to no longer exist.

(4) The pesticide-sensitive list shall expire on December 31 of each year. The department shall distribute application forms for the new list at a reasonable time prior to the expiration of the current list, including mailing an application form to each person on the current list at the address given by the person in his or her most recent application. Persons desiring to be placed on or remain on the list shall submit a new application each year.

(5) The department shall distribute the list by February 15 and June 15 of each year to all certified applicators likely to make landscape applications. The list shall provide multiple methods of accessing the information so that certified applicators making landscape applications or right of way applications are able to easily determine what properties and individuals require notification for a specific application. An updated list shall be distributed whenever deemed necessary by the department. Certified applicators may request a list of newly registered individuals that have been added to the list since the last distribution. Registered individuals shall receive verification that their name has been placed on the list.

**NEW SECTION.** Sec. 4. A new section is added to chapter 17.21 RCW to read as follows:

(1) A certified applicator making a landscape application or a right of way application to the pesticide notification area, as defined in section 3(2) of this act, of a person on the pesticide-sensitive list shall notify the listed pesticide-sensitive individual of the application. Notification shall be made at least two hours prior to the scheduled application, or in the case of an immediate service call, the applicator shall provide notification at the time of the application.

(2) Notification under this section shall be made in writing, in person, or by telephone, and shall disclose the date and approximate time of the application. In the event a certified applicator is unable to provide prior notification because of the absence or inaccessibility of the individual, the applicator shall leave a written notice at the residence of the individual listed on the pesticide-sensitive list at the time of the application. If a person on the pesticide-sensitive list lives in a multifamily dwelling such as an apartment or condominium, the applicator shall notify the person on the list or shall advise the manager or other property owner's representative to notify the person on the list of the application.

**NEW SECTION. Sec. 5.** A new section is added to chapter 17.21 RCW to read as follows:

(1) A certified applicator making a landscape application to:

(a) Residential property shall at the time of the application place a marker at the usual point of entry to the property. If the application is made to an isolated spot that is not a substantial portion of the property, the applicator shall only be required to place a marker at the application site. If the application is in a fenced or otherwise isolated backyard, no marker is required.

(b) A golf course shall at the time of the application place a marker at the first tee and tenth tee or post the information in a conspicuous location such as on a central message board.

(c) A school shall at the time of the application place a marker at each primary point of entry to the school grounds.

(d) A park shall at the time of the application place a marker at each primary point of entry.

(2) The marker shall be a minimum of four inches by five inches. It shall have the words: "THIS LANDSCAPE HAS BEEN TREATED BY" as the headline and "FOR MORE INFORMATION PLEASE CALL" as the footer. The company name and service mark with the applicator's telephone number where information can be obtained shall be included between the headline and the footer on the marker. The letters and service marks shall be printed in colors contrasting to the background.

(3) The property owner or tenant shall remove the marker the day following the application. A commercial applicator is not liable for the removal of markers by unauthorized persons or removal outside the designated removal time.

(4) A certified applicator who complies with this section cannot be held liable for personal property damage or bodily injury resulting from markers that are placed as required.

Passed the Senate March 8, 1992.

Passed the House March 6, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

## CHAPTER 177

[Substitute Senate Bill 6120]

SALES REPRESENTATIVES AND PRINCIPALS—  
REGULATION OF CONTRACTUAL RELATIONSHIP BETWEEN

Effective Date: 6/11/92

AN ACT Relating to the relationship between a sales representative and the representative's principal; adding new sections to chapter 49.48 RCW; and prescribing penalties.

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

**NEW SECTION.** Sec. 1. Unless the context clearly requires otherwise, the definitions in this section apply throughout sections 2 through 6 of this act.

(1) "Commission" means compensation paid a sales representative by a principal in an amount based on a percentage of the dollar amount of certain orders for or sales of the principal's product.

(2) "Principal" means a person, whether or not the person has a permanent or fixed place of business in this state, who:

(a) Manufactures, produces, imports, or distributes a product for sale to customers who purchase the product for resale;

(b) Uses a sales representative to solicit orders for the product; and

(c) Compensates the sales representative in whole or in part by commission.

(3) "Sales representative" means a person who solicits, on behalf of a principal, orders for the purchase at wholesale of the principal's product, but does not include a person who places orders for his own account for resale, or purchases for his own account for resale, or sells or takes orders for the direct sale of products to the ultimate consumer.

**NEW SECTION.** Sec. 2. (1) A contract between a principal and a sales representative under which the sales representative is to solicit wholesale orders within this state must be in writing and must set forth the method by which the sales representative's commission is to be computed and paid. The principal shall provide the sales representative with a copy of the contract. A provision in the contract establishing venue for an action arising under the contract in a state other than this state is void.

(2) When no written contract has been entered into, any agreement between a sales representative and a principal is deemed to incorporate the provisions of sections 1 through 5 of this act.

(3) During the course of the contract, a sales representative shall be paid the earned commission and all other moneys earned or payable in accordance with the agreed terms of the contract, but no later than thirty days after receipt of payment by the principal for products or goods sold on behalf of the principal by the sales representative.

Upon termination of a contract, whether or not the agreement is in writing, all earned commissions due to the sales representative shall be paid within thirty days after receipt of payment by the principal for products or goods sold on

behalf of the principal by the sales representative, including earned commissions not due when the contract is terminated.

**NEW SECTION. Sec. 3.** A principal shall pay wages and commissions at the usual place of payment unless the sales representative requests that the wages and commissions be sent through registered mail. If, in accordance with a request by the sales representative, the sales representative's wages and commissions are sent through the mail, the wages and commissions are deemed to have been paid as of the date of their registered postmark.

**NEW SECTION. Sec. 4.** A principal who is not a resident of this state and who enters into a contract subject to sections 1 through 5 of this act is considered to be doing business in this state for purposes of the exercise of personal jurisdiction over the principal.

**NEW SECTION. Sec. 5.** (1) Sections 1 through 5 of this act supplement but do not supplant any other rights and remedies enjoyed by sales representatives.

(2) A provision of sections 1 through 5 of this act may not be waived, whether by express waiver or by attempt to make a contract or agreement subject to the laws of another state. A waiver of a provision of sections 1 through 5 of this act is void.

**NEW SECTION. Sec. 6.** Sections 1 through 5 of this act are each added to chapter 49.48 RCW.

**NEW SECTION. Sec. 7.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate March 7, 1992.

Passed the House March 3, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

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## CHAPTER 178

[Engrossed Senate Bill 6261]

### SEXUAL EXPLOITATION OF CHILDREN—DEFENSES IN PROSECUTIONS FOR

**Effective Date:** 6/11/92

AN ACT Relating to the well-being of children; and amending RCW 9.68A.110.

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

**Sec. 1.** RCW 9.68A.110 and 1989 c 32 s 9 are each amended to read as follows:

(1) In a prosecution under RCW 9.68A.040, it is not a defense that the defendant was involved in activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses. Law enforcement and

prosecution agencies shall not employ minors to aid in the investigation of a violation of RCW 9.68A.090 or 9.68A.100. This chapter does not apply to ~~((individual case treatment in a recognized medical facility or individual case treatment by a psychiatrist or psychologist licensed under Title 18 RCW, or to))~~ lawful conduct between spouses.

(2) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070, or 9.68A.080, it is not a defense that the defendant did not know the age of the child depicted in the visual or printed matter: PROVIDED, That it is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense the defendant was not in possession of any facts on the basis of which he or she should reasonably have known that the person depicted was a minor.

(3) In a prosecution under RCW 9.68A.040~~((, 9.68A.050, 9.68A.060,))~~ or 9.68A.090, it is not a defense that the defendant did not know the alleged victim's age: PROVIDED, That it is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense, the defendant ~~((reasonably believed the alleged victim to be at least eighteen years of age based on declarations by the alleged victim))~~ made a reasonable bona fide attempt to ascertain the true age of the minor by requiring production of a driver's license, marriage license, birth certificate, or other governmental or educational identification card or paper and did not rely solely on the oral allegations or apparent age of the minor.

(4) In a prosecution under RCW 9.68A.050, 9.68A.060, or 9.68A.070, it shall be an affirmative defense that the defendant was a law enforcement officer in the process of conducting an official investigation of a sex-related crime against a minor, or that the defendant was providing individual case treatment as a recognized medical facility or as a psychiatrist or psychologist licensed under Title 18 RCW.

(5) In a prosecution under RCW 9.68A.050, 9.68A.060, or 9.68A.070, the state is not required to establish the identity of the alleged victim.

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

Passed the Senate March 8, 1992.

Passed the House March 5, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

**CHAPTER 179**

[Senate Bill 6296]

**INFANT MORTALITY REVIEWS****Effective Date: 4/1/92**

AN ACT Relating to infant mortality reviews by local health departments; adding a new section to chapter 70.05 RCW; adding a new section to chapter 42.17 RCW; and declaring an emergency.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 70.05 RCW to read as follows:

(1)(a) The legislature finds that the rate of infant mortality in Washington state is unacceptably high, and that such mortality may be preventable. The legislature further finds that, through the performance of infant mortality reviews, preventable causes of infant mortality can be identified and addressed, thereby reducing the rate of infant mortality in Washington state.

(b) It is the intent of the legislature to encourage the performance of infant death reviews by local health departments by providing necessary legal protections to the families of infants whose deaths are studied, local health department officials and employees, and health care professionals participating in infant mortality review committee activities.

(2) As used in this section, "infant mortality review" means a process authorized by a local health department as such department is defined in RCW 70.05.010 for examining factors that contribute to infant death through a systematic review of medical, clinical, and hospital records; home interviews of parents and caretakers of infants who have died; analysis of individual case information; and review of this information by a team of professionals in order to identify modifiable medical, socioeconomic, public health, behavioral, administrative, educational, and environmental factors associated with each death.

(3) Local health departments are authorized to conduct infant mortality reviews. In conducting such reviews, the following provisions shall apply:

(a) All medical records, reports, and statements procured by, furnished to, or maintained by a local health department pursuant to chapter 70.02 RCW for purposes of an infant mortality review are confidential insofar as the identity of an individual infant and his or her adoptive or natural parents is concerned. Such records may be used solely by local health departments for the purposes of the review. This section does not prevent a local health department from publishing statistical compilations and reports related to the infant mortality review, if such compilations and reports do not identify individual cases and sources of information.

(b) Any records or documents supplied or maintained for the purposes of an infant mortality review are not subject to discovery or subpoena in any administrative, civil, or criminal proceeding related to the death of an infant reviewed. This provision shall not restrict or limit the discovery or subpoena from a health care provider of records or documents maintained by such health care provider in the ordinary course of business, whether or not such records or

documents may have been supplied to a local health department pursuant to this section.

(c) Any summaries or analyses of records, documents, or records of interviews prepared exclusively for purposes of an infant mortality review are not subject to discovery, subpoena, or introduction into evidence in any administrative, civil, or criminal proceeding related to the death of an infant reviewed.

(d) No local health department official or employee, and no members of technical committees established to perform case reviews of selected infant deaths may be examined in any administrative, civil, or criminal proceeding as to the existence or contents of documents assembled, prepared, or maintained for purposes of an infant mortality review.

(e) This section shall not be construed to prohibit or restrict any person from reporting suspected child abuse or neglect under chapter 26.44 RCW nor to limit access to or use of any records, documents, information, or testimony in any civil or criminal action arising out of any report made pursuant to chapter 26.44 RCW.

**NEW SECTION. Sec. 2.** A new section is added to chapter 42.17 RCW to read as follows:

Notwithstanding the provisions of RCW 42.17.250 through 42.17.340, no local health department may be required under this chapter to make available for public inspection or copying any records or documents obtained, prepared, or maintained by the local health department for the purposes of an infant mortality review conducted by the department pursuant to section 1 of this act. This section shall not apply to published statistical compilations and reports relating to the infant mortality review studies that do not identify individual cases and sources of information.

**NEW SECTION. Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 8, 1992.

Passed the House March 4, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

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## CHAPTER 180

[Substitute House Bill 2551]

## SPECIAL EDUCATION SERVICES DEMONSTRATION PROJECTS—REVISIONS

Effective Date: 4/1/92

AN ACT Relating to special educational services demonstration projects; amending RCW 28A.630.820 and 28A.630.840; adding a new section to chapter 28A.630 RCW; providing an expiration date; and declaring an emergency.

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

**Sec. 1.** RCW 28A.630.820 and 1991 c 265 s 1 are each amended to read as follows:

It is the intent of the legislature to (1) encourage school districts, individually and cooperatively, to develop innovative special services demonstration projects that use resources efficiently and increase student learning; (2) promote noncategorical approaches to special services program design, funding, and administration; (3) develop efficient and cost-effective means for identifying students as specific learning disabled, in order to increase the proportion of resources devoted to classroom instruction; ~~((and))~~ (4) avoid unnecessary labeling of students while still providing state funding for needed services; and (5) provide a means to grant waivers from state rules.

**Sec. 2.** RCW 28A.630.840 and 1991 c 265 s 5 are each amended to read as follows:

(1) Project funding may include state, federal, and local funds, as specified by the district in its approved project ~~((est))~~ proposal. ~~((The superintendent of public instruction shall include all project funding for a participating district in a project contract and disburse the funds as contract payments.))~~

(2) As a general guideline, subject to refinements in the district ~~((est))~~ proposal and approval by the superintendent of public instruction, the portion of state handicapped funding included as project funding shall be determined as follows:

(a) If the district serves specific learning disabled students in the project, the portion of the handicapped allocation attributed to specific learning disabled students shall be included, with proportional adjustments if the project serves only part of the district's specific learning disabled population;

(b) If other handicapped students are served in the project, the portions of the handicapped allocation attributed to those students shall be included, with proportional adjustments if the project serves only part of the district's population in those categories of handicapped students.

(3) State handicapped allocations shall be calculated for project districts according to the handicapped funding formula in use for other districts, ~~((but))~~ except for the provisions of section 3 of this act and with the following changes:

(a) ~~((Except as provided in (b) of this subsection, funding in each school year for specific learning disabled and other handicapped students served in a project shall be based on the average percentage of the kindergarten through~~

~~twelfth grade enrollment in the particular handicapped category during the prior three years.~~

~~(b))~~ Project funding for school districts that had pilot projects approved under section 13, chapter 233, Laws of 1989, and that were participating in projects under this section on January 31, 1992, shall be based for the duration of a project under RCW 28A.630.820 through 28A.630.840 on four percent of the kindergarten through twelfth grade enrollment considered as specific learning disabled, without regard to the actual number of students so identified. The legislature recognizes the importance of continuing and developing the pilot projects.

(b) School districts with approved projects as of January 31, 1992, may receive funding in each school year for handicapped students served in the project based on the average percentage of the kindergarten through twelfth grade enrollment in the particular handicapped category during the prior three years. School districts that wish to exercise this option shall notify the selection advisory committee and the superintendent of public instruction by May 1, 1992.

(c) The funding percentages for demonstration projects specified in (a) ~~((and (b)))~~ of this subsection shall be used to adjust basic education allocations under RCW 28A.150.260 and learning assistance program allocations under RCW 28A.165.070.

(d) State handicapped allocations under subsection (2) of this section up to the level required by federal maintenance of effort rules shall be expended for services to handicapped students in the project. Allocations greater than the amount needed to comply with federal maintenance of effort rules ~~((shall))~~ may at the option of the district be designated as noncategorical project funds and may be expended on services to any student served in the project.

(4) Federal handicapped allocations may be designated in whole or in part for project use ~~((, if the amounts are included in the district's approved cost proposal and the project contract)).~~

(5) Learning assistance program allocations may be designated in whole or in part for project use ~~((, if the amounts are included in the district's approved cost proposal and the project contract)).~~ These allocations shall be calculated for project districts according to the funding formula in use for other districts, except that any increases in the district allocation above the fiscal year 1991 amount shall be designated as noncategorical project funds and may be expended on services to any student served in the project.

(6) Transitional bilingual program allocations may be designated in whole or in part for project use ~~((, if the amounts are included in the district's approved cost proposal and the project contract)).~~ These allocations shall be calculated for project districts according to the funding formula in use for other districts, except that any increases in the district allocation above the fiscal year 1991 amount shall be designated as noncategorical project funds and may be expended on services to any student served in the project.

(7) Funding under the federal remediation program allocations may be designated in whole or in part for project use(~~(, if the amounts are included in the district's approved cost proposal and the project contract)).~~

(8) Funding from local sources may be designated for project use(~~(, if the amounts are included in the district's approved cost proposal and the project contract)).~~

(9) Expenditures of noncategorical project funds under subsections (3)(d), (5), and (6) of this section shall be accounted for in new and discrete program or subprogram codes designated by the superintendent of public instruction. The codes shall take effect by September 1, 1991.

**NEW SECTION.** Sec. 3. A new section is added to chapter 28A.630 RCW to read as follows:

(1) The legislature finds that the state system of funding handicapped education has fiscal incentives to label children as handicapped and that unnecessary labeling can be detrimental to children. The legislature encourages demonstration projects that provide needed services without unnecessary labeling. To test this approach, the legislature intends to maintain the funding level for innovative special services programs that reduce the incidence of unnecessary labeling.

(2) School districts may propose demonstration projects under this section to provide needed services and achieve major reductions in the percentage of district students labeled as handicapped in one or more specified categories. State handicapped funding for districts with such projects shall be based for the duration of the project and for two years after the end of the project on the average percentage of the kindergarten through twelfth grade enrollment in the specified categories during the 1991-92 school year or, for projects approved after the effective date of this section, during the school year before the start of the project.

(3) Funding under subsection (2) of this section is contingent on the following: (a) The funding is spent on children needing special services; and (b) the overall percentage of first through twelfth grade students in the district labeled as handicapped declines each year of the project after the 1991-92 school year, excluding handicapped students who transfer into the district.

(4) School districts with approved demonstration projects that wish to convert to a project under this section shall by May 1, 1992, notify the selection advisory committee and the superintendent of public instruction and propose appropriate modifications to the project.

(5) This section expires September 1, 1997.

**NEW SECTION.** Sec. 4. Sections 1 and 2 of this act shall expire January 1, 1996.

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

Passed the House March 9, 1992.  
Passed the Senate March 6, 1992.  
Approved by the Governor April 1, 1992.  
Filed in Office of Secretary of State April 1, 1992.

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**CHAPTER 181**

[House Bill 2662]

**DISQUALIFIED CANDIDATES IN NONPARTISAN ELECTIONS—  
SPECIAL PROCEDURES FOR CONDUCT OF ELECTION**

**Effective Date: 7/1/92**

AN ACT Relating to elections for nonpartisan offices; amending RCW 29.30.085; adding a new section to chapter 29.30 RCW; and providing an effective date.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 29.30 RCW to read as follows:

This section applies if a candidate for an elective office of a city, town, or special purpose district would, under this chapter, otherwise qualify to have his or her name printed on the general election ballot for the office, but the candidate has been declared to be unqualified to hold the office by a court of competent jurisdiction.

(1) In a case in which a primary is conducted for the office:

(a) If ballots for the general election for the office have not been ordered by the county auditor, the candidate who received the third greatest number of votes for the office at the primary shall qualify as a candidate for general election and that candidate's name shall be printed on the ballot for the office in lieu of the name of the disqualified candidate.

(b) If general election ballots for the office have been so ordered, votes cast for the disqualified candidate at the general election for the office shall not be counted for that office.

(2) In a case in which a primary is not conducted for the office:

(a) If ballots for the general election for the office have not been ordered by the county auditor, the name of the disqualified candidate shall not appear on the general election ballot for the office.

(b) If general election ballots for the office have been so ordered, votes cast for the disqualified candidate at the general election for the office shall not be counted for that office.

(3) If the disqualified candidate is the only candidate to have filed for the office during a regular or special filing period for the office, a void in candidacy for the office exists.

**Sec. 2.** RCW 29.30.085 and 1990 c 59 s 95 are each amended to read as follows:

(1) Except as provided (~~under~~) in section 1 of this act and in subsection (2) of this section, on the ballot at the general election for a nonpartisan office for which a primary was held, only the names of the candidate who received the greatest number of votes and the candidate who received the next greatest number of votes for that office shall appear under the title of that office, and the names shall appear in that order. If a primary was conducted, no candidate's name may be printed on the subsequent general election ballot unless he or she receives at least one percent of the total votes cast for that office at the preceding primary. On the ballot at the general election for any other nonpartisan office for which no primary was held, the names of the candidates shall be listed in the order determined under RCW 29.30.025.

(2) On the ballot at the general election for the office of justice of the supreme court, judge of the court of appeals, judge of the superior court, or state superintendent of public instruction, if a candidate in a contested primary receives a majority of all the votes cast for that office or position, only the name of that candidate may be printed under the title of the office for that position.

**NEW SECTION. Sec. 3.** This act shall take effect July 1, 1992.

Passed the House February 14, 1992.

Passed the Senate March 3, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

## CHAPTER 182

[House Bill 2811]

### AIDS PILOT FACILITY—REIMBURSEMENT FOR NURSING SUPPLIES

Effective Date: 6/1/92

AN ACT Relating to the reimbursement of facilities specifically authorized to meet the needs of persons living with AIDS; amending RCW 74.46.500; and creating a new section.

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

**Sec. 1.** RCW 74.46.500 and 1980 c 177 s 50 are each amended to read as follows:

(1) The administration and operations cost center shall include all items not included in the cost centers of nursing services, food, and property.

(2) Subject to subsection (4) of this section, the administration and operations cost center reimbursement rate for each facility shall be based on the computation in this subsection and shall not exceed the eighty-fifth percentile of (a) the rates of all reporting facilities derived from the computation below, or (b) reporting facilities grouped in accordance with subsection (3) of this section:

AR = TAC/TPD, where

AR = the administration and operations cost center reimbursement rate for a facility;

TAC = the total costs of the administration and operations cost center plus the retained savings from such cost center as provided in RCW 74.46.180 of a facility; and

TPD = the total patient days for a facility for the prior year.

(3) The secretary may group facilities based on factors which could reasonably influence cost requirements of this cost center, other than ownership or legal organization characteristics.

(4) In applying the eighty-fifth percentile reimbursement limit authorized by subsection (2) of this section to the pilot facility specially designed to meet the needs of persons living with AIDS as defined by RCW 70.24.017, and specifically authorized for this purpose under the 1989 amendment to the Washington state health plan, the department shall exempt the cost of nursing supplies reported by the pilot facility in excess of the average of nursing supplies cost for medicaid nursing facilities state-wide.

NEW SECTION. Sec. 2. If specific funding for the purposes of this act, referencing this act by bill number, is not provided by June 30, 1992, in the omnibus appropriations act, this act shall be null and void.

Passed the House March 9, 1992.

Passed the Senate March 6, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

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**CHAPTER 183**

[Engrossed House Bill 2812]

**AIRCRAFT MAINTENANCE VOCATIONAL TRAINING**

**Effective Date:** 4/1/92

AN ACT Relating to aircraft maintenance vocational training; creating a new section; making an appropriation; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that the creation of new jobs is crucial to the economic well-being of the state and its residents. As several commercial airlines are considering establishing major aircraft maintenance facilities in the state, it is important for the state to demonstrate the ability to provide a skilled work force with the technical skills essential for such a facility. Providing additional state assistance to vocational training programs on aircraft maintenance will ease job displacement in the state and offer an incentive for economic development.

**NEW SECTION. Sec. 2.** (1) The sum of five hundred thousand dollars for the biennium ending June 30, 1993, or so much thereof as may be necessary, is appropriated from the general fund to the department of trade and economic development for allocation to a state technical or community college for a vocational training program on the maintenance of commercial aircraft. Moneys allocated under this section shall not be used to replace or supplant existing funding.

(2) The department of trade and economic development shall not expend any portion of the appropriation in this section for administrative expenses or overhead.

(3) The appropriation in this section is contingent on the establishment by a commercial airline of a new facility in this state for the maintenance of commercial aircraft. If such a facility is not established, the appropriation in this section shall lapse.

**NEW SECTION. Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House February 17, 1992.

Passed the Senate March 12, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

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## CHAPTER 184

[Substitute House Bill 2865]

### WILD MUSHROOM HARVESTING—PERMIT AND LIMIT REQUIREMENTS

Effective Date: 6/11/92

AN ACT Relating to wild mushrooms; and amending RCW 76.48.020, 76.48.060, and 76.48.070.

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

**Sec. 1.** RCW 76.48.020 and 1979 ex.s. c 94 s 1 are each amended to read as follows:

Unless otherwise required by the context, as used in this chapter:

(1) "Christmas trees" shall mean any evergreen trees or the top thereof, commonly known as Christmas trees, with limbs and branches, with or without roots, including fir, pine, spruce, cedar, and other coniferous species.

(2) "Native ornamental trees and shrubs" shall mean any trees or shrubs which are not nursery grown and which have been removed from the ground with the roots intact.

(3) "Cut or picked evergreen foliage," commonly known as brush, shall mean evergreen boughs, huckleberry, salal, fern, Oregon grape, rhododendron, and other cut or picked evergreen products.

(4) "Cedar products" shall mean cedar shakeboards, shake and shingle bolts, and rounds one to three feet in length.

(5) "Cedar salvage" shall mean cedar chunks, slabs, stumps, and logs having a volume greater than one cubic foot and being harvested or transported from areas not associated with the concurrent logging of timber stands (a) under a forest practices application approved or notification received by the department of natural resources, or (b) under a contract or permit issued by an agency of the United States government.

(6) "Processed cedar products" shall mean cedar shakes, shingles, fence posts, hop poles, pickets, stakes, or rails; or rounds less than one foot in length.

(7) "Cedar processor" shall mean any person who purchases and/or takes or retains possession of cedar products or cedar salvage, for later sale in the same or modified form, following their removal and delivery from the land where harvested.

(8) "Cascara bark" shall mean the bark of a Cascara tree.

(9) "Wild edible mushrooms" means edible mushrooms not cultivated or propagated by artificial means.

(10) "Specialized forest products" shall mean Christmas trees, native ornamental trees and shrubs, cut or picked evergreen foliage, cedar products, cedar salvage, processed cedar products, wild edible mushrooms, and Cascara bark.

~~((10))~~ (11) "Person" shall include the plural and all corporations foreign or domestic, copartnerships, firms, and associations of persons.

~~((11))~~ (12) "Harvest" shall mean to separate, by cutting, prying, picking, peeling, breaking, pulling, splitting, or otherwise removing, a specialized forest product (a) from its physical connection with or contact with the land or vegetation upon which it was or has been growing, or (b) from the position in which it has been lying upon such land.

~~((12))~~ (13) "Transportation" means the physical conveyance of specialized forest products outside or off of a harvest site, including but not limited to conveyance by a motorized vehicle designed for use on improved roadways, or by vessel, barge, raft, or other waterborne conveyance. "Transportation" also means any conveyance of specialized forest products by helicopter.

~~((13))~~ (14) "Landowner" means, with regard to any real property, the private owner thereof, the state of Washington or any political subdivision thereof, the federal government, or any person who by deed, contract, or lease has authority to harvest and sell forest products of the property. "Landowner" does not include the purchaser or successful high bidder at any public or private timber sale.

~~((14))~~ (15) "Authorization" means a properly completed preprinted form authorizing the transportation or possession of Christmas trees, which form contains the information required by RCW 76.48.080, and a sample of which is

filed before the harvesting occurs with the sheriff of the county in which the harvesting is to occur.

~~((15))~~ (16) "Harvest site" means each location where one or more persons are engaged in harvesting specialized forest products close enough to each other that communication can be conducted with an investigating law enforcement officer in a normal conversational tone.

~~((16))~~ (17) "Specialized forest products permit" shall mean a printed document in a form specified by the department of natural resources, or true copy thereof, signed by a landowner or his duly authorized agent or representative (herein referred to as "permitters"), and validated by the county sheriff, authorizing a designated person (herein referred to as "permittee"), who shall also have signed the permit, to harvest and/or transport a designated specialized forest product from land owned or controlled and specified by the permitter, located in the county where such permit is issued.

~~((17))~~ (18) "Sheriff" means, for the purpose of validating specialized forest products permits, the county sheriff, deputy sheriff, or an authorized employee of the sheriff's office.

~~((18))~~ (19) "True copy" means a replica of a validated specialized forest products permit as reproduced by a copy machine capable of effectively reproducing the information contained on the permittee's copy of the specialized forest products permit. A copy is made true by the permittee or the permittee and permitter signing in the space provided on the face of the copy. A true copy will be effective until the expiration date of the specialized forest products permit unless the permittee or the permittee and permitter specify an earlier date. A permitter may require the actual signatures of both the permittee and permitter for execution of a true copy by so indicating in the space provided on the original copy of the specialized forest products permit. A permittee, or, if so indicated, the permittee and permitter, may condition the use of the true copy to harvesting only, transportation only, possession only, or any combination thereof.

**Sec. 2.** RCW 76.48.060 and 1979 ex.s. c 94 s 5 are each amended to read as follows:

A specialized forest products permit validated by the county sheriff shall be obtained by any person prior to harvesting from any lands, including his or her own, more than five Christmas trees, more than five ornamental trees or shrubs, more than five pounds of cut or picked evergreen foliage, any cedar products, cedar salvage, processed cedar products, or more than five pounds of Cascara bark, or more than three United States gallons of a single species of wild edible mushroom and not more than an aggregate total of nine United States gallons of wild edible mushrooms, plus one wild edible mushroom. Specialized forest products permit forms shall be provided by the department of natural resources, and shall be made available through the office of the county sheriff to permittees or permitters in reasonable quantities. A permit form shall be completed in triplicate for each permitter's property on which a permittee harvests specialized

forest products. A properly completed permit form shall be mailed or presented for validation to the sheriff of the county in which the specialized forest products are to be harvested. Before a permit form is validated by the sheriff, sufficient personal identification may be required to reasonably identify the person mailing or presenting the permit form and the sheriff may conduct such other investigations as deemed necessary to determine the validity of the information alleged on the form. When the sheriff is reasonably satisfied as to the truth of such information, the form shall be validated with the sheriff's validation stamp provided by the department of natural resources. Upon validation, the form shall become the specialized forest products permit authorizing the harvesting, possession and/or transportation of specialized forest products, subject to any other conditions or limitations which the permittor may specify. Two copies of the permit shall be given or mailed to the permittor, or one copy shall be given or mailed to the permittor and the other copy given or mailed to the permittee. The original permit shall be retained in the office of the county sheriff validating the permit. In the event a single land ownership is situated in two or more counties, a specialized forest product permit shall be completed as to the land situated in each county. While engaged in harvesting of specialized forest products, permittees, or their agents or employees, must have readily available at each harvest site a valid permit or true copy of the permit.

**Sec. 3.** RCW 76.48.070 and 1979 ex.s. c 94 s 6 are each amended to read as follows:

(1) Except as provided in RCW 76.48.100 and 76.48.075, it shall be unlawful for any person (a) to possess, and/or (b) to transport within the state of Washington, subject to any other conditions or limitations specified in the specialized forest products permit by the permittor, more than five Christmas trees, more than five native ornamental trees or shrubs, more than five pounds of cut or picked evergreen foliage, any processed cedar products, or more than five pounds of Cascara bark, or more than three gallons of a single species of wild edible mushrooms and not more than an aggregate total of nine gallons of wild edible mushrooms, plus one wild edible mushroom without having in his or her possession a written authorization, sales invoice, bill of lading, or specialized forest products permit or a true copy thereof evidencing his or her title to or authority to have possession of specialized forest products being so possessed or transported.

(2) It shall be unlawful for any person (a) to possess and/or (b) to transport within the state of Washington any cedar products or cedar salvage without having in his or her possession a specialized forest products permit or a true copy thereof evidencing his or her title to or authority to have possession of the materials being so possessed or transported.

Passed the House March 7, 1992.  
Passed the Senate March 3, 1992.  
Approved by the Governor April 1, 1992.  
Filed in Office of Secretary of State April 1, 1992.

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**CHAPTER 185**

[Engrossed Substitute House Bill 2990]

**SALE OF TRUST LANDS FOR INCLUSION IN STATE PARKS**

**Effective Date:** 4/1/92

AN ACT Relating to purchase of certain state trust lands for park and outdoor recreation purposes; amending RCW 43.51.270; and declaring an emergency.

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

**Sec. 1.** RCW 43.51.270 and 1988 c 79 s 1 are each amended to read as follows:

(1) The board of natural resources and the state parks and recreation commission shall negotiate a sale to the state parks and recreation commission, for park and outdoor recreation purposes, of the trust lands withdrawn as of August 9, 1971, pursuant to law for park purposes and included within the state parks listed in subsection (2) of this section: **PROVIDED**, That the sale shall be by contract with a pay-off period of not less than ten years, a price of eleven million twenty-four thousand seven hundred forty dollars or the fair market value, whichever is higher, for the land value, and interest not to exceed six percent. All fees collected by the commission beginning in the 1973-1975 biennium shall be applied to the purchase price of the trust lands listed in subsection (2) of this section; the acquisition of the property described in subsections (3) and (4) of this section, and all reasonable costs of acquisition, described in subsection (5) of this section; the renovation and redevelopment of state park structures and facilities to extend the original life expectancy or correct damage to the environment of state parks; the maintenance and operation of state parks; and any cost of collection pursuant to appropriations from the trust land purchase account created in RCW 43.51.280. The department of natural resources shall not receive any management fee pursuant to the sale of the trust lands listed in subsections (2) and (4) of this section. Timber on the trust lands which are the subject of subsections (2), (3), and (4) of this section shall continue to be under the management of the department of natural resources until such time as the legislature appropriates funds to the parks and recreation commission for purchase of said timber. The state parks which include trust lands which shall be the subject of this sale pursuant to this section are:

- (2)(a) Penrose Point
- (b) Kopachuck
- (c) Long Beach
- (d) Leadbetter Point

- (e) Nason Creek
- (f) South Whidbey
- (g) Blake Island
- (h) Rockport
- (i) Mt. Pilchuck
- (j) Ginkgo
- (k) Lewis & Clark
- (l) Rainbow Falls
- (m) Bogachiel
- (n) Sequim Bay
- (o) Federation Forest
- (p) Moran
- (q) Camano Island
- (r) Beacon Rock
- (s) Bridle Trails
- (t) Chief Kamiakin (formerly Kamiak Butte)
- (u) Lake Wenatchee
- (v) Fields Springs
- (w) Sun Lakes
- (x) Scenic Beach.

(3) The board of natural resources and the state parks and recreation commission shall negotiate a mutually acceptable transfer for adequate consideration to the state parks and recreation commission to be used for park and recreation purposes:

(a) All the state-owned Heart Lake property, including the timber therein, located in section 36, township 35 north, range 1E, W.M. in Skagit county;

(b) The Moran Park Additions, including the timber thereon, located in sections 16, 17, 19, 26, and 30, township 37 north, range 1W, W.M.;

(c) The Fort Ebey Addition (Partridge Point), including the timber thereon, located in section 36, township 32 north, range 1W, W.M. and section 6, township 31 north, range 1E, W.M.;

(d) The South Whidbey Addition (Classic U), including the timber thereon, located in section 29, township 30 north, range 2E, W.M.; and

(e) The Larrabee Addition, including the timber thereon, located in section 29, township 37 north, range 3E, W.M.

(4) The board of natural resources and the state parks and recreation commission shall negotiate a sale to the state parks and recreation commission of the lands and timber thereon identified in the joint study under section 4, chapter 163, Laws of 1985, and commonly referred to as:

(a) The Packwood trust property, Lewis county — located on the Cowlitz river at Packwood;

(b) The Iron Horse (Bullfrog) trust property — adjoining the John Wayne Pioneer Trail at Iron Horse State Park;

(c) The Soleduck Corridor trust property, Clallam county — on the Soleduck river at Sappho;

(d) The Lake Sammamish (Providence Heights) trust property, King county — adjacent to Hans Jensen Youth Camp area at Lake Sammamish State Park;

(e) The Kinney Point trust property, Jefferson county — on the extreme southern tip of Marrowstone Island;

(f) The Hartstene Island trust property, Mason county — near Fudge Point on the east side of Hartstene Island approximately two miles south of Jarrell Cove State Park;

(g) The Wallace Falls trust property addition, Snohomish county — located adjacent to Wallace Falls State Park;

(h) The Diamond Point trust property, Clallam county — on the Strait of Juan De Fuca; provided, however, to the extent authorized by the commission by its action of December 7, 1990, as now or hereafter amended, the acreage and boundaries of the Diamond Point trust property acquired by the commission may vary from the acreage and boundaries described in the joint study. The commission may not authorize acquisition of any portion of the Diamond Point trust property by a private party prior to approval by the Clallam county board of commissioners of a preliminary master site plan for a resort development on the property;

(i) The Twin Falls trust property addition, King county — three parcels adjacent to the Twin Falls natural area, King county;

(j) The Skating Lake trust property, Pacific county — one and one-half miles north of Ocean Park and two miles south of Leadbetter State Park on the Long Beach Peninsula;

(k) The Kopachuck trust property addition, Pierce county — adjoining Kopachuck State Park;

(l) The Point Lawrence trust property, San Juan county — on the extreme east point of Orcas Island;

(m) The Huckleberry Island trust property, Skagit county — between Guemes Island and Saddlebag Island State Park;

(n) The Steamboat Rock (Osborn Bay) trust property, Grant county — southwest of Electric City on Osborn Bay;

(o) The Lord Hill trust property, Snohomish county — west of Monroe;

(p) The Larrabee trust property addition, Whatcom county — northeast of Larrabee State Park and Chuckanut Mountain;

(q) The Beacon Rock trust property, Skamania county — at Beacon Rock State Park;

(r) The Loomis Lake trust property, Pacific county — on the east shore of Loomis Lake and Lost Lake;

(s) The Lake Easton trust property addition, Kittitas county — one-quarter mile west of Lake Easton State Park near the town of Easton;

(t) The Fields Spring trust property addition, Asotin county — adjacent to the west and north boundaries of Fields Spring State Park;

(u) The Hoypus Hill trust property, Island county — south of the Hoypus Point natural forest area at Deception Pass State Park;

(v) The Cascade Island trust property, Skagit county — on the Cascade river about one and one-half miles east of Marblemount off of the South Cascade county road and ten and one-half miles east of Rockport State Park.

Payment for the property described in this subsection shall be derived from the trust land purchase account established pursuant to RCW 43.51.280. Timber conservation and management practices provided for in RCW 43.51.045 and 43.51.395 shall govern the management of land and timber transferred under this subsection as of the effective date of the transfer, upon payment for the property, and nothing in this chapter shall be construed as restricting or otherwise modifying the department of natural resources' management, control, or use of such land and timber until such date.

(5) The funds from the trust land purchase account designated for the acquisition of the property described in subsections (3) and (4) of this section, and the reasonable costs of acquisition, shall be deposited in the park land trust revolving fund, hereby created, to be utilized by the department of natural resources for the exclusive purpose of acquiring real property as a replacement for the property described in subsections (3) and (4) of this section to maintain the land base of the several trusts and for the reimbursement of the department of natural resources for all reasonable costs, to include, but not exclusively, the appraisal and cruising of the timber on the property for the acquisition of the property described in subsections (3) and (4) of this section. Disbursements from the park land trust revolving fund to acquire replacement property, and pay for all reasonable costs of acquisition, for the property described in subsections (3) and (4) of this section shall be on the authorization of the board of natural resources. In order to maintain an effective expenditure and revenue control, the park land trust revolving fund shall be subject in all respects to chapter 43.88 RCW, but no appropriation shall be required to permit expenditures and payment of obligations from the fund. The state treasurer shall be custodian of the revolving fund.

The department of natural resources shall pay all reasonable costs, to include, but not exclusively, the appraisal and cruising of the timber on the property for the acquisition of the property described in subsection (3) of this section from funds provided in the trust land purchase account. Any agreement for the transfer of the property described in subsection (3) of this section shall not have an interest rate exceeding ten percent.

The parks and recreation commission is authorized to accept, receive, disburse, and administer grants or funds or gifts from any source including private individuals, public entities, and the federal government to supplement the

funds from the trust land purchase account for the purchase of the property described in subsection (3) of this section.

**NEW SECTION. Sec. 2.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 4, 1992.

Passed the Senate March 6, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

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## CHAPTER 186

[Engrossed Substitute House Bill 2702]

### STALKING DEFINED AND PENALTIES SET

Effective Date: 6/11/92

AN ACT Relating to harassment; amending RCW 9A.46.020, 9A.46.030, 9A.46.060, 9A.46.100, 9.61.230, 9.94A.155, 10.77.205, and 71.05.425; adding a new section to chapter 9A.46 RCW; and prescribing penalties.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 9A.46 RCW to read as follows:

(1) A person commits the crime of stalking if, without lawful authority and under circumstances not amounting to a felony attempt of another crime:

(a) He or she intentionally and repeatedly follows another person to that person's home, school, place of employment, business, or any other location, or follows the person while the person is in transit between locations; and

(b) The person being followed is intimidated, harassed, or placed in fear that the stalker intends to injure the person or property of the person being followed or of another person. The feeling of fear, intimidation, or harassment must be one that a reasonable person in the same situation would experience under all the circumstances; and

(c) The stalker either:

(i) Intends to frighten, intimidate, or harass the person being followed; or

(ii) Knows or reasonably should know that the person being followed is afraid, intimidated, or harassed even if the stalker did not intend to place the person in fear or intimidate or harass the person.

(2)(a) It is not a defense to the crime of stalking under subsection (1)(c)(i) of this section that the stalker was not given actual notice that the person being followed did not want the stalker to contact or follow the person; and

(b) It is not a defense to the crime of stalking under subsection (1)(c)(ii) of this section that the stalker did not intend to frighten, intimidate, or harass the person being followed.

(3) It shall be a defense to the crime of stalking that the defendant is a licensed private detective acting within the capacity of his or her license as provided by chapter 18.165 RCW.

(4) Attempts to contact or follow the person after being given actual notice that the person does not want to be contacted or followed constitutes prima facie evidence that the stalker intends to intimidate or harass the person.

(5) A person who stalks another person is guilty of a gross misdemeanor except that the person is guilty of a class C felony if any of the following applies: (a) The stalker has previously been convicted in this state or any other state of any crime of harassment, as defined in RCW 9A.46.060, of the same victim or members of the victim's family or household or any person specifically named in a no-contact order or no-harassment order; (b) the person violates a court order issued pursuant to RCW 9A.46.040 protecting the person being stalked; or (c) the stalker has previously been convicted of a gross misdemeanor or felony stalking offense under this section for stalking another person.

**Sec. 2.** RCW 9A.46.020 and 1985 c 288 s 2 are each amended to read as follows:

(1) A person is guilty of harassment if:

(a) Without lawful authority, the person knowingly threatens:

(i) To cause bodily injury in the future to the person threatened or to any other person; or

(ii) To cause physical damage to the property of a person other than the actor; or

(iii) To subject the person threatened or any other person to physical confinement or restraint; or

(iv) Maliciously to do any other act which is intended to substantially harm the person threatened or another with respect to his or her physical or mental health or safety; and

(b) The person by words or conduct places the person threatened in reasonable fear that the threat will be carried out.

(2) A person who harasses another is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW, ~~((unless))~~ except that the person is guilty of a class C felony if either of the following applies: (a) The person has previously been convicted in this or any other state of any crime of harassment, as defined in RCW 9A.46.060, of the same victim or members of the victim's family or household or any person specifically named in a no-contact or no-harassment order((, in which case the person is guilty of a class C felony punishable under chapter 9A.20 RCW)); or (b) the person harasses another person under subsection (1)(a)(i) of this section by threatening to kill the person threatened or any other person.

(3) The penalties provided in this section for harassment do not preclude the victim from seeking any other remedy otherwise available under law.

**Sec. 3.** RCW 9A.46.030 and 1985 c 288 s 3 are each amended to read as follows:

Any harassment offense committed as set forth in RCW 9A.46.020 or section 1 of this act may be deemed to have been committed where the conduct occurred or at the place from which the threat or threats were made or at the place where the threats were received.

**Sec. 4.** RCW 9A.46.060 and 1988 c 145 s 15 are each amended to read as follows:

As used in this chapter, "harassment" may include but is not limited to any of the following crimes:

- (1) Harassment (RCW 9A.46.020);
- (2) Malicious harassment (RCW 9A.36.080);
- (3) Telephone harassment (RCW 9.61.230);
- (4) Assault in the first degree (RCW 9A.36.011);
- (5) Assault in the second degree (RCW 9A.36.021);
- (6) Simple assault [Assault in the fourth degree] (RCW 9A.36.041);
- (7) Reckless endangerment [in the second degree] (RCW 9A.36.050);
- (8) Extortion in the first degree (RCW 9A.56.120);
- (9) Extortion in the second degree (RCW 9A.56.130);
- (10) Coercion (RCW 9A.36.070);
- (11) Burglary in the first degree (RCW 9A.52.020);
- (12) Burglary in the second degree (RCW 9A.52.030);
- (13) Criminal trespass in the first degree (RCW 9A.52.070);
- (14) Criminal trespass in the second degree (RCW 9A.52.080);
- (15) Malicious mischief in the first degree (RCW 9A.48.070);
- (16) Malicious mischief in the second degree (RCW 9A.48.080);
- (17) Malicious mischief in the third degree (RCW 9A.48.090);
- (18) Kidnapping in the first degree (RCW 9A.40.020);
- (19) Kidnapping in the second degree (RCW 9A.40.030);
- (20) Unlawful imprisonment (RCW 9A.40.040);
- (21) Rape in the first degree (RCW 9A.44.040);
- (22) Rape in the second degree (RCW 9A.44.050);
- (23) Rape in the third degree (RCW 9A.44.060);
- (24) Indecent liberties (RCW 9A.44.100);
- (25) Rape of a child in the first degree (RCW 9A.44.073);
- (26) Rape of a child in the second degree (RCW 9A.44.076);
- (27) Rape of a child in the third degree (RCW 9A.44.079);
- (28) Child molestation in the first degree (RCW 9A.44.083);
- (29) Child molestation in the second degree (RCW 9A.44.086); (~~and~~)
- (30) Child molestation in the third degree (RCW 9A.44.089); and
- (31) Stalking (RCW 9A.46.--- (section 1 of this act)).

**Sec. 5.** RCW 9A.46.100 and 1985 c 288 s 10 are each amended to read as follows:

As used in RCW 9.61.230 ~~((or)),~~ 9A.46.020, or section 1 of this act, a person has been "convicted" at such time as a plea of guilty has been accepted or a verdict of guilty has been filed, notwithstanding the pendency of any future proceedings including but not limited to sentencing, posttrial motions, and appeals.

**Sec. 6.** RCW 9.61.230 and 1985 c 288 s 11 are each amended to read as follows:

Every person who, with intent to harass, intimidate, torment or embarrass any other person, shall make a telephone call to such other person:

(1) Using any lewd, lascivious, profane, indecent, or obscene words or language, or suggesting the commission of any lewd or lascivious act; or

(2) Anonymously or repeatedly or at an extremely inconvenient hour, whether or not conversation ensues; or

(3) Threatening to inflict injury on the person or property of the person called or any member of his or her family or household;

shall be guilty of a gross misdemeanor, ~~((unless))~~ except that the person is guilty of a class C felony if either of the following applies:

(a) That person has previously been convicted of any crime of harassment, as defined in RCW 9A.46.060, with the same victim or member of the victim's family or household or any person specifically named in a no-contact or no-harassment order in this or any other state~~((in which case the person is guilty of a class C felony punishable under chapter 9A.20 RCW));~~ or

(b) That person harasses another person under subsection (3) of this section by threatening to kill the person threatened or any other person.

**Sec. 7.** RCW 9.94A.155 and 1990 c 3 s 121 are each amended to read as follows:

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

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

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

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

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

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

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

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

(3) If an inmate convicted of a violent offense ((ø)), a sex offense as defined by RCW 9.94A.030, or a felony harassment offense as defined by RCW 9A.46.060 or section 1 of this act, escapes from a correctional facility, the department of corrections shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the inmate resided immediately before the inmate's arrest and conviction. If previously requested, the department shall also notify the witnesses and the victim of the crime for which the inmate was convicted or the victim's next of kin if the crime was a homicide. If the inmate is recaptured, the department shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

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

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

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

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

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

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

**Sec. 8.** RCW 10.77.205 and 1990 c 3 s 104 are each amended to read as follows:

(1)(a) At the earliest possible date, and in no event later than ten days before conditional release, final discharge, authorized furlough pursuant to RCW 10.77.163, or transfer to a less-restrictive facility than a state mental hospital, the superintendent shall send written notice of the conditional release, final discharge, authorized furlough, or transfer of a person who has been found not guilty of a sex ((ø)), violent, or felony harassment offense by reason of insanity

and who is now in the custody of the department pursuant to this chapter, to the following:

(i) The chief of police of the city, if any, in which the person will reside; and

(ii) The sheriff of the county in which the person will reside.

(b) The same notice as required by (a) of this subsection shall be sent to the following, if such notice has been requested in writing about a specific person committed under this chapter:

(i) The victim of the crime for which the person was committed or the victim's next of kin if the crime was a homicide;

(ii) Any witnesses who testified against the person in any court proceedings; and

(iii) Any person specified in writing by the prosecuting attorney.

Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the person committed under this chapter.

(c) In addition to the notice requirements of (a) and (b) of this subsection, the superintendent shall comply with RCW 10.77.163.

(2) If a person who has been found not guilty of a sex ~~((or))~~, violent, or felony harassment offense by reason of insanity and who is committed under this chapter escapes, the superintendent shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the person resided immediately before the person's arrest. If previously requested, the superintendent shall also notify the witnesses and the victim, if any, of the crime for which the person was committed or the victim's next of kin if the crime was a homicide. The superintendent shall also notify appropriate persons pursuant to RCW 10.77.165. If the person is recaptured, the secretary shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

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

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

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

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

(b) "Sex offense" means a sex offense under RCW 9.94A.030;

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

(d) "Authorized furlough" means a furlough granted after compliance with RCW 10.77.163;

(e) "Felony harassment offense" means a crime of harassment as defined in RCW 9A.46.060 that is a felony.

**Sec. 9.** RCW 71.05.425 and 1990 c 3 s 109 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, at the earliest possible date, and in no event later than ten days before conditional release, final discharge, authorized leave under RCW 71.05.325(2), or transfer to a less-restrictive facility than a state mental hospital, the superintendent shall send written notice of conditional release, final discharge, authorized leave, or transfer of a person committed under RCW 71.05.280(3) or 71.05.320(2)(c) following dismissal of a sex ~~((e))~~, violent, or felony harassment offense pursuant to RCW 10.77.090(3) to the following:

(i) The chief of police of the city, if any, in which the person will reside; and

(ii) The sheriff of the county in which the person will reside.

(b) The same notice as required by (a) of this subsection shall be sent to the following, if such notice has been requested in writing about a specific person committed under RCW 71.05.280(3) or 71.05.320(2)(c) following dismissal of a sex ~~((e))~~, violent, or felony harassment offense pursuant to RCW 10.77.090(3):

(i) The victim of the sex ~~((e))~~, violent ((e)), or felony harassment offense that was dismissed pursuant to RCW 10.77.090(3) preceding commitment under RCW 71.05.280(3) or 71.05.320(2)(c) or the victim's next of kin if the crime was a homicide;

(ii) Any witnesses who testified against the person in any court proceedings; and

(iii) Any person specified in writing by the prosecuting attorney.

Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the person committed under this chapter.

(2) If a person committed under RCW 71.05.280(3) or 71.05.320(2)(c) following dismissal of a sex ~~((e))~~, violent, or felony harassment offense pursuant to RCW 10.77.090(3) escapes, the superintendent shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the person resided immediately before the person's arrest. If previously requested, the superintendent shall also notify the witnesses and the victim of the sex ~~((e))~~, violent ((e)), or felony harassment offense that was dismissed pursuant to RCW 10.77.090(3) preceding commitment under RCW 71.05.280(3) or 71.05.320(2) or the victim's next of kin if the crime was a homicide. In addition, the secretary shall also notify appropriate parties

pursuant to RCW 71.05.410. If the person is recaptured, the superintendent shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

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

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

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

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

(b) "Sex offense" means a sex offense under RCW 9.94A.030;

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

(d) "Felony harassment offense" means a crime of harassment as defined in RCW 9A.46.060 that is a felony.

NEW SECTION. **Sec. 10.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House March 7, 1992.

Passed the Senate March 3, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

## CHAPTER 187

[House Bill 2514]

### SENIOR CITIZEN PROPERTY TAX EXEMPTION— INCOME AVERAGING UPON DEATH OF SPOUSE

Effective Date: 6/11/92

AN ACT Relating to averaging income for senior citizen property tax exemption upon death of spouse; reenacting and amending RCW 84.36.381; and creating a new section.

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

**Sec. 1.** RCW 84.36.381 and 1991 c 213 s 3 and 1991 c 203 s 1 are each reenacted and amended to read as follows:

A person shall be exempt from any legal obligation to pay all or a portion of the amount of excess and regular real property taxes due and payable in the year following the year in which a claim is filed, and thereafter, in accordance with the following:

(1) The property taxes must have been imposed upon a residence which was occupied by the person claiming the exemption as a principal place of residence as of January 1st of the year for which the exemption is claimed: PROVIDED,

That any person who sells, transfers, or is displaced from his or her residence may transfer his or her exemption status to a replacement residence, but no claimant shall receive an exemption on more than one residence in any year: PROVIDED FURTHER, That confinement of the person to a hospital or nursing home shall not disqualify the claim of exemption if the residence is temporarily unoccupied or if the residence is occupied by a spouse and/or a person financially dependent on the claimant for support;

(2) The person claiming the exemption must have owned, at the time of filing, in fee, as a life estate, or by contract purchase, the residence on which the property taxes have been imposed or if the person claiming the exemption lives in a cooperative housing association, corporation, or partnership, such person must own a share therein representing the unit or portion of the structure in which he or she resides. For purposes of this subsection, a residence owned by a marital community or owned by cotenants shall be deemed to be owned by each spouse or cotenant, and any lease for life shall be deemed a life estate;

(3) The person claiming the exemption must be sixty-one years of age or older on December 31st of the year in which the exemption claim is filed, or must have been, at the time of filing, retired from regular gainful employment by reason of physical disability: PROVIDED, That any surviving spouse of a person who was receiving an exemption at the time of the person's death shall qualify if the surviving spouse is fifty-seven years of age or older and otherwise meets the requirements of this section;

(4) The amount that the person shall be exempt from an obligation to pay shall be calculated on the basis of combined disposable income, as defined in RCW 84.36.383. If the person claiming the exemption was retired for two months or more of the preceding year, the combined disposable income of such person shall be calculated by multiplying the average monthly combined disposable income of such person during the months such person was retired by twelve. If the income of the person claiming exemption is reduced for two or more months of the preceding year by reason of the death of the person's spouse, the combined disposable income of such person shall be calculated by multiplying the average monthly combined disposable income of such person after the death of the spouse by twelve.

(5)(a) A person who otherwise qualifies under this section and has a combined disposable income of twenty-six thousand dollars or less shall be exempt from all excess property taxes; and

(b)(i) A person who otherwise qualifies under this section and has a combined disposable income of eighteen thousand dollars or less but greater than fifteen thousand dollars shall be exempt from all regular property taxes on the greater of thirty thousand dollars or thirty percent of the valuation of his or her residence, but not to exceed fifty thousand dollars of the valuation of his or her residence; or

(ii) A person who otherwise qualifies under this section and has a combined disposable income of fifteen thousand dollars or less shall be exempt from all regular property taxes on the greater of thirty-four thousand dollars or fifty percent of the valuation of his or her residence.

**NEW SECTION. Sec. 2.** Section 1 of this act shall be effective for taxes levied for collection in 1992 and thereafter.

Passed the House February 13, 1992.

Passed the Senate March 12, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

## CHAPTER 188

[Substitute House Bill 2348]

### CONFIDENTIALITY OF IDENTITY OF CHILD VICTIMS OF SEXUAL ABUSE

Effective Date: 6/11/92

AN ACT Relating to the confidentiality of victim-identifying information in cases of child victims of sexual abuse; amending RCW 7.69A.020, 7.69A.030, 13.40.140, and 13.50.050; adding a new section to chapter 7.69A RCW; adding a new section to chapter 42.17 RCW; adding a new section to chapter 10.97 RCW; adding a new section to chapter 10.52 RCW; creating a new section; and prescribing penalties.

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

**NEW SECTION. Sec. 1.** The legislature recognizes that the cooperation of child victims of sexual assault and their families is integral to the successful prosecution of sexual assaults against children. The legislature finds that release of information identifying child victims of sexual assault may subject the child to unwanted contacts by the media, public scrutiny and embarrassment, and places the child victim and the victim's family at risk when the assailant is not in custody. Release of information to the press and the public harms the child victim and has a chilling effect on the willingness of child victims and their families to report sexual abuse and to cooperate with the investigation and prosecution of the crime. The legislature further finds that public dissemination of the child victim's name and other identifying information is not essential to accurate and necessary release of information to the public concerning the operation of the criminal justice system. Therefore, the legislature intends to assure child victims of sexual assault and their families that the identities and locations of child victims will remain confidential.

**Sec. 2.** RCW 7.69A.020 and 1985 c 394 s 2 are each amended to read as follows:

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

(1) "Crime" means an act punishable as a felony, gross misdemeanor, or misdemeanor under the laws of this state or equivalent federal or local law.

- (2) "Child" means any living child under the age of eighteen years.
- (3) "Victim" means a living person against whom a crime has been committed.
- (4) "Witness" means a person who has been or is expected to be summoned to testify for the prosecution in a criminal action, or who by reason of having relevant information is subject to call or likely to be called as a witness for the prosecution, whether or not an action or proceeding has been commenced.
- (5) "Family member" means child, parent, or legal guardian.
- (6) "Advocate" means any person, including a family member not accused of a crime, who provides support to a child victim or child witness during any legal proceeding.
- (7) "Court proceedings" means any court proceeding conducted during the course of the prosecution of a crime committed against a child victim, including pretrial hearings, trial, sentencing, or appellate proceedings.
- (8) "Identifying information" means the child's name, address, location, and photograph, and in cases in which the child is a relative or stepchild of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator.

***\*NEW SECTION. Sec. 3. A new section is added to chapter 7.69A RCW to read as follows:***

***A child victim of sexual assault has a right to not have identifying information disclosed to the public. Accordingly, unless the child victim or the child victim's legal guardian consents to dissemination of identifying information:***

***(1) Except as necessary to conduct the investigation or preparation of the case, no law enforcement agency, prosecutor's office, or defense attorney may disclose any identifying information of a child victim of sexual assault to anyone other than another law enforcement agency, prosecutor, judge, defense attorney, or governmental agency that provides services to the child victim or to a family member of the child victim.***

***(2) The court shall prohibit dissemination to the public of any identifying information revealed during court proceedings involving the sexual assault of a child victim. The court shall condition a person's or press attendance at court proceedings on an agreement not to disseminate to the public or the press identifying information obtained at court proceedings. The court shall prohibit the press or any person who refuses to comply with the condition from attending any court proceeding in which information identifying the child victim may be revealed. If the press or another person violates the court-ordered condition, the court shall make all orders necessary to prevent further dissemination of identifying information obtained at the court proceeding. The court may not prohibit the press from disseminating identifying information obtained from a source other than the court proceedings.***

**(3) Portions of court records, transcripts, or recordings of court proceedings that contain identifying information are confidential and not open to public inspection. The court shall order that those records shall be sealed unless the identifying information is deleted.**

**(4) If a member of the press releases to the public identifying information that the press member obtained solely through attendance at a court proceeding to which the press member had conditional access, the press member shall be subject to a fine of not less than one hundred dollars and not more than five hundred dollars. In addition, the child victim may pursue any other civil remedy available under existing law.**

**\*Sec. 3 was vetoed, see message at end of chapter.**

**\*Sec. 4. RCW 7.69A.030 and 1985 c 394 s 3 are each amended to read as follows:**

**In addition to the rights of victims and witnesses provided for in RCW 7.69.030, there shall be every reasonable effort made by law enforcement agencies, prosecutors, and judges to assure that child victims and witnesses are afforded the rights enumerated in this section. Except as provided in section 3 of this act regarding child victims of sexual assault, the enumeration of rights shall not be construed to create substantive rights and duties, and the application of an enumerated right in an individual case is subject to the discretion of the law enforcement agency, prosecutor, or judge. Child victims and witnesses have the following rights:**

**(1) To have explained in language easily understood by the child, all legal proceedings and/or police investigations in which the child may be involved.**

**(2) To be provided, whenever possible, a secure waiting area during court proceedings and to have an advocate or support person remain with the child prior to and during any court proceedings.**

**(3) To not have the names, addresses, nor photographs of the living child victim or witness disclosed by any law enforcement agency, prosecutor's office, or state agency without the permission of the child victim, child witness, parents, or legal guardians to anyone except another law enforcement agency, prosecutor, defense counsel, or private or governmental agency that provides services to the child victim or witness.**

**(4) To allow an advocate to make recommendations to the prosecuting attorney about the ability of the child to cooperate with prosecution and the potential effect of the proceedings on the child.**

**(5) To allow an advocate to provide information to the court concerning the child's ability to understand the nature of the proceedings.**

**(6) To be provided information or appropriate referrals to social service agencies to assist the child and/or the child's family with the emotional impact of the crime, the subsequent investigation, and judicial proceedings in which the child is involved.**

*(7) To allow an advocate to be present in court while the child testifies in order to provide emotional support to the child.*

*(8) To provide information to the court as to the need for the presence of other supportive persons at the court proceedings while the child testifies in order to promote the child's feelings of security and safety.*

*(9) To allow law enforcement agencies the opportunity to enlist the assistance of other professional personnel such as child protection services, victim advocates or prosecutorial staff trained in the interviewing of the child victim.*

*\*Sec. 4 was vetoed, see message at end of chapter.*

*\*Sec. 5. RCW 13.40.140 and 1981 c 299 s 11 are each amended to read as follows:*

*(1) A juvenile shall be advised of his or her rights when appearing before the court.*

*(2) A juvenile and his or her parent, guardian, or custodian shall be advised by the court or its representative that the juvenile has a right to be represented by counsel at all critical stages of the proceedings. Unless waived, counsel shall be provided to a juvenile who is financially unable to obtain counsel without causing substantial hardship to himself or herself or the juvenile's family, in any proceeding where the juvenile may be subject to transfer for criminal prosecution, or in any proceeding where the juvenile may be in danger of confinement. The ability to pay part of the cost of counsel does not preclude assignment. In no case may a juvenile be deprived of counsel because of a parent, guardian, or custodian refusing to pay therefor. The juvenile shall be fully advised of his or her right to an attorney and of the relevant services an attorney can provide.*

*(3) The right to counsel includes the right to the appointment of experts necessary, and the experts shall be required pursuant to the procedures and requirements established by the supreme court.*

*(4) Upon application of a party, the clerk of the court shall issue, and the court on its own motion may issue, subpoenas requiring attendance and testimony of witnesses and production of records, documents, or other tangible objects at any hearing, or such subpoenas may be issued by an attorney of record.*

*(5) All proceedings shall be transcribed verbatim by means which will provide an accurate record.*

*(6) The general public and press shall be permitted to attend any hearing unless the court, for good cause, orders a particular hearing to be closed. The presumption shall be that all such hearings will be open. As provided in section 3 of this act, a child victim of sexual assault is entitled to have information identifying the child victim remain confidential unless the child victim or the child victim's legal guardian consents to the disclosure. The court shall ensure that victim-identifying information is not disseminated as*

**provided in section 3 (2) and (3) of this act. Dissemination of information identifying a child victim of sexual assault in violation of section 3 of this act constitutes good cause for closing the hearing.**

**(7) In all adjudicatory proceedings before the court, all parties shall have the right to adequate notice, discovery as provided in criminal cases, opportunity to be heard, confrontation of witnesses except in such cases as this chapter expressly permits the use of hearsay testimony, findings based solely upon the evidence adduced at the hearing, and an unbiased fact-finder.**

**(8) A juvenile shall be accorded the same privilege against self-incrimination as an adult. An extrajudicial statement which would be constitutionally inadmissible in a criminal proceeding may not be received in evidence at an adjudicatory hearing over objection. Evidence illegally seized or obtained may not be received in evidence over objection at an adjudicatory hearing to prove the allegations against the juvenile if the evidence would be inadmissible in an adult criminal proceeding. An extrajudicial admission or confession made by the juvenile out of court is insufficient to support a finding that the juvenile committed the acts alleged in the information unless evidence of a corpus delicti is first independently established in the same manner as required in an adult criminal proceeding.**

**(9) Waiver of any right which a juvenile has under this chapter must be an express waiver intelligently made by the juvenile after the juvenile has been fully informed of the right being waived.**

**(10) Whenever this chapter refers to waiver or objection by a juvenile, the word juvenile shall be construed to refer to a juvenile who is at least twelve years of age. If a juvenile is under twelve years of age, the juvenile's parent, guardian, or custodian shall give any waiver or offer any objection contemplated by this chapter.**

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

**NEW SECTION. Sec. 6.** A new section is added to chapter 42.17 RCW to read as follows:

Information revealing the identity of child victims of sexual assault who are under age eighteen is confidential and not subject to public disclosure. Identifying information means the child victim's name, address, location, photograph, and in cases in which the child victim is a relative or stepchild of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator.

**Sec. 7.** RCW 13.50.050 and 1990 c 3 s 125 are each amended to read as follows:

(1) This section governs records relating to the commission of juvenile offenses, including records relating to diversions.

(2) The official juvenile court file of any alleged or proven juvenile offender shall be open to public inspection, unless sealed pursuant to subsection (11) of this section.

(3) All records other than the official juvenile court file are confidential and may be released only as provided in this section, RCW 13.50.010, 13.40.215, and 4.24.550.

(4) Except as otherwise provided in this section and RCW 13.50.010, records retained or produced by any juvenile justice or care agency may be released to other participants in the juvenile justice or care system only when an investigation or case involving the juvenile in question is being pursued by the other participant or when that other participant is assigned the responsibility for supervising the juvenile.

(5) Except as provided in RCW 4.24.550, information not in an official juvenile court file concerning a juvenile or a juvenile's family may be released to the public only when that information could not reasonably be expected to identify the juvenile or the juvenile's family.

(6) Notwithstanding any other provision of this chapter, the release, to the juvenile or his or her attorney, of law enforcement and prosecuting attorneys' records pertaining to investigation, diversion, and prosecution of juvenile offenses shall be governed by the rules of discovery and other rules of law applicable in adult criminal investigations and prosecutions.

(7) The juvenile court and the prosecutor may set up and maintain a central record-keeping system which may receive information on all alleged juvenile offenders against whom a complaint has been filed pursuant to RCW 13.40.070 whether or not their cases are currently pending before the court. The central record-keeping system may be computerized. If a complaint has been referred to a diversion unit, the diversion unit shall promptly report to the juvenile court or the prosecuting attorney when the juvenile has agreed to diversion. An offense shall not be reported as criminal history in any central record-keeping system without notification by the diversion unit of the date on which the offender agreed to diversion.

(8) Upon request of the victim of a crime or the victim's immediate family, the identity of an alleged or proven juvenile offender alleged or found to have committed a crime against the victim and the identity of the alleged or proven juvenile offender's parent, guardian, or custodian and the circumstance of the alleged or proven crime shall be released to the victim of the crime or the victim's immediate family.

(9) Subject to the rules of discovery applicable in adult criminal prosecutions, the juvenile offense records of an adult criminal defendant or witness in an adult criminal proceeding shall be released upon request to prosecution and defense counsel after a charge has actually been filed. The juvenile offense records of any adult convicted of a crime and placed under the supervision of the adult corrections system shall be released upon request to the adult corrections system.

(10) In any case in which an information has been filed pursuant to RCW 13.40.100 or a complaint has been filed with the prosecutor and referred for

diversion pursuant to RCW 13.40.070, the person the subject of the information or complaint may file a motion with the court to have the court vacate its order and findings, if any, and, subject to subsection (24) of this section, order the sealing of the official juvenile court file, the social file, and records of the court and of any other agency in the case.

(11) The court shall grant the motion to seal records made pursuant to subsection (10) of this section if it finds that:

(a) Two years have elapsed from the later of: (i) Final discharge of the person from the supervision of any agency charged with supervising juvenile offenders; or (ii) from the entry of a court order relating to the commission of a juvenile offense or a criminal offense;

(b) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense; and

(c) No proceeding is pending seeking the formation of a diversion agreement with that person.

(12) The person making a motion pursuant to subsection (10) of this section shall give reasonable notice of the motion to the prosecution and to any person or agency whose files are sought to be sealed.

(13) If the court grants the motion to seal made pursuant to subsection (10) of this section, it shall, subject to subsection (24) of this section, order sealed the official juvenile court file, the social file, and other records relating to the case as are named in the order. Thereafter, the proceedings in the case shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events, records of which are sealed. Any agency shall reply to any inquiry concerning confidential or sealed records that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(14) Inspection of the files and records included in the order to seal may thereafter be permitted only by order of the court upon motion made by the person who is the subject of the information or complaint, except as otherwise provided in RCW 13.50.010(8) and subsection (24) of this section.

(15) Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying the sealing order. Any conviction for any adult felony subsequent to the sealing has the effect of nullifying the sealing order for the purposes of chapter 9.94A RCW for any juvenile adjudication of guilt for a class A offense or a sex offense as defined in RCW 9.94A.030.

(16) In any case in which an information has been filed pursuant to RCW 13.40.100 or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the person who is the subject of the information or complaint may file a motion with the court to have the court vacate its order and findings, if any, and, subject to subsection (24) of this section, order the destruction of the official juvenile court file, the social file, and records of the court and of any other agency in the case.

(17) The court may grant the motion to destroy records made pursuant to subsection (16) of this section if it finds:

(a) The person making the motion is at least twenty-three years of age;

(b) The person has not subsequently been convicted of a felony;

(c) No proceeding is pending against that person seeking the conviction of a criminal offense; and

(d) The person has never been found guilty of a serious offense.

(18) A person eighteen years of age or older whose criminal history consists of only one referral for diversion may request that the court order the records in that case destroyed. The request shall be granted, subject to subsection (24) of this section, if the court finds that two years have elapsed since completion of the diversion agreement.

(19) If the court grants the motion to destroy records made pursuant to subsection (16) or (18) of this section, it shall, subject to subsection (24) of this section, order the official juvenile court file, the social file, and any other records named in the order to be destroyed.

(20) The person making the motion pursuant to subsection (16) or (18) of this section shall give reasonable notice of the motion to the prosecuting attorney and to any agency whose records are sought to be destroyed.

(21) Any juvenile to whom the provisions of this section may apply shall be given written notice of his or her rights under this section at the time of his or her disposition hearing or during the diversion process.

(22) Nothing in this section may be construed to prevent a crime victim or a member of the victim's family from divulging the identity of the alleged or proven juvenile offender or his or her family when necessary in a civil proceeding.

(23) Any juvenile justice or care agency may, subject to the limitations in subsection (24) of this section and subparagraphs (a) and (b) of this subsection, develop procedures for the routine destruction of records relating to juvenile offenses and diversions.

(a) Records may be routinely destroyed only when the person the subject of the information or complaint has attained twenty-three years of age or older, or is eighteen years of age or older and his or her criminal history consists entirely of one diversion agreement and two years have passed since completion of the agreement.

(b) The court may not routinely destroy the official juvenile court file or recordings or transcripts of any proceedings.

(24) No identifying information held by the Washington state patrol in accordance with chapter 43.43 RCW is subject to destruction or sealing under this section. For the purposes of this subsection, identifying information includes photographs, fingerprints, palmprints, soleprints, toeprints and any other data that identifies a person by physical characteristics, name, birthdate or address, but does not include information regarding criminal activity, arrest, charging,

diversion, conviction or other information about a person's treatment by the criminal justice system or about the person's behavior.

(25) Information identifying child victims under age eighteen who are victims of sexual assaults by juvenile offenders is confidential and not subject to release to the press or public without the permission of the child victim or the child's legal guardian. Identifying information includes the child victim's name, addresses, location, photographs, and in cases in which the child victim is a relative of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator. Information identifying a child victim of sexual assault may be released to law enforcement, prosecutors, judges, defense attorneys, or private or governmental agencies that provide services to the child victim of sexual assault.

NEW SECTION. **Sec. 8.** A new section is added to chapter 10.97 RCW to read as follows:

Information identifying child victims under age eighteen who are victims of sexual assaults is confidential and not subject to release to the press or public without the permission of the child victim or the child's legal guardian. Identifying information includes the child victim's name, addresses, location, photographs, and in cases in which the child victim is a relative or stepchild of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator. Information identifying the child victim of sexual assault may be released to law enforcement, prosecutors, judges, defense attorneys, or private or governmental agencies that provide services to the child victim of sexual assault. Prior to release of any criminal history record information, the releasing agency shall delete any information identifying a child victim of sexual assault from the information except as provided in this section.

NEW SECTION. **Sec. 9.** A new section is added to chapter 10.52 RCW to read as follows:

Child victims of sexual assault who are under the age of eighteen, have a right not to have disclosed to the public or press at any court proceeding involved in the prosecution of the sexual assault, the child victim's name, address, location, photographs, and in cases in which the child victim is a relative or stepchild of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator. The court shall ensure that information identifying the child victim is not disclosed to the press or the public and that in the event of any improper disclosure the court shall make all necessary orders to restrict further dissemination of identifying information improperly obtained. Court proceedings include but are not limited to pretrial hearings, trial, sentencing, and appellate proceedings. The court shall also order that any portion of any court records, transcripts, or recordings of court proceedings that contain information identifying the child victim shall be sealed and not open to public inspection unless those identifying portions are deleted from the documents or tapes.

**NEW SECTION. Sec. 10.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House February 18, 1992.

Passed the Senate March 6, 1992.

Approved by the Governor April 2, 1992, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 2, 1992.

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

"I am returning herewith, without my approval as to sections 3, 4 and 5, Substitute House Bill No. 2348 entitled:

"AN ACT Relating to the confidentiality of victim-identifying information in cases of child victims of sexual abuse."

The legislature should be applauded for advocating for the protection of privacy interests of child victims of sexual assault. Substitute House Bill No. 2348 is an attempt to regulate access to, and dissemination of, the names and identifying information of child victims of sexual assault. We have a moral obligation to protect our children from the impact of insensitive disclosure of this information. Child victims are often stigmatized by peers or traumatized by public knowledge of the events that have occurred. This traumatization makes recovery from the effects of the crime more difficult and creates a sense of continuing victimization. Victims may fear public knowledge about the events and may be reluctant to step forward and report the crime to law enforcement.

This bill takes necessary steps to assure that information on child victims of sexual assault is not disseminated. It sets a very high standard for protecting the privacy interests of child victims.

Despite the improvements made by the legislature, I am forced to veto sections 3, 4 and 5, because of the unconstitutional prior restraint placed upon the press in its efforts to publish information about sexual assault victims. The courts have consistently said that prior restraint on speech and publication is the most serious and least tolerable infringement on First Amendment rights. The courts have also stated that there may be no prior restraint on reporting what transpires in open court, whether before or during trial.

Were I to sign this bill into law in its entirety, there is no doubt that major provisions of this Act would be found unconstitutional.

Other provisions of Substitute House Bill No. 2348 address two areas that will strongly protect the privacy interests of child victims of sexual assault. First, none of the information about the identity of the sexual assault victim shall be disclosed. This includes information gathered by law enforcement, social service entities, and the courts. Further, the courts have the authority to close their courtrooms for good cause. Section 9 specifically says that "the court shall ensure that information identifying the child victim is not disclosed to the press or public." The court shall also "order that any portion of any court records, transcripts or recordings of court proceedings that contain information identifying the child victim shall be sealed and not opened to public inspection."

The strength of these directives prohibits the disclosure of identifying information and sends a very strong message — a message that says we will not tolerate the infringement on the rights of child victims of sexual assault.

For these reasons, I have vetoed sections 3, 4 and 5, of Substitute House Bill No. 2348.

With the exception of sections 3, 4 and 5, Substitute House Bill No. 2348 is approved."

## CHAPTER 189

[Engrossed Substitute House Bill 2459]

## SUPERIOR COURT JUDGES—ADDITIONAL POSITIONS

**Effective Date:** 7/1/93 - Except Sections 1, 3, & 5 which take effect on 7/1/92.

AN ACT Relating to superior courts; amending RCW 2.08.061, 2.08.062, 2.08.063, 2.08.064, 2.08.065, and 2.32.180; creating a new section; and providing effective dates.

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

**Sec. 1.** RCW 2.08.061 and 1989 c 328 s 2 are each amended to read as follows:

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

**Sec. 2.** RCW 2.08.062 and 1990 c 186 s 1 are each amended to read as follows:

There shall be in the counties of Chelan and Douglas jointly, three judges of the superior court; in the county of Clark six judges of the superior court; in the county of Grays Harbor ~~((two))~~ three judges of the superior court; in the county of Kitsap seven judges of the superior court; in the county of Kittitas one judge of the superior court; in the county of Lewis two judges of the superior court.

**Sec. 3.** RCW 2.08.063 and 1988 c 66 s 1 are each amended to read as follows:

There shall be in the county of Lincoln one judge of the superior court; in the county of Skagit, ~~((two))~~ three judges of the superior court; in the county of Walla Walla, two judges of the superior court; in the county of Whitman, one judge of the superior court; in the county of Yakima six judges of the superior court; in the county of Adams, one judge of the superior court; in the county of Whatcom, three judges of the superior court.

**Sec. 4.** RCW 2.08.064 and 1989 c 328 s 3 are each amended to read as follows:

There shall be in the counties of Benton and Franklin jointly, five judges of the superior court; in the county of Clallam, two judges of the superior court; in the county of Jefferson, one judge of the superior court; in the county of Snohomish, ~~((eleven))~~ thirteen judges of the superior court; in the counties of Asotin, Columbia and Garfield jointly, one judge of the superior court; in the county of Cowlitz, three judges of the superior court; in the counties of Klickitat and Skamania jointly, one judge of the superior court.

**Sec. 5.** RCW 2.08.065 and 1990 c 186 s 2 are each amended to read as follows:

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

**Sec. 6.** RCW 2.32.180 and 1991 c 363 s 2 are each amended to read as follows:

It shall be and is the duty of each and every superior court judge in counties or judicial districts in the state of Washington having a population of over thirty-five thousand inhabitants to appoint, or said judge may, in any county or judicial district having a population of over twenty-five thousand and less than thirty-five thousand, appoint a stenographic reporter to be attached to the judge's court who shall have had at least three years' experience as a skilled, practical reporter, or who upon examination shall be able to report and transcribe accurately one hundred and seventy-five words per minute of the judge's charge or two hundred words per minute of testimony each for five consecutive minutes; said test of proficiency, in event of inability to meet qualifications as to length of time of experience, to be given by an examining committee composed of one judge of the superior court and two official reporters of the superior court of the state of Washington, appointed by the president judge of the superior court judges association of the state of Washington: PROVIDED, That a stenographic reporter shall not be required to be appointed for the seven additional judges of the superior court authorized for appointment by section 1, chapter 323, Laws of 1987, the additional superior court judge authorized by section 1, chapter 66, Laws of 1988, the additional superior court judges authorized by sections 2 and 3, chapter 328, Laws of 1989, ~~((or))~~ the additional superior court judges authorized by sections 1 and 2, chapter 186, Laws of 1990, or the additional superior court judges authorized by sections 1 through 5, chapter ..., Laws of 1992 (sections 1 through 5 of this act). Appointment of a stenographic reporter is not required for any additional superior court judge authorized after July 1, 1992. The initial judicial appointee shall serve for a period of six years; the two initial reporter appointees shall serve for a period of four years and two years, respectively, from September 1, 1957; thereafter on expiration of the first terms of service, each newly appointed member of said examining committee to serve for a period of six years. In the event of death or inability of a member to serve, the president judge shall appoint a reporter or judge, as the case may be, to serve for the balance of the unexpired term of the member whose inability to serve caused such vacancy. The examining committee shall grant certificates to qualified applicants. Administrative and procedural rules and regulations shall be promulgated by said examining committee, subject to approval by the said president judge.

The stenographic reporter upon appointment shall thereupon become an officer of the court and shall be designated and known as the official reporter for the court or judicial district for which he or she is appointed: PROVIDED, That in no event shall there be appointed more official reporters in any one county or judicial district than there are superior court judges in such county or judicial district; the appointments in each county with a population of one million or more shall be made by the majority vote of the judges in said county acting en banc; the appointments in each county with a population of from one hundred twenty-five thousand to less than one million may be made by each individual judge therein or by the judges in said county acting en banc. Each official reporter so appointed shall hold office during the term of office of the judge or judges appointing him or her, but may be removed for incompetency, misconduct or neglect of duty, and before entering upon the discharge of his or her duties shall take an oath to perform faithfully the duties of his or her office, and file a bond in the sum of two thousand dollars for the faithful discharge of his or her duties. Such reporter in each court is hereby declared to be a necessary part of the judicial system of the state of Washington.

**NEW SECTION. Sec. 7.** (1) Sections 1, 3, and 5 of this act shall take effect July 1, 1992.

(2) The remainder of this act shall take effect July 1, 1993.

**NEW SECTION. Sec. 8.** The additional judicial positions created by sections 1, 2, 3, 4, and 5 of this act shall be effective only if each county through its duly constituted legislative authority documents its approval of any additional positions and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of such additional judicial positions as provided by statute.

Passed the House March 9, 1992.

Passed the Senate March 6, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

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## CHAPTER 190

[Engrossed Substitute House Bill 2609]

AIR TRANSPORTATION SYSTEM—

RUNWAY CONSTRUCTION MORATORIUM AND STUDIES

Effective Date: 4/2/92

AN ACT Relating to air transportation; amending RCW 47.86.030; adding a new section to chapter 53.08 RCW; creating a new section; and declaring an emergency.

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

**NEW SECTION. Sec. 1.** The legislature finds that an integrated air transportation system with efficient intermodal linkages is vital to the economic

and social vitality of the state. Coordination and cooperation among public agencies and between the public and private sector is crucial to the development of such a system. In 1990, the legislature created the air transportation commission to develop an air transportation strategy, implicitly based upon the coordination and cooperation of these entities.

Specifically, the commission will assess the state-wide implications of local and regional air transportation planning, recommend specific goals for air transportation, and define the relationship between air transportation and environmental and economic policy goals. It will also formulate state-wide policy recommendations, and coordinate air transportation with state-wide transportation system planning.

Clearly, the commission's work will assist the legislature in developing a comprehensive air transportation policy that will sustain economic development and incorporate the legislature's recently adopted growth strategies; provided, however, that nothing contained herein shall be construed to prevent any county-wide or multicounty planning council created pursuant to RCW 36.70A.210, regional transportation planning organization created pursuant to chapter 47.80 RCW, municipal corporation, special district, political subdivision or any other unit of local government from proceeding with the planning process pursuant to the requirements of the Growth Management Act, chapter 36.70A RCW or be construed to prevent compliance with the State Environmental Policy Act, chapter 43.21C RCW or with the National Environmental Policy Act, 42 U.S.C. Secs. 4321 through 4370b.

The final report of the air transportation commission to the legislative transportation committee is due by December 1, 1994, with an interim report to that committee by December 1, 1992.

**NEW SECTION.** Sec. 2. A new section is added to chapter 53.08 RCW to read as follows:

No city, county, or county-wide port district in a county in the western part of Washington state as divided by the summit of the Cascade mountain range, with a population of one hundred fifty thousand or more on January 1, 1992, and contiguous to a county with a population of four hundred thousand or more may construct a runway of one thousand feet or more, or cause a runway to be extended, or permit an air carrier to initiate new service at any airport not presently receiving commercial service that is affected by this section, before the air transportation commission has submitted its final report to the legislative transportation committee, which shall occur no later than December 1, 1994.

**Sec. 3.** RCW 47.86.030 and 1991 c 231 s 7 are each amended to read as follows:

The commission shall conduct studies to determine Washington's long-range air transportation policy, including an assessment of intermodal needs, and to assess the impacts of increasing air traffic upon surrounding communities,

including an evaluation of noise mitigation and surface transportation impacts at existing facilities, and the potential impact at new or expanded facilities.

The studies shall include, but are not limited to the following:

(1) The feasibility of acquiring the Stampede Pass rail line for use as a utility corridor, intermodal high speed transportation corridor or other transportation uses. The study shall include an examination of the ownership of the Stampede Pass rail line right of way and evaluate the advantages and disadvantages of preserving the Stampede Pass rail line corridor. It shall include interested public and private agencies when conducting the study. The commission shall encourage local communities and the private sector to financially participate in the study. The commission shall make a presentation of the feasibility findings to the legislative transportation committee on or before December 1, 1990.

(2) Recommendations to the legislature on future Washington state air transportation policy, including the expansion of existing and potential air carrier and reliever facilities and the siting of such new facilities, specifically taking into consideration intermodal needs. The commission shall consider the development of wayports in eastern Washington, taking into account similar developments in Japan and Germany, in order to reduce congestion resulting from rapid growth in the Puget Sound region. The commission shall coordinate its study of airport siting policy issues with the efforts of the high-speed ground transportation steering committee.

The commission shall submit findings and recommendations to the legislative transportation committee by December 1, 1994, with ~~((an interim))~~ completed reports to be presented to the legislative transportation committee ((by December 1, 1992)) on the dates as provided in subsection (3) of this section.

(3) A report on the following work program projects by December 1, 1992:

(a) Evaluation of the importance of air transportation in the economic and social vitality of the state including costs and effects of delay of air capacity expansion;

(b) Air transportation demand, aviation industry trends, and air capacity in Washington through 2020;

(c) A review of the final draft of the Puget Sound air transportation committee's flight plan assessments of air capacity and demand.

(4) A transportation systems planning evaluation of air transportation planning options in Washington by July 1, 1993.

(5) The work program project reports as provided in subsection (3) of this section and the policy recommendations of the commission shall be transmitted to regional transportation planning organizations created pursuant to chapter 47.80 RCW. Each regional transportation planning organization shall consider the commission's project reports and policy recommendations when adopting its regional transportation plan and in its review of local comprehensive plans for consistency with the regional transportation plans.

(6) A review of the environmental, social, and economic costs associated with Washington state's air transportation system. The commission shall review and comment upon the effectiveness and reasonableness of current or planned practices to mitigate the adverse environmental effects of operating, developing, or expanding the state's air transportation system.

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

Passed the House March 10, 1992.

Passed the Senate March 10, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

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## CHAPTER 191

[Engrossed Substitute House Bill 1495]

### CONSUMER PROTECTION IN SALE OF LAND

Effective Date: 6/11/92

AN ACT Relating to the protection of consumers in the sale of lands; amending RCW 58.19.010, 58.19.020, 58.19.030, 58.19.120, 58.19.180, 58.19.190, 58.19.270, 58.19.300, and 58.19.940; adding new sections to chapter 58.19 RCW; and repealing RCW 58.19.040, 58.19.050, 58.19.060, 58.19.070, 58.19.080, 58.19.090, 58.19.100, 58.19.110, 58.19.150, 58.19.160, 58.19.170, 58.19.200, 58.19.210, 58.19.220, 58.19.230, 58.19.240, 58.19.250, 58.19.260, 58.19.290, 58.19.900, 58.19.910, and 58.19.930.

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

Sec. 1. RCW 58.19.010 and 1973 1st ex.s. c 12 s 1 are each amended to read as follows:

The legislature finds and declares that the sale and offering for sale of land or of interests in associations which provide for the use or occupancy of land touches and affects a great number of the citizens of this state and that full and complete disclosure to prospective purchasers of pertinent information concerning land developments, including any encumbrances or liens (~~which might attach~~) attached to the land and the physical characteristics of the development (~~as well as the surrounding land~~) is essential. The legislature further finds and declares that (~~a program of state registration and of publication and~~) delivery to prospective purchasers of a complete and accurate public offering statement is necessary in order to adequately protect both the economic and physical welfare of the citizens of this state. It is the purpose of this chapter to provide for ~~((a))~~ the reasonable (~~program of state registration and~~) regulation of the sale and offering for sale of any interest in significant land developments within or without the state of Washington, so that the prospective purchasers of such interests might be provided with full, complete, and accurate information of all pertinent circumstances affecting their purchase.

**Sec. 2.** RCW 58.19.020 and 1979 c 158 s 208 are each amended to read as follows:

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

(1) "Affiliate of a developer" means any person who controls, is controlled by, or is under common control with a developer.

(a) A person controls a developer if the person: (i) Is a general partner, officer, director, or employer of the developer; (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than twenty percent of the voting interest in the developer; (iii) controls in any manner the election of a majority of the directors of the developer; or (iv) has contributed more than twenty percent of the capital of the developer.

(b) A person is controlled by a developer if the developer: (i) Is a general partner, officer, director, or employer of the person; (ii) directly or indirectly or acting in concert with one of more other persons, or through one or more subsidiaries, owns, controls, holds with the power to vote, or holds proxies representing, more than twenty percent of the voting interest in the person; (iii) controls in any manner the election of a majority of the directors of the person; or (iv) has contributed more than twenty percent of the capital of the person. Control does not exist if the powers described in this subsection are held solely as security for an obligation and are not exercised.

(2) "Blanket encumbrance" shall mean a trust deed, mortgage, mechanic's lien, or any other lien or encumbrance, securing or evidencing the payment of money and affecting the land to be developed or affecting more than one lot or parcel of developed land, or an agreement affecting more than one such lot or parcel by which the developer holds said development under option, contract, sale, or trust agreement. The term shall not include taxes and assessments levied by a public authority.

~~((2) "Director" means the director of licensing or his authorized designee.))~~

(3) "Common promotional plan" means an offering of related developed lands in a common promotional plan of disposition. Elements relevant to whether the related developed lands are being offered as part of a common promotional plan include but are not limited to: Whether purchasers of interests in the offered land will share in the use of common amenities, or other rights or privileges; whether the offered lands are known, designated, or advertised as a common unit or by a common name; whether a common broker or sales personnel, common sales office or facilities, or common promotional methods are utilized; and whether cross-referrals of prospective purchasers between sales operations is utilized.

(4) "Developer" means any owner of a development who offers it for disposition, or the principal agent of an inactive owner.

~~((4))~~ (5) "Development" or "developed lands" means land which is divided or is proposed to be divided for the purpose of disposition into ~~((ten))~~ twenty-six

or more lots, parcels, or units (excluding interests in camping (~~clubs~~) resorts regulated under chapter 19.105 RCW and interests in condominiums regulated under chapter 64.34 RCW) (~~and~~) or any other land whether contiguous or not, if (~~ten~~) twenty-six or more lots, parcels, units, or interests are offered as a part of a common promotional plan of advertising and sale.

~~((5))~~ (6) "Disposition" includes any sale, lease, assignment, or exchange of any interest in any real property which is a part of or included within a development, and also includes the offering of property as a prize or gift when a monetary charge or consideration for whatever purpose is required in conjunction therewith, and any other transaction concerning a development if undertaken for gain or profit.

~~((6))~~ "Offer" ~~includes every inducement, solicitation, or media advertisement which has as a principal aim to encourage a person to acquire an interest in land.~~

(7) (~~"Hazard" means all existing or proposed unusual conditions relating to the location of the development, noise, safety, or other nuisance which affect or might affect the development~~) "Foreclosure" means a forfeiture or judicial or nonjudicial foreclosure of a mortgage, deed of trust, or real estate contract, or a deed in lieu thereof.

(8) "Improvements" include all existing, advertised, and governmentally required facilities such as streets, water, electricity, natural gas, telephone lines, drainage control systems, and sewage disposal systems.

(9) "Offer" includes every inducement, solicitation, or media advertisement which has as a principal aim to encourage a person to acquire an interest in land.

(10) "Owners association" means any profit or nonprofit corporation, unincorporated association, or other organization or legal entity, a membership or other interest in which is appurtenant to or based upon owing an interest in a development.

(11) "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, unincorporated association, two or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity.

~~((9))~~ (12) "Physical hazard" means a physical condition which poses, or may very likely pose, a material risk of either: Material damage to the development and improvements thereon; or material endangerment to the safety and health of persons using the development and improvements thereon.

(13) "Purchaser" means a person who acquires or attempts to acquire or succeeds to any interest in land.

~~((10))~~ (14) "Related developed lands" means two or more developments which are owned by the same developer or an affiliate or affiliates of that developer and which are physically located within the same five-mile radius area.

(15) "Residential buildings" shall mean premises that are actually intended or used (~~as permanent residences of~~) primarily for residential or recreational

purposes by the purchasers ((and that are not devoted exclusively to any other purpose)).

*\*Sec. 3. RCW 58.19.030 and 1979 c 158 s 209 are each amended to read as follows:*

~~((1) Unless the method of disposition is adopted for the purpose of evasion of this chapter,)) The provisions of this chapter shall not apply to ((land and offers or dispositions)):~~

~~((a) By)) (1) An offer or disposition of any interest in a development to a purchaser of developed lands for his or her own account in a single or isolated transaction, except that this exemption shall not apply to offers or dispositions by a developer who at any time owns twenty-six or more lots, parcels, or interests in the development and who at the time of the offer or disposition still owns more than nine lots, parcels, or interests in the development;~~

~~((b) If fewer than ten separate lots, parcels, units, or interests in developed lands are offered by a person in a period of twelve months;~~

~~((c)) (2) A development if each lot offered in the development is one one-hundred-twenty-eighth of a section of land or larger, or five acres or ((more)) larger if the land is not capable of description as a fraction of a section of land. For purposes of computing the size of a lot under this subsection that borders on a street or road the lot size shall be expanded to include that area which would be bounded by the center line of the road or street and the side lot lines of the lot running perpendicular to such center line;~~

~~((d)) (3) Any lot, parcel, unit, or interest on which there is a residential, commercial, or industrial building, or as to which there is a legal obligation on the part of the seller to construct such a building within two years from date of disposition;~~

~~((e) To)) (4) Any person who acquires ((such)) lots, parcels, units, or interests ((therein)) in a development for the purpose of engaging in the business of constructing residential, commercial, or industrial buildings or for the purpose of resale or lease or other disposition of such lots to persons engaged in such business or businesses;~~

~~((f) Any lot, parcel, unit or interest if the development is located within an area incorporated prior to January 1, 1974;~~

~~((g)) (5) A development or part of a development if it became an incorporated city or a part of an incorporated city prior to January 1, 1974;~~

~~(6) Offers or dispositions pursuant to court order; ((or~~

~~((h)) (7) Offers or dispositions as cemetery lots or interests((r));~~

~~((2) Unless the method of disposition is adopted for the purpose of evasion of this chapter, the provisions of this chapter shall not apply to~~

~~((a)) (8) Offers or dispositions of evidence of indebtedness secured by a mortgage or deed of trust of real estate;~~

- ~~((b))~~ (9) Offers or dispositions of securities or units of interest issued by a real estate investment trust regulated under any state or federal statute;
- ~~((c)) A development as to which the director has waived the provisions of this chapter as provided in RCW 58.19.040;~~
- ~~(d))~~ (10) Offers or dispositions of securities currently registered with the ((business and professions administration in the)) department of licensing;
- ~~((e))~~ (11) Offers or dispositions of any interest in oil, gas, or other minerals or any royalty interest therein if the offers or dispositions of such interests are regulated as securities by the United States or by ((the business and professions administration in)) the department of licensing;
- (12) Offers or dispositions of any interest in a condominium created under chapter 64.32 or 64.34 RCW;
- (13) Offers or dispositions by a government or governmental agency;
- (14) Offers or dispositions by foreclosure, except that this exemption shall not apply to offers or dispositions occurring after foreclosure by a person who acquired title to an interest to a development as a result of foreclosure;
- (15) Offers that may be cancelled at any time and for any reason by the purchaser without penalty; or
- (16) Any property located within a county or city that has adopted a comprehensive land use plan and development regulation under chapter 36.70A RCW.

\*Sec. 3 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 4. A new section is added to chapter 58.19 RCW to read as follows:

(1) A developer shall prepare a public offering statement conforming to the requirements of section 5 of this act unless the development or the transaction is exempt under RCW 58.19.030.

(2) Any agent, attorney, or other person assisting the developer in preparing the public offering statement may rely upon information provided by the developer without independent investigation. The agent, attorney, or other person shall not be liable for any material misrepresentation in or omissions of material facts from the public offering statement unless the person had actual knowledge of the misrepresentation or omission at the time the public offering statement was prepared. The developer shall be liable for any misrepresentation contained in the public offering statement or for any omission of material fact therefrom if the developer had actual knowledge of the misrepresentation or omission or, in the exercise of reasonable care, should have known of the misrepresentation or omission.

(3) Unless the development or the transaction is exempt under RCW 58.19.030, a developer shall provide a purchaser of a lot, parcel, unit, or interest with a copy of the public offering statement and all material amendments thereto before conveyance of that lot, parcel, unit, or interest. Unless a purchaser is given the public offering statement more than two days before execution of a

contract for the purchase of a lot, parcel, unit, or interest, the purchaser, before conveyance, shall have the right to cancel the contract within two days after first receiving the public offering statement and, if necessary to have two days to review the public offering statement and cancel the contract, to extend the closing date for conveyance to a date not more than two days after first receiving the public offering statement. The purchaser shall have no right to cancel the contract upon receipt of an amendment unless the purchaser would have that right under generally applicable legal principles. The two-day period shall not include Saturdays, Sundays, or legal holidays.

(4) If a purchaser elects to cancel a contract pursuant to subsection (3) of this section, the purchaser may do so by hand-delivering notice thereof to the developer or by mailing notice thereof by prepaid United States mail to the developer for service of process. If cancellation is by mailing notice, the date of the postmark on the mail shall be the official date of cancellation. Cancellation is without penalty, and all payments made by the purchaser before cancellation shall be refunded within thirty days from the date of cancellation.

(5) If a person required to deliver a public offering statement pursuant to subsection (1) of this section fails to provide a purchaser to whom a lot, parcel, unit, or interest is conveyed with that public offering statement and all material amendments thereto as required by subsection (3) of this section, the purchaser is entitled to receive from that person an amount equal to the actual damages suffered by the purchaser as a result of the public offering statement not being delivered. There shall be no liability for failure to deliver any amendment unless such failure would have entitled the purchaser under generally applicable legal principles to cancel the contract for the purchase of the lot, parcel, unit, or interest had the undisclosed information been evident to the purchaser before the closing of the purchase.

(6) A purchaser may not rely on any representation or express warranty unless it is contained in the public offering statement or made in writing signed by the developer or developer's agent identified in the public offering statement.

**NEW SECTION.** Sec. 5. A new section is added to chapter 58.19 RCW to read as follows:

- (1) A public offering statement shall contain the following information:
  - (a) The name, and the address or approximate location, of the development;
  - (b) The name and address of the developer;
  - (c) The name and address of the management company, if any, for the development;
  - (d) The relationship of the management company to the developer, if any;
  - (e) The nature of the interest being offered for sale;
  - (f) A brief description of the permitted uses and use restrictions pertaining to the development and the purchaser's interest therein;

(g) The number of existing lots, parcels, units, or interests in the development and either the maximum number that may be added to the development or the fact that such maximum number has not yet been determined;

(h) A list of the principal common amenities in the development which materially affect the value of the development and those that will or may be added to the development;

(i) The identification of any real property not in the development, the owner of which has access to any of the development, and a description of the terms of such access;

(j) The identification of any real property not in the development to which owners in the development have access and a description of the terms of such access;

(k) The status of construction of improvements in the development, including either the estimated dates of completion if not completed or the fact that such estimated completion dates have not yet been determined; and the estimated costs, if any, to be paid by the purchaser;

(l) The estimated current owners' association expense, if any, for which a purchaser would be liable;

(m) An estimate of any payment with respect to any owners' association expense for which the purchaser would be liable at closing;

(n) The estimated current amount and purpose of any fees not included in any owners' association assessments and charged by the developer or any owners' association for the use of any of the development or improvements thereto;

(o) Any assessments which have been agreed to or are known to the developer and which, if not paid, may constitute a lien against any portion of the development in favor of any governmental agency;

(p) The identification of any parts of the development which any purchaser will have the responsibility for maintaining;

(q) A brief description of any blanket encumbrance which is subject to the provisions of RCW 58.19.180;

(r) A list of any physical hazards known to the developer which particularly affect the development or the immediate vicinity in which the development is located and which are not readily ascertainable by the purchaser;

(s) A brief description of any construction warranties to be provided to the purchaser;

(t) Any building code violation citations received by the developer in connection with the development which have not been corrected;

(u) A statement of any unsatisfied judgments or pending suits against any owners' association involved in the development and a statement of the status of any pending suits material to the development of which the developer has actual knowledge;

(v) A notice which describes a purchaser's right to cancel the purchase agreement or extend the closing under section 4(3) of this act, including applicable time frames and procedures;

(w) A list of the documents which the prospective purchaser is entitled to receive from the developer before the rescission period commences;

(x) A notice which states:

"A purchaser may not rely on any representation or express warranty unless it is contained in the public offering statement or made in writing signed by the developer or by any person identified in the public offering statement as the declarant's agent";

(y) A notice which states:

"This public offering statement is only a summary of some of the significant aspects of purchasing an interest in this development and any documents which may govern or affect the development may be complex, may contain other important information, and create binding legal obligations. You should consider seeking assistance of legal counsel"; and

(z) Any other information and cross-references which the developer believes will be helpful in describing the development to the recipients of the public offering statement, all of which may be included or not included at the option of the developer.

(2) The public offering statement shall include copies of each of the following documents: Any declaration of covenants, conditions, restrictions, and reservations affecting the development; any survey, plat, or subdivision map; the articles of incorporation of any owners' association; the bylaws of any owners' association; the rules and regulations, if any, of any owners' association; current or proposed budget for any owners' association; and the balance sheet of any owners' association current within ninety days if assessments have been collected for ninety days or more.

If any of the foregoing documents listed in this subsection are not available because they have not yet been executed, adopted, or recorded, drafts of such documents shall be provided with the public offering statement, and, before closing the sale of an interest in the development, the purchaser shall be given copies of any material changes between the draft of the proposed documents and the final documents.

(3) The disclosures required by subsection (1)(v), (x), and (y) of this section shall be located at the top of the first page of the public offering statement and be typed or printed in ten-point bold face type size.

**Sec. 6.** RCW 58.19.120 and 1973 1st ex.s. c 12 s 12 are each amended to read as follows:

The developer shall immediately (~~report to the director~~) amend the public offering statement to include any material changes (~~in the information contained in his application for registration~~) affecting the development. No change in the

substance of the promotional plan or plan of disposition or completion of the development may be made ~~((after registration without notifying the director and))~~ without first making an appropriate amendment of the public offering statement. A public offering statement is not current unless it incorporates all amendments.

**Sec. 7.** RCW 58.19.180 and 1973 1st ex.s. c 12 s 18 are each amended to read as follows:

It shall be unlawful for the developer to make a sale of lots or parcels within a development which is subject to a blanket encumbrance which does not contain, within its terms or by supplementary agreement, a provision which shall unconditionally provide that the purchaser of a lot or parcel encumbered thereby can obtain the legal title, or other interest contracted for, free and clear of the lien of such blanket encumbrance upon compliance with the terms and conditions of the purchase agreement, unless the developer shall elect and comply with one of the following alternative conditions:

(1) The developer shall deposit earnest moneys and all subsequent payments on the obligation in ~~((an))~~ a neutral escrow depository ~~((acceptable to the director: In cases where the blanket encumbrance does not provide for partial release, all or such portions of the money paid or advanced by the purchaser on any such lot or parcel within said development as the director shall determine to be sufficient to protect the interest of the purchaser; or in cases where the blanket encumbrance provides for partial releases thereof which are not unconditional, the developer shall deposit, at such time as the balance due to the developer from such purchasers is equal to the sum necessary to procure a release of such lots or parcels contracted for from the lien of such blanket encumbrance, all of the sums thereafter received from such purchasers until either)), or real estate trust account regulated under RCW 18.85.310, until such time as all payments on the obligation have been made and clear title is delivered, or any of the following occurs:~~

- (a) A proper release is obtained from such blanket encumbrance;
  - (b) Either the developer or the purchaser defaults under the sales contract and there is a forfeiture of the interest of the purchaser or there is a determination as to the disposition of such moneys, as the case may be; or
  - (c) The developer orders a return of such moneys to such purchaser.
- (2) The title to the development is held in trust under an agreement of trust ~~((acceptable to the director))~~ until the proper release of such blanket encumbrance is obtained.

(3) ~~((A bond to the state of Washington or such other proof of financial responsibility is furnished to the director for the benefit and protection of purchasers of such lots or parcels in such an amount and subject to such terms, as may be approved by the director, which shall provide for the return of moneys paid or advanced by any purchaser on account of a sale of any such lot or parcel if a proper release from such blanket encumbrance is not obtained: PROVIDED, That if it should be determined that such purchaser, by reason of default, or~~

~~otherwise, is not entitled to the return of such moneys or any portion thereof, such bond or other proof of financial responsibility shall be exonerated to the extent and in the amount thereof. The amount of the bond or other proof of financial responsibility may be increased or decreased or a bond may be waived from time to time as the director shall determine))~~ The purchaser shall receive title insurance from a licensed title insurance company against such blanket encumbrance.

**Sec. 8.** RCW 58.19.190 and 1973 1st ex.s. c 12 s 19 are each amended to read as follows:

No person shall publish in this state any advertisement concerning a development subject to the ~~((registration))~~ requirements of this chapter ~~((after the director finds that the advertisement))~~ which contains any statements that are materially false, misleading, or deceptive ~~((and so notifies the person in writing. Such notification may be given summarily without notice or hearing. At any time after the issuance of a notification under this section the person desiring to use the advertisement may in writing request the order be rescinded. Upon receipt of such a written request, the matter shall be set down for hearing to commence within fourteen days after such receipt unless the person making the request consents to a later date. After such hearing, which shall be conducted in accordance with the provisions of the Administrative Procedure Act, chapter 34.04 RCW, the director shall determine whether to affirm and to continue or to rescind such order and shall have all powers granted under such act)).~~

**NEW SECTION. Sec. 9.** A new section is added to chapter 58.19 RCW to read as follows:

If a developer, or any other person subject to this chapter, fails to comply with any provision of this chapter, any person or class of persons adversely affected by the failure to comply may seek appropriate relief through an action for damages or an injunctive court order. The court, in an appropriate case, may award attorneys' fees.

**Sec. 10.** RCW 58.19.270 and 1973 1st ex.s. c 12 s 27 are each amended to read as follows:

(1) The commission by any person of an act or practice prohibited by this chapter is hereby declared to be a matter affecting the public interest for the purpose of applying chapter 19.86 RCW and is not reasonable in relation to the development and preservation of business. A violation of this chapter constitutes an unfair or deceptive act or practice or unfair method of competition in the conduct of trade or commerce for the purpose of the ~~((application of))~~ attorney general bringing an action in the name of the state under the consumer protection act, ((chapter 19.86 RCW, as now or hereafter amended)) pursuant to RCW 19.86.080.

(2) ~~((The director may refer such))~~ Evidence ~~((as may be available to him))~~ concerning violations of this chapter ~~((or of any rule or regulation adopted~~

~~hereunder~~) may be referred to the attorney general (~~or the prosecuting attorney of the county wherein the alleged violation arose~~), who may, in ~~(their)~~ his or her discretion, with or without such a reference, in addition to any other action ~~(they)~~; the attorney general might commence, bring an action in the name of the state against any person to restrain and prevent the doing of any act or practice prohibited by this chapter (~~PROVIDED, That~~). This chapter shall be considered in conjunction with chapters 9.04 and 19.86 RCW, (as now or hereafter amended,) and the powers and duties of the attorney general ~~(and the prosecuting attorney)~~ as ~~(they may)~~ such powers and duties appear in ~~(the aforementioned)~~ chapters ~~(:)~~ 9.04 and 19.86 RCW shall apply against all persons subject to this chapter.

(3) Only the attorney general can bring an action under the consumer protection act, chapter 19.86 RCW, pursuant to this section.

**Sec. 11.** RCW 58.19.300 and 1973 1st ex.s. c 12 s 30 are each amended to read as follows:

If, ~~(after)~~ before disposition of all or any portion of a development which is covered by this chapter, a condition constituting a physical hazard is discovered on or around the immediate vicinity of the development, the developer or government agency discovering such condition shall notify the ~~(director immediately. After receiving such notice, the director shall forthwith take all steps necessary to notify the owners)~~ purchasers of the affected lands either by transmitting notice through the appropriate county assessor's office or such other steps as might reasonably give actual notice to the ~~(owners)~~ purchasers.

**Sec. 12.** RCW 58.19.940 and 1973 1st ex.s. c 12 s 35 are each amended to read as follows:

This chapter may be cited as the Land Development Act ~~(of 1973)~~.

NEW SECTION. **Sec. 13.** The following acts or parts of acts are each repealed:

- (1) RCW 58.19.040 and 1973 1st ex.s. c 12 s 4;
- (2) RCW 58.19.050 and 1973 1st ex.s. c 12 s 5;
- (3) RCW 58.19.060 and 1973 1st ex.s. c 12 s 6;
- (4) RCW 58.19.070 and 1973 1st ex.s. c 12 s 7;
- (5) RCW 58.19.080 and 1973 1st ex.s. c 12 s 8;
- (6) RCW 58.19.090 and 1973 1st ex.s. c 12 s 9;
- (7) RCW 58.19.100 and 1973 1st ex.s. c 12 s 10;
- (8) RCW 58.19.110 and 1973 1st ex.s. c 12 s 11;
- (9) RCW 58.19.150 and 1973 1st ex.s. c 12 s 15;
- (10) RCW 58.19.160 and 1973 1st ex.s. c 12 s 16;
- (11) RCW 58.19.170 and 1973 1st ex.s. c 12 s 17;
- (12) RCW 58.19.200 and 1973 1st ex.s. c 12 s 20;
- (13) RCW 58.19.210 and 1973 1st ex.s. c 12 s 21;

- (14) RCW 58.19.220 and 1973 1st ex.s. c 12 s 22;
- (15) RCW 58.19.230 and 1973 1st ex.s. c 12 s 23;
- (16) RCW 58.19.240 and 1973 1st ex.s. c 12 s 24;
- (17) RCW 58.19.250 and 1973 1st ex.s. c 12 s 25;
- (18) RCW 58.19.260 and 1973 1st ex.s. c 12 s 26;
- (19) RCW 58.19.290 and 1973 1st ex.s. c 12 s 29;
- (20) RCW 58.19.900 and 1973 1st ex.s. c 12 s 31;
- (21) RCW 58.19.910 and 1973 1st ex.s. c 12 s 32; and
- (22) RCW 58.19.930 and 1973 1st ex.s. c 12 s 34.

**NEW SECTION. Sec. 14.** If any provision of this act or its application to any person or circumstances is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House March 9, 1992.

Passed the Senate March 3, 1992.

Approved by the Governor April 2, 1992, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 2, 1992.

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

"I am returning herewith, without my approval as to section 3, Engrossed Substitute House Bill No. 1495 entitled:

"AN ACT Relating to the protection of consumers in the sale of lands."

Section 3 of Engrossed Substitute House Bill No. 1495 provides conditions under which developers are exempt from complying with the consumer protections afforded under the land development act. Section 3(16) exempts from regulation certain developments in cities and counties with comprehensive land use plans and development regulations under the Growth Management Act. It is inappropriate to replace a consumer protection law with an environmental protection law. This provides an opportunity for unscrupulous developers to circumvent the entire chapter just because the property being sold is located in a county with a comprehensive plan. Additional unacceptable opportunities for circumventing the provisions of this chapter exist in section 3(15).

For these reasons, I have vetoed section 3 of Engrossed Substitute House Bill No. 1495.

With the exception of section 3, Engrossed Substitute House Bill No. 1495 is approved."

## CHAPTER 192

[Engrossed Substitute House Bill 2025]

## PUBLIC EMPLOYEE PAYROLL DEDUCTIONS

Effective Date: 6/11/92

AN ACT Relating to employee payroll deductions; amending RCW 41.04.230; and adding a new section to chapter 41.04 RCW.

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

**Sec. 1.** RCW 41.04.230 and 1988 c 107 s 19 are each amended to read as follows:

Any official of the state authorized to disburse funds in payment of salaries and wages of public officers or employees is authorized, upon written request of the officer or employee, to deduct from the salaries or wages of the officers or employees, the amount or amounts of subscription payments, premiums, contributions, or continuation thereof, for payment of the following:

(1) Credit union deductions: PROVIDED, ~~((That the credit union is organized solely for public employees: AND PROVIDED FURTHER,))~~ That twenty-five or more employees of a single state agency or a total of one hundred or more state employees of several agencies have authorized such a deduction for payment to the same credit union. An agency may, in its own discretion, establish a minimum participation requirement of fewer than twenty-five employees.

(2) Parking fee deductions: PROVIDED, That payment is made for parking facilities furnished by the agency or by the department of general administration.

(3) U.S. savings bond deductions: PROVIDED, That a person within the particular agency shall be appointed to act as trustee. The trustee will receive all contributions; purchase and deliver all bond certificates; and keep such records and furnish such bond or security as will render full accountability for all bond contributions.

(4) Board, lodging or uniform deductions when such board, lodging and uniforms are furnished by the state, or deductions for academic tuitions or fees or scholarship contributions payable to the employing institution.

(5) Dues and other fees deductions: PROVIDED, That the deduction is for payment of membership dues to any professional organization formed primarily for public employees or college and university professors: AND PROVIDED, FURTHER, That twenty-five or more employees of a single state agency, or a total of one hundred or more state employees of several agencies have authorized such a deduction for payment to the same professional organization.

(6) Labor or employee organization dues may be deducted in the event that a payroll deduction is not provided under a collective bargaining agreement under the provisions of RCW 41.06.150: PROVIDED, That twenty-five or more officers or employees of a single agency, or a total of one hundred or more officers or employees of several agencies have authorized such a deduction for payment to the same labor or employee organization: PROVIDED, FURTHER,

That labor or employee organizations with five hundred or more members in state government may have payroll deduction for employee benefit programs.

(7) Voluntary deductions for political committees duly registered with the public disclosure commission and/or the federal election commission: **PROVIDED**, That twenty-five or more officers or employees of a single agency or a total of one hundred or more officers or employees of several agencies have authorized such a deduction for payment to the same political committee.

(8) Insurance contributions to the authority for payment of premiums under contracts authorized by the state health care authority.

(9) Deductions to a bank, savings bank, or savings and loan association if (a) the bank, savings bank, or savings and loan association is authorized to do business in this state; and (b) twenty-five or more employees of a single agency, or fewer, if a lesser number is established by such agency, or a total of one hundred or more state employees of several agencies have authorized a deduction for payment to the same bank, savings bank, or savings and loan association.

Deductions from salaries and wages of public officers and employees other than those enumerated in this section or by other law, may be authorized by the director of financial management for purposes clearly related to state employment or goals and objectives of the agency and for plans authorized by the state health care authority.

The authority to make deductions from the salaries and wages of public officers and employees as provided for in this section shall be in addition to such other authority as may be provided by law: **PROVIDED**, That the state or any department, division, or separate agency of the state shall not be liable to any insurance carrier or contractor for the failure to make or transmit any such deduction.

**NEW SECTION. Sec. 2.** A new section is added to chapter 41.04 RCW to read as follows:

Any official of any local political subdivision of the state, municipal corporation, or quasi-municipal corporation authorized to disburse funds in payment of salaries and wages of employees is authorized upon written request of any employee, to deduct all or part of such employee's salary or wages for payment to any bank, savings bank, credit union, or savings and loan association if (1) the bank, savings bank, credit union, or savings and loan association is authorized to do business in this state; and (2) twenty-five or more employees of a single local political subdivision, or fewer, if a lesser number is established by such local political subdivision, authorize such a deduction for payment to the same bank, savings bank, credit union, or savings and loan association.

Passed the House March 12, 1992.

Passed the Senate March 12, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

## CHAPTER 193

[House Bill 2944]

## CONSUMER CREDIT TRANSACTIONS—REVISIONS

Effective Date: 4/2/92

AN ACT Relating to consumer credit transactions; amending RCW 63.14.135; reenacting and amending RCW 63.14.130; creating a new section; providing an expiration date; and declaring an emergency.

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

**Sec. 1.** RCW 63.14.130 and 1989 c 112 s 1 and 1989 c 14 s 5 are each reenacted and amended to read as follows:

The service charge shall be inclusive of all charges incident to investigating and making the retail installment contract or charge agreement and for the privilege of making the installment payments thereunder and no other fee, expense or charge whatsoever shall be taken, received, reserved or contracted therefor from the buyer.

(1) ~~((Except as provided in subsections (2) and (3) of this section,))~~ The service charge, in a retail installment contract, shall not exceed the ~~((highest of the following:~~

~~(a) A rate on outstanding unpaid balances which exceeds six percentage points above the average, rounded to the nearest one quarter of one percent, of the equivalent coupon issue yields (as published by the Board of Governors of the Federal Reserve System) of the bill rates for twenty six week treasury bills for the last market auctions conducted during February, May, August, and November of the year prior to the year in which the retail installment contract is executed; or~~

~~(b) Ten dollars.~~

~~(2) The service charge in a retail installment contract for the purchase of a motor vehicle shall not exceed the highest of the following:~~

~~(a) A rate on outstanding unpaid balances which exceeds six percentage points above the average, rounded to the nearest one quarter of one percent, of the equivalent coupon issue yield (as published by the Board of Governors of the Federal Reserve System) of the bill rate for twenty six week treasury bills for the last market auction conducted during February, May, August, or November, as the case may be, prior to the quarter in which the retail installment contract for purchase of the motor vehicle is executed; or~~

~~(b) Ten dollars.~~

~~As used in this subsection, "motor vehicle" means every device capable of being moved upon a public highway and in, upon, or by which any person or property is or may be transported or drawn upon a public highway, except for devices moved by human or animal power or used exclusively upon stationary rails or tracks.~~

~~(3) The service charge in a retail installment contract for the purchase of a vessel shall not exceed the highest of the following:~~

~~(a) A rate on outstanding balances which exceeds six percentage points above the average, rounded to the nearest one quarter of one percent, of the equivalent coupon issue yield, as published by the federal reserve bank of San Francisco, of the bill rate for twenty six week treasury bills for the last market auction conducted prior to the quarter in which the retail installment contract for purchase of the vessel is expected; or~~

~~(b) Ten dollars.~~

~~As used in this subsection, "vessel" means any watercraft used or capable of being used as a means of transportation on the water, other than a seaplane))~~  
dollar amount or rate agreed to by contract and disclosed under RCW 63.14.040-  
 (1)(7)(g).

~~((4))~~ (2) The service charge in a retail charge agreement, revolving charge agreement, lender credit card agreement, or charge agreement, shall not exceed ~~((one and one half percent per month on the outstanding unpaid balances))~~ the schedule or rate agreed to by contract and disclosed under RCW 63.14.120(1). If the service charge so computed is less than one dollar for any month, then one dollar may be charged.

~~((5) A service charge may be computed on the median amount within a range which does not exceed ten dollars and which is a part of a published schedule of consecutive ranges applied to an outstanding balance, provided the median amount is used in computing the service charge for all balances within such range.))~~

**Sec. 2.** RCW 63.14.135 and 1989 c 112 s 2 are each amended to read as follows:

(1) On or before December 5th of each year the state treasurer shall compute the maximum service charge allowed under a retail installment contract or charge agreement under RCW 63.14.130(1)(a) for the succeeding calendar year. The treasurer shall file this charge with the state code reviser for publication in the first issue of the Washington State Register for the succeeding calendar year in compliance with RCW 34.08.020.

(2) On or before the first Wednesday of the last month of each calendar quarter the state treasurer shall compute the maximum service charge allowed for a retail installment contract for the purchase of a motor vehicle or vessel pursuant to RCW 63.14.130(2)(a) and (3)(a) respectively for the succeeding calendar quarter. The treasurer shall file this charge with the state code reviser for publication in the first issue of the Washington State Register for the succeeding calendar quarter in compliance with RCW 34.08.020.

(3) This section shall not apply from the effective date of this act until June 30, 1995.

**\*NEW SECTION. Sec. 3.** (1) *The joint select committee on consumer credit is created. Membership of the committee shall consist of four members from the senate, two from each caucus, appointed by the president of the senate, and four members from the house of representatives, two from each caucus, appointed by the speaker of the house of representatives.*

(2) *The committee shall review state and federal statutes governing consumer credit transactions and shall prepare a report:*

(a) *Summarizing federal and state statutes governing consumer credit transactions;*

(b) *Identifying any state statutes preempted or superseded by federal law or judicial interpretation;*

(c) *Identifying any duplication or inconsistency among federal and state laws;*

(d) *Discussing the beneficial and detrimental effects of state interest rate regulation and deregulation upon the state consumer credit market; and*

(e) *Containing legislation that to the greatest extent possible adopts a single, comprehensive statutory title regulating consumer credit transactions including any regulation of interest rates, services charges, and other fees on consumer credit.*

(3) *The committee shall review the professional and academic literature addressing the impact of interest rate regulation on retail credit markets. The committee also shall consult with representatives of labor, consumer, retail, financial, and legal organizations possessing a working knowledge of consumer credit transactions.*

(4) *The committee shall submit its report to the legislature by December 1, 1994.*

\*Sec. 3 was vetoed, see message at end of chapter.

**NEW SECTION. Sec. 4.** Section 1 of this act shall expire June 30, 1995.

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

Passed the House March 9, 1992.

Passed the Senate March 6, 1992.

Approved by the Governor April 2, 1992, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 2, 1992.

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

"I am returning herewith, without my approval as to section 3, House Bill No. 2944 entitled:

"AN ACT Relating to consumer credit transactions."

Section 3 of House Bill No. 2944 establishes a legislative joint select committee to study and make recommendations on the issue of consumer credit. I wholeheartedly

concur with the need for such a study. However, the creation of such a committee does not require legislation. Rule 25 of the Joint Rules of the Senate and House of Representatives provides that such committee be created via concurrent resolution. Rule 24 gives broad discretionary authority to standing committees to undertake such studies.

For this reason, I have vetoed section 3 of House Bill No. 2944.

With the exception of section 3, House Bill No. 2944 is approved."

**CHAPTER 194**

[Engrossed Substitute House Bill 2964]

**RENTAL CAR TAXATION**

**Effective Date:** 1/1/93 - Except Sections 1 through 3 which take effect on 6/1/92.

AN ACT Relating to excise taxation of vehicles used for short-term rental; amending RCW 82.08.020, 81.100.060, and 81.104.160; reenacting and amending RCW 35.58.273; adding new sections to chapter 46.04 RCW; adding new sections to chapter 82.08 RCW; adding a new section to chapter 82.14 RCW; adding a new section to chapter 46.16 RCW; adding a new section to chapter 46.87 RCW; adding a new section to chapter 82.44 RCW; creating a new section; prescribing penalties; providing effective dates; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 46.04 RCW to read as follows:

(1) "Rental car" means a passenger car, as defined in RCW 46.04.382, that is used solely by a rental car business for rental to others, without a driver provided by the rental car business, for periods of not more than thirty consecutive days.

(2) "Rental car" does not include:

(a) Vehicles rented or loaned to customers by automotive repair businesses while the customer's vehicle is under repair;

(b) Vehicles licensed and operated as taxicabs.

**NEW SECTION.** Sec. 2. A new section is added to chapter 82.08 RCW to read as follows:

For purposes of this chapter, "retail car rental" means renting a rental car, as defined in section 1 of this act, to a consumer.

**NEW SECTION.** Sec. 3. A new section is added to chapter 82.14 RCW to read as follows:

The legislative authority of any county may impose a sales and use tax, in addition to the tax authorized by RCW 82.14.030, upon retail car rentals within the county that are taxable by the state under chapters 82.08 and 82.12 RCW. The rate of tax shall be one percent of the selling price in the case of a sales tax or rental value of the vehicle in the case of a use tax. Proceeds of the tax shall not be used to subsidize any professional sports team and shall be used solely for the following purposes:

(1) Acquiring, constructing, maintaining, or operating public sports stadium facilities;

- (2) Engineering, planning, financial, legal, or professional services incidental to public sports stadium facilities; or
- (3) Youth or amateur sport activities or facilities.

**NEW SECTION.** Sec. 4. The legislature intends to exempt rental cars from state and local motor vehicle excise taxes, and to impose additional sales and use taxes in lieu thereof. These additional sales and use taxes are intended to provide as much revenue to the funds currently receiving motor vehicle excise tax revenue, including the transportation funds and the general fund, as each fund would have received if the motor vehicle excise tax exemptions had not been enacted. Revenues from these additional sales and use taxes are intended to be distributed in the same manner as the motor vehicle excise tax revenues they replace.

**NEW SECTION.** Sec. 5. A new section is added to chapter 46.04 RCW to read as follows:

"Rental car business" means a person engaging within this state in the business of renting rental cars, as determined under rules of the department of licensing.

**NEW SECTION.** Sec. 6. A new section is added to chapter 46.16 RCW to read as follows:

Rental cars shall be registered and licensed as provided in chapter 46.87 RCW.

**NEW SECTION.** Sec. 7. A new section is added to chapter 46.87 RCW to read as follows:

(1) Rental car businesses must register with the department of licensing. This registration must be renewed annually by the rental car business.

(2) Rental car businesses must obtain a certificate of ownership and indicate that the vehicle is a rental car. Registration must be obtained for all rental cars and shall be valid for the period in which the rental car is part of an authorized business up to a maximum of twelve months.

(3) In addition to all other fees prescribed for the registration of vehicles under chapter 46.16 RCW, the department shall collect a fee of five dollars per registration for the administration of the program and a vehicle transaction fee as authorized in RCW 46.87.130 to be deposited to the motor vehicle fund.

(4) Use of rental cars is restricted to the rental customer unless otherwise provided by rule.

(5) The department will issue rental car license plates to businesses authorized under this section. A rental car business shall pay a fee of ten dollars for each set of rental car license plates as defined in RCW 46.87.090. Rental cars no longer eligible for use of the rental plates will be considered unlicensed vehicles and must be registered and pay the required motor vehicle excise taxes and registration fees prior to operation on public roads of this state.

(6) The department may authorize rental car businesses to issue temporary authorization permits as defined in RCW 46.87.080.

(7) The department may suspend or cancel the exemptions, benefits, or privileges granted under this section to any person or business firm who violates the laws of this state relating to the operation or registration of vehicles or rules lawfully adopted thereunder. The department may initiate and conduct audits, investigations, and enforcement actions as may be reasonably necessary for administering this section.

(8) Except as provided in this section or by rule adopted pursuant to this section, the transfer or use of the rental plates is a traffic infraction subject to a fine not to exceed five hundred dollars. Any law enforcement agency that determines that a special license plate has not been used in conformance with this section will confiscate the license plates and return them to the department for nullification along with full details of the reasons for confiscation.

(9) The department shall adopt such rules as may be necessary to administer and enforce the provisions of this section.

NEW SECTION. Sec. 8. A new section is added to chapter 82.44 RCW to read as follows:

Rental cars as defined in section 1 of this act are exempt from the taxes imposed in RCW 82.44.020 (1) and (2).

Sec. 9. RCW 82.08.020 and 1985 c 32 s 1 are each amended to read as follows:

(1) There is levied and there shall be collected a tax on each retail sale in this state equal to six and five-tenths percent of the selling price.

(2) There is levied and there shall be collected an additional tax on each retail car rental, regardless of whether the vehicle is licensed in this state, equal to five and nine-tenths percent of the selling price. Ninety-one percent of the revenue collected under this subsection shall be deposited and distributed in the same manner as motor vehicle excise tax revenue collected under RCW 82.44.020(1). Nine percent of the revenue collected under this subsection shall be deposited in the transportation fund and distributed in the same manner as motor vehicle excise tax revenue collected under RCW 82.44.020(2).

~~(3)~~ The ~~((tax))~~ taxes imposed under this chapter shall apply to successive retail sales of the same property.

~~((3))~~ (4) The rates provided in this section ~~((applies))~~ apply to taxes imposed under chapter 82.12 RCW as provided in RCW 82.12.020.

NEW SECTION. Sec. 10. A new section is added to chapter 82.08 RCW to read as follows:

Before January 1, 1994, and January 1 of each odd-numbered year thereafter:

The department of licensing, with the assistance of the department of revenue, shall provide the office of financial management and the fiscal committees of the legislature with an updated estimate of the amount of revenue

attributable to the taxes imposed in RCW 82.08.020(2), and the amount of revenue not collected as a result of section 8 of this act.

**Sec. 11.** RCW 35.58.273 and 1991 c 339 s 29 and 1991 c 309 s 1 are each reenacted and amended to read as follows:

(1) Through June 30, 1992, any municipality, as defined in this subsection, is authorized to levy and collect a special excise tax not exceeding .7824 percent and beginning July 1, 1992, .725 percent on the value, as determined under chapter 82.44 RCW, of every motor vehicle owned by a resident of such municipality for the privilege of using such motor vehicle provided that in no event shall the tax be less than one dollar and, subject to RCW 82.44.150 (3) and (4), the amount of such tax shall be credited against the amount of the excise tax levied by the state under RCW 82.44.020(1). As used in this subsection, the term "municipality" means a municipality that is located within (a) each county with a population of two hundred ten thousand or more and (b) each county with a population of from one hundred twenty-five thousand to less than two hundred ten thousand except for those counties that do not border a county with a population as described under subsection (a) of this subsection.

(2) Through June 30, 1992, any other municipality is authorized to levy and collect a special excise tax not exceeding .815 percent, and beginning July 1, 1992, .725 percent on the value, as determined under chapter 82.44 RCW, of every motor vehicle owned by a resident of such municipality for the privilege of using such motor vehicle provided that in no event shall the tax be less than one dollar and, subject to RCW 82.44.150 (3) and (4), the amount of such tax shall be credited against the amount of the excise tax levied by the state under RCW 82.44.020(1). Before utilization of any excise tax moneys collected under authorization of this section for acquisition of right of way or construction of a mass transit facility on a separate right of way the municipality shall adopt rules affording the public an opportunity for "corridor public hearings" and "design public hearings" as herein defined, which rule shall provide in detail the procedures necessary for public participation in the following instances: (a) prior to adoption of location and design plans having a substantial social, economic or environmental effect upon the locality upon which they are to be constructed or (b) on such mass rapid transit systems operating on a separate right of way whenever a substantial change is proposed relating to location or design in the adopted plan. In adopting rules the municipality shall adhere to the provisions of the Administrative Procedure Act.

(3) A "corridor public hearing" is a public hearing that: (a) is held before the municipality is committed to a specific mass transit route proposal, and before a route location is established; (b) is held to afford an opportunity for participation by those interested in the determination of the need for, and the location of, the mass rapid transit system; (c) provides a public forum that affords a full opportunity for presenting views on the mass rapid transit system route location, and the social, economic and environmental effects on that

location and alternate locations: PROVIDED, That such hearing shall not be deemed to be necessary before adoption of an overall mass rapid transit system plan by a vote of the electorate of the municipality.

(4) A "design public hearing" is a public hearing that: (a) is held after the location is established but before the design is adopted; and (b) is held to afford an opportunity for participation by those interested in the determination of major design features of the mass rapid transit system; and (c) provides a public forum to afford a full opportunity for presenting views on the mass rapid transit system design, and the social, economic, environmental effects of that design and alternate designs.

(5) A municipality imposing a tax under subsection (1) or (2) of this section may also impose a sales and use tax, in addition to the tax authorized by RCW 82.14.030, upon retail car rentals within the municipality that are taxable by the state under chapters 82.08 and 82.12 RCW. The rate of tax shall bear the same ratio to the rate imposed under RCW 82.08.020(2) as the excise tax rate imposed under subsection (1) of this section bears to the excise tax rate imposed under RCW 82.44.020 (1) and (2). The base of the tax shall be the selling price in the case of a sales tax or the rental value of the vehicle used in the case of a use tax. The tax imposed under this section shall be deducted from the amount of tax otherwise due under RCW 82.08.020(2). The revenue collected under this subsection shall be distributed in the same manner as special excise taxes under subsections (1) and (2) of this section.

Sec. 12. RCW 81.100.060 and 1991 c 363 s 154 are each amended to read as follows:

A county with a population of one million or more and a county with a population of from two hundred ten thousand to less than one million that is adjoining a county with a population of one million or more, having within their boundaries existing or planned high occupancy vehicle lanes on the state highway system may, with voter approval, impose a local surcharge of not more than fifteen percent on the state motor vehicle excise tax paid under RCW 82.44.020(1) on vehicles registered to a person residing within the county and on the state sales and use taxes paid under the rate in RCW 82.08.020(2) on retail car rentals within the county. No surcharge may be imposed on vehicles licensed under RCW 46.16.070 except vehicles with an unladen weight of six thousand pounds or less, RCW 46.16.079, 46.16.080, 46.16.085, or 46.16.090.

Counties imposing a tax under this section shall contract, before the effective date of the resolution or ordinance imposing a surcharge, administration and collection to the state department of licensing, and department of revenue, as appropriate, which shall deduct an amount, as provided by contract, for administration and collection expenses incurred by the department. All administrative provisions in chapters 82.03, 82.32, and 82.44 RCW shall, insofar as they are applicable to state motor vehicle excise taxes, be applicable to surcharges imposed under this section. All administrative provisions in chapters

82.03, 82.08, 82.12, and 82.32 RCW shall, insofar as they are applicable to state sales and use taxes, be applicable to surcharges imposed under this section.

If the tax authorized in RCW 81.100.030 is also imposed by the county, the total proceeds from ~~((both))~~ tax sources imposed under this section and RCW 81.100.030 each year shall not exceed the maximum amount which could be collected under this section.

**Sec. 13.** RCW 81.104.160 and 1991 c 318 s 12 are each amended to read as follows:

(1) Any city that operates a transit system, county transportation authority, metropolitan municipal corporation, or public transportation benefit area, solely for the purpose of providing high capacity transportation service may submit an authorizing proposition to the voters, and if approved, may levy and collect an excise tax, at a rate approved by the voters, but not exceeding eighty one-hundredths of one percent on the value, under chapter 82.44 RCW, of every motor vehicle owned by a resident of such city, county transportation authority, metropolitan municipal corporation, or public transportation benefit area. In any county imposing a motor vehicle excise tax surcharge pursuant to RCW 81.100.060, the maximum tax rate under this section shall be reduced to a rate equal to eighty one-hundredths of one percent on the value less the equivalent motor vehicle excise tax rate of the surcharge imposed pursuant to RCW 81.100.060. This rate shall not apply to vehicles licensed under RCW 46.16.070 except vehicles with an unladen weight of six thousand pounds or less, RCW 46.16.079, 46.16.080, 46.16.085, or 46.16.090.

(2) An agency imposing a tax under subsection (1) of this section may also impose a sales and use tax solely for the purpose of providing high capacity transportation service, in addition to the tax authorized by RCW 82.14.030, upon retail car rentals within the agency's jurisdiction that are taxable by the state under chapters 82.08 and 82.12 RCW. The rate of tax shall bear the same ratio to the rate imposed under RCW 82.08.020(2) as the excise tax rate imposed under subsection (1) of this section bears to the excise tax rate imposed under RCW 82.44.020 (1) and (2). The base of the tax shall be the selling price in the case of a sales tax or the rental value of the vehicle used in the case of a use tax. The revenue collected under this subsection shall be used in the same manner as excise taxes under subsection (1) of this section.

**NEW SECTION. Sec. 14.** (1) Sections 1 through 3 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect June 1, 1992.

(2) Sections 4 through 13 of this act shall take effect January 1, 1993.

Passed the House March 6, 1992.

Passed the Senate March 11, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

## CHAPTER 195

[Senate Bill 5510]

PUBLIC EMPLOYEES' RETIREMENT SYSTEM—  
RESTORATION OF WITHDRAWN CONTRIBUTIONS**Effective Date:** 6/11/92 - Except Section 1 which takes effect on 1/1/94.

AN ACT Relating to Washington public employees' retirement system; amending RCW 41.40.150; creating a new section; and providing an effective date.

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

**Sec. 1.** RCW 41.40.150 and 1990 c 249 s 17 are each amended to read as follows:

Should any member die, or should the individual separate or be separated from service without leave of absence before attaining age sixty years, or should the individual become a beneficiary, except a beneficiary of an optional retirement allowance as provided by RCW 41.40.188, the individual shall thereupon cease to be a member except;

(1) As provided in RCW 41.40.170.

(2) An employee not previously retired who reenters service shall upon completion of six months of continuous service and upon the restoration, in one lump sum or in annual installments, of all withdrawn contributions with interest as computed by the director, which restoration must be completed within a total period of five years of membership service following the member's first resumption of employment, be returned to the status, either as an original member or new member which the member held at time of separation.

(3) Within the ninety days following the employee's resumption of employment, the employer shall notify the department of the resumption and the department shall then return to the employer a statement of the potential service credit to be restored, the amount of funds required for restoration, and the date when the restoration must be accomplished. The employee shall be given a copy of the statement and shall sign a copy of the statement which signed copy shall be placed in the employee's personnel file.

(4) A member who separates or has separated after having completed at least five years of service shall remain a member during the period of absence from service for the exclusive purpose of receiving a retirement allowance to begin at attainment of age sixty-five, however, such a member may on written notice to the director elect to receive a reduced retirement allowance on or after age sixty which allowance shall be the actuarial equivalent of the sum necessary to pay regular retirement benefits as of age sixty-five: PROVIDED, That if such member should withdraw all or part of the member's accumulated contributions except those additional contributions made pursuant to RCW 41.40.330(2), the individual shall thereupon cease to be a member and this section shall not apply.

(5)(a) The recipient of a retirement allowance who is employed in an eligible position other than under RCW 41.40.120(12) shall be considered to have terminated his or her retirement status and shall immediately become a member of the retirement system with the status of membership the member held

as of the date of retirement. Retirement benefits shall be suspended during the period of eligible employment and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180: PROVIDED, That where any such right to retire is exercised to become effective before the member has rendered two uninterrupted years of service the type of retirement allowance the member had at the time of the member's previous retirement shall be reinstated;

(b) The recipient of a retirement allowance elected to office or appointed to office directly by the governor, and who shall apply for and be accepted in membership as provided in RCW 41.40.120(3) shall be considered to have terminated his or her retirement status and shall become a member of the retirement system with the status of membership the member held as of the date of retirement. Retirement benefits shall be suspended from the date of return to membership until the date when the member again retires and the member shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180: PROVIDED, That where any such right to retire is exercised to become effective before the member has rendered six uninterrupted months of service the type of retirement allowance the member had at the time of the member's previous retirement shall be reinstated, but no additional service credit shall be allowed: AND PROVIDED FURTHER, That if such a recipient of a retirement allowance does not elect to apply for reentry into membership as provided in RCW 41.40.120(3), the member shall be considered to remain in a retirement status and the individual's retirement benefits shall continue without interruption.

(6) Any member who leaves the employment of an employer and enters the employ of a public agency or agencies of the state of Washington, other than those within the jurisdiction of the Washington public employees' retirement system, and who establishes membership in a retirement system or a pension fund operated by such agency or agencies and who shall continue membership therein until attaining age sixty, shall remain a member for the exclusive purpose of receiving a retirement allowance without the limitation found in RCW 41.40.180(1) to begin on attainment of age sixty-five; however, such a member may on written notice to the director elect to receive a reduced retirement allowance on or after age sixty which allowance shall be the actuarial equivalent of the sum necessary to pay regular retirement benefits commencing at age sixty-five: PROVIDED, That if such member should withdraw all or part of the member's accumulated contributions except those additional contributions made pursuant to RCW 41.40.330(2), the individual shall thereupon cease to be a member and this section shall not apply.

**NEW SECTION. Sec. 2.** The department of retirement systems shall incorporate the development of individual member accounts receivable into its information systems projects for fiscal years 1993 and 1994, so that by January 1, 1994, members of state retirement systems who are otherwise eligible to

restore previously withdrawn contributions have the option to make the restoration in annual installments.

**NEW SECTION. Sec. 3.** Section 1 of this act shall take effect January 1, 1994.

Passed the Senate March 7, 1992.

Passed the House March 3, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

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**CHAPTER 196**

[Engrossed Substitute Senate Bill 6180]

**FAIR START PROGRAM**

**Effective Date: 6/11/92**

AN ACT Relating to education programs; adding new sections to chapter 28A.600 RCW; and creating a new section.

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

**NEW SECTION. Sec. 1.** (1) A student's ability to learn can be adversely impacted by a number of factors, including but not limited to: Lack of parent involvement and support; child abuse and neglect; poverty, including parental unemployment or underemployment; family transiency and homelessness; drug and alcohol abuse; poor health and nutrition; crime; and peer influence.

(2) The legislature finds that:

(a) Prevention and intervention services at the elementary school level can offer early identification, encouragement, and follow-up of each child's special interests, creative talents, and particular abilities as well as identification of and cooperative assistance with learning, emotional, environmental, social, or physical obstacles to normal child growth and development; and

(b) The provision of counseling and related prevention and intervention services at the elementary school level can contribute to enhancement of the classroom environment for students and teachers, and better enable students to realize their academic and personal potential.

(c) The legislature finds that services should be provided to the extent possible by public or private human service agencies.

**NEW SECTION. Sec. 2.** Unless the context clearly requires otherwise, the definitions in this section apply throughout sections 2 through 7 of this act.

(1) "Child intervention specialist" or "community-based public or private human service provider" means a person who provides early intervention and prevention services and includes but is not limited to services provided by licensed mental health professionals, child psychiatrists, health care providers,

social service caseworkers or social workers, school counselors, school psychologists, school nurses, and school social workers.

(2) "Early grades," "elementary grades," and "elementary level" mean kindergarten through grade six and may include preschool age children served by the school district.

(3) "Elementary grades prevention and intervention program" means a district-wide program or plan of early detection, prevention, and intervention of learning, emotional, environmental, social, or physical problems of elementary students, that addresses student and family needs; the appropriate use and roles of child intervention specialists, including training and necessary supervision; interprofessional cooperation; and interagency, public and private, collaboration and coordination of the planning, delivery, and evaluation of programs and services.

(4) "Early intervention services" means services that are provided to address social and emotional factors that can affect student performance and behavior and that are provided when problems just begin to emerge.

(5) "Prevention services" means services that are provided to address social and emotional factors that can affect student performance and behavior and that are provided to students before problems occur.

(6) "Superintendent" means the superintendent of public instruction.

**NEW SECTION. Sec. 3.** (1) From funds appropriated by the legislature, the superintendent shall establish the fair start program to assist school districts in providing prevention and intervention programs for elementary grade students. The fair start program shall not become a part of the state's basic program of education obligation as set forth under Article IX of the state Constitution.

(2) The superintendent shall distribute funds equitably to all school districts based on the district's enrollment in grades kindergarten through six. However, the allocations for school districts enrolling fewer than one thousand full-time equivalent students shall be distributed to the educational service district in which the district is located. The educational service district shall use the allocation to provide early intervention and prevention services under a cooperative agreement between the district and the educational service district. Educational service districts shall coordinate the use of staff and resources to serve school districts. Fair start funds shall not be used to replace funding for existing activities. However, any district currently providing elementary students with prevention and intervention services that loses the source of funding for those services, for reasons beyond the control of the district, may use fair start funds to continue or enhance the existing level of prevention and intervention services.

(3) Two or more school districts may cooperatively administer an elementary prevention and intervention program. An educational service district may administer a program on behalf of one or more school districts.

NEW SECTION. **Sec. 4.** (1) School districts and educational service districts accepting fair start funds shall submit not later than June 1, 1993, the following information to the superintendent of public instruction:

(a) District goals relating to prevention and early intervention services for elementary students and the district's plan, based on the goals, for providing prevention and early intervention services to students. To ensure delivery of appropriate services to students through a coordinated network of service providers, districts shall document that community-based public and/or private human service providers, district-level and building-level staff and administrators, and parents participated in developing the goals and plan;

(b) Documentation of written interagency agreements or contracts between school and educational service districts, and public and/or private community-based human service providers to provide prevention and early intervention services to students;

(c) Procedures for notifying parents or guardians regarding the referral of students for prevention and intervention services and liability issues relating to the provision of prevention and intervention services to students outside school buildings;

(d) Use of grant funds for prevention and intervention-related inservice purposes, including as necessary and appropriate, multicultural inservice training; and

(e) Other information as requested by the superintendent.

(2) To the greatest extent possible, the delivery of prevention and early intervention services to students:

(a) Shall not be duplicative of other programs;

(b) Shall be consistent with the applicable children's mental health delivery system developed under chapter 71.36 RCW;

(c) Shall emphasize the most efficient and cost-effective use of fair start funds; and

(d) Shall be provided on a twelve-month basis.

(3) When using school personnel to provide prevention and intervention services, school districts are encouraged to utilize paraprofessionals.

(4) School districts and educational service districts accepting fair start funds shall enter into written interagency agreements with community-based public and/or private human service providers to assure delivery of appropriate services to students.

NEW SECTION. **Sec. 5.** (1) Districts shall use fair start funds to provide prevention and intervention services to students with priority given to students based on need. Districts shall establish the criteria determining need.

(2) Funds from the fair start program regarding health care shall be used only for services and information relating to nutrition and poor health.

(3) Nothing under sections 2 through 7 of this act precludes a district from incorporating a primary intervention program model or a family support worker model as part of the district's fair start program.

**NEW SECTION.** Sec. 6. The superintendent of public instruction may adopt rules as necessary under chapter 34.05 RCW to implement sections 2 through 5 of this act.

**NEW SECTION.** Sec. 7. Upon request, the superintendent shall provide information to districts regarding how other districts have used fair start funds locally or how other districts have established interagency agreements with community-based public and/or private human service providers under section 4 of this act.

**NEW SECTION.** Sec. 8. Sections 2 through 7 of this act are each added to chapter 28A.600 RCW.

**NEW SECTION.** Sec. 9. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate March 12, 1992.

Passed the House March 12, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

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## CHAPTER 197

[Substitute House Bill 2498]

REGULATORY FAIRNESS

Effective Date: 6/11/92

AN ACT Relating to regulatory fairness; amending RCW 34.05.320; adding new sections to chapter 19.85 RCW; adding new sections to chapter 34.05 RCW; adding a new section to chapter 43.17 RCW; adding a new section to chapter 43.31 RCW; and creating new sections.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 19.85 RCW to read as follows:

When any rule is proposed for which a small business economic impact statement is required, the adopting agency shall provide notice to small businesses of the proposed rule through any of the following:

(1) Direct notification of known interested small businesses or trade organizations affected by the proposed rule; or

(2) Providing information of the proposed rule making to publications likely to be obtained by small businesses of the types affected by the proposed rule.

**NEW SECTION.** Sec. 2. A new section is added to chapter 19.85 RCW to read as follows:

When feasible, the adopting agency may appoint a committee, as provided in RCW 34.05.310, to comment on the subject of the possible rule making before the publication of notice of proposed rule adoption under RCW 34.05.320.

**NEW SECTION.** Sec. 3. A new section is added to chapter 34.05 RCW to read as follows:

The joint administrative rules review committee may review any rule to determine whether an agency complied with the regulatory fairness requirements of chapter 19.85 RCW.

**NEW SECTION.** Sec. 4. A new section is added to chapter 34.05 RCW to read as follows:

The joint administrative rules review committee shall provide notice, conduct its hearings and reviews, and provide notice of committee objections to small business economic impact statements required under chapter 19.85 RCW in the same manner as is provided for notice, hearings, reviews, and objections to rules under this chapter.

**NEW SECTION.** Sec. 5. A new section is added to chapter 43.17 RCW to read as follows:

The rules coordinator under RCW 34.05.310 shall be knowledgeable regarding the agency's rules that affect businesses. The rules coordinator shall provide a list of agency rules applicable at the time of the request to a specific class or line of business, which are limited to that specific class or line as opposed to generic rules applicable to most businesses, to the business assistance center when so requested by the business assistance center for the specific class or line of business.

**NEW SECTION.** Sec. 6. The business assistance center shall conduct a study of how it can best serve as a clearinghouse to coordinate with state agencies in compiling and providing, on request, lists of state rules that apply to specific classes or lines of small businesses. The business assistance center shall report the findings of the study to the legislature before December 1, 1992.

**\*NEW SECTION.** Sec. 7. A new section is added to chapter 43.31 RCW to read as follows:

*The state shall not be financially liable for errors or omissions in providing any document required to be produced under section 6 of this act. Compliance with rules identified under section 6 of this act does not excuse the business from requirements to comply with other applicable rules.*

\*Sec. 7 was vetoed, see message at end of chapter.

Sec. 8. RCW 34.05.320 and 1989 c 175 s 7 are each amended to read as follows:

(1) At least twenty days before the rule-making hearing at which the agency receives public comment regarding adoption of a rule, the agency shall cause notice of the hearing to be published in the state register. The publication constitutes the proposal of a rule. The notice shall include all of the following:

(a) A title, a description of the rule's purpose, and any other information which may be of assistance in identifying the rule or its purpose;

(b) Citations of the statutory authority for adopting the rule and the specific statute the rule is intended to implement;

(c) A summary of the rule and a statement of the reasons supporting the proposed action;

(d) The agency personnel, with their office location and telephone number, who are responsible for the drafting, implementation, and enforcement of the rule;

(e) The name of the person or organization, whether private, public, or governmental, proposing the rule;

(f) Agency comments or recommendations, if any, regarding statutory language, implementation, enforcement, and fiscal matters pertaining to the rule;

(g) Whether the rule is necessary as the result of federal law or federal or state court action, and if so, a copy of such law or court decision shall be attached to the purpose statement;

(h) When, where, and how persons may present their views on the proposed rule;

(i) The date on which the agency intends to adopt the rule;

(j) A short explanation of the rule, its purpose, and anticipated effects, including in the case of a proposal that would modify existing rules, a short description of the changes the proposal would make; and

(k) A copy of the small business economic impact statement, if applicable, and a statement of steps taken to minimize the economic impact in accordance with RCW 19.85.030.

(2) Upon filing notice of the proposed rule with the code reviser, the adopting agency shall have copies of the notice on file and available for public inspection and shall forward three copies of the notice to the rules review committee.

(3) No later than three days after its publication in the state register, the agency shall cause a copy of the notice of proposed rule adoption to be mailed to each person who has made a request to the agency for a mailed copy of such notices. An agency may charge for the actual cost of providing individual mailed copies of these notices.

(4) In addition to the notice required by subsections (1) and (2) of this section, an institution of higher education shall cause the notice to be published in the campus or standard newspaper of the institution at least seven days before the rule-making hearing.

**NEW SECTION. Sec. 9.** If specific funding for the purpose of section 6 of this act, referencing this act by bill and section number, is not provided by June 30, 1992, in the omnibus appropriations act, section 6 of this act shall be null and void.

Passed the House March 11, 1992.

Passed the Senate March 10, 1990.

Approved by the Governor April 2, 1992, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 2, 1992.

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

"I am returning herewith, without my approval as to section 7, Substitute House Bill No. 2498 entitled:

"AN ACT Relating to regulatory fairness."

Substitute House Bill No. 2498 amends a number of statutes to increase procedural protections for small business in the regulatory process.

Section 7 has a drafting error. Section 7 is applicable only to requirements included in an earlier draft. This faulty reference renders the provision moot.

Because of this technical flaw, I have vetoed section 7 of this bill.

With the exception of section 7, Substitute House Bill No. 2498 is approved."

## CHAPTER 198

[Substitute Senate Bill 6428]

### AT-RISK CHILDREN AND FAMILIES—SERVICES FOR

**Effective Date:** 6/11/92 - Except Sections 1 through 13 which take effect on 7/1/92.

AN ACT Relating to at-risk families; amending RCW 28A.300.040, 43.63A.065, and 43.70.020; adding new sections to chapter 74.14A RCW; adding a new section to chapter 43.20A RCW; adding a new section to chapter 50.08 RCW; adding new chapters to Title 70 RCW; creating new sections; and providing an effective date.

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

**NEW SECTION. Sec. 1.** The legislature finds that a primary goal of public involvement in the lives of children has been to strengthen the family unit.

However, the legislature recognizes that traditional two-parent families with one parent routinely at home are now in the minority. In addition, extended family and natural community supports have eroded drastically. The legislature recognizes that public policy assumptions must be altered to account for this new social reality. Public effort must be redirected to expand, support, strengthen, and help refashion family and community associations to care for children.

The legislature finds that a broad variety of services for children and families has been independently designed over the years and that the coordination and cost-effectiveness of these services will be enhanced through the adoption of a common approach to their delivery. The legislature further finds that the most successful programs for reaching and working with at-risk families and children treat individuals' problems in the context of the family, offer a broad spectrum of services, are flexible in the use of program resources, and use staff who are trained in crossing traditional program categories in order to broker services necessary to fully meet a family's needs.

The legislature further finds that eligibility criteria, expenditure restrictions, and reporting requirements of state and federal categorical programs often create barriers toward the effective use of resources for addressing the multiple problems of at-risk families and children.

The purposes of this chapter are (1) to modify public policy and programs to empower communities to support and respond to the needs of individual families and children and (2) to improve the responsiveness of services for children and families at risk by facilitating greater coordination and flexibility in the use of funds by state and local service agencies.

**NEW SECTION. Sec. 2.** A new section is added to chapter 74.14A RCW to read as follows:

To update, specify, and expand the policy stated in RCW 74.14A.020, the following is declared:

It is the policy of the state of Washington to promote:

- (1) Family-oriented services and supports that:
  - (a) Respond to the changing nature of families; and
  - (b) Respond to what individuals and families say they need, and meet those needs in a way that maintains their dignity and respects their choices;
- (2) Culturally relevant services and supports that:
  - (a) Explicitly recognize the culture and beliefs of each family and use these as resources on behalf of the family;
  - (b) Provide equal access to culturally unique communities in planning and programs, and day-to-day work, and actively address instances where clearly disproportionate needs exist; and
  - (c) Enhance every culture's ability to achieve self-sufficiency and contribute in a productive way to the larger community;
- (3) Coordinated services that:
  - (a) Develop strategies and skills for collaborative planning, problem solving, and service delivery;
  - (b) Encourage coordination and innovation by providing both formal and informal ways for people to communicate and collaborate in planning and programs;
  - (c) Allow clients, vendors, community people, and other agencies to creatively provide the most effective, responsive, and flexible services; and
  - (d) Commit to an open exchange of skills and information; and expect people throughout the system to treat each other with respect, dignity, and understanding;
- (4) Locally planned services and supports that:
  - (a) Operate on the belief that each community has special characteristics, needs, and strengths;
  - (b) Include a cross-section of local community partners from the public and private sectors, in the planning and delivery of services and supports; and

(c) Support these partners in addressing the needs of their communities through both short-range and long-range planning and in establishing priorities within state and federal standards;

(5) Community-based prevention that encourages and supports state residents to create positive conditions in their communities to promote the well-being of families and reduce crises and the need for future services;

(6) Outcome-based services and supports that:

(a) Include a fair and realistic system for measuring both short-range and long-range progress and determining whether efforts make a difference;

(b) Use outcomes and indicators that reflect the goals that communities establish for themselves and their children;

(c) Work towards these goals and outcomes at all staff levels and in every agency; and

(d) Provide a mechanism for informing the development of program policies;

(7) Customer service that:

(a) Provides a climate that empowers staff to deliver quality programs and services;

(b) Is provided by courteous, sensitive, and competent professionals; and

(c) Upholds the dignity and respect of individuals and families by providing appropriate staff recognition, information, training, skills, and support;

(8) Creativity that:

(a) Increases the flexibility of funding and programs to promote innovation in planning, development, and provision of quality services; and

(b) Simplifies and reduces or eliminates rules that are barriers to coordination and quality services.

**NEW SECTION.** Sec. 3. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Comprehensive plan" means a two-year plan that examines available resources and unmet needs for a county or multicounty area, barriers that limit the effective use of resources, and a plan to address these issues that is broadly supported.

(2) "Participating state agencies" means the office of the superintendent of public instruction, the department of social and health services, the department of health, the employment security department, the department of community development, and such other departments as may be specifically designated by the governor.

(3) "Family policy council" or "council" means the superintendent of public instruction, the secretary of social and health services, the secretary of health, the commissioner of the employment security department, and the director of the department of community development or their designees, one legislator from each caucus of the senate and house of representatives, and one representative of the governor.

(4) "Outcome based" means defined and measurable outcomes and indicators that make it possible for communities to evaluate progress in meeting their goals and whether systems are fulfilling their responsibilities.

(5) "Matching funds" means an amount no less than twenty-five percent of the amount budgeted for a consortium's project. Up to half of the consortium's matching funds may be in-kind goods and services. Funding sources allowable for match include appropriate federal or local levy funds, private charitable funding, and other charitable giving. Basic education funds shall not be used as a match.

(6) "Consortium" means a diverse group of individuals that includes at least representatives of local service providers, service recipients, local government administering or funding children or family service programs, participating state agencies, school districts, existing children's commissions, ethnic and racial minority populations, and other interested persons organized for the purpose of designing and providing collaborative and coordinated services under this chapter. Consortiums shall represent a county, multicounty, or municipal service area. In addition, consortiums may represent Indian tribes applying either individually or collectively.

**NEW SECTION.** Sec. 4. To the extent that any power or duty of the council created according to this act may duplicate efforts of existing councils, commissions, advisory committees, or other entities, the governor is authorized to take necessary actions to eliminate such duplication. This shall include authority to consolidate similar councils or activities in a manner consistent with the goals of this act.

**NEW SECTION.** Sec. 5. (1) The family policy council shall annually solicit from consortiums proposals to facilitate greater flexibility, coordination, and responsiveness of services at the community level. The council shall consider such proposals only if:

(a) A comprehensive plan has been prepared by the consortium; and  
(b) The consortium has identified and agreed to contribute matching funds as specified in section 3 of this act; and

(c) An interagency agreement has been prepared by the family policy council and the participating local service and support agencies that governs the use of funds, specifies the relationship of the project to the principles listed in section 2 of this act, and identifies specific outcomes and indicators; and

(d) Funds are to be used to provide support or services needed to implement a family's or child's case plan that are not otherwise adequately available through existing categorical services or community programs;

(e) The consortium has provided written agreements that identify a lead agency that will assume fiscal and programmatic responsibility for the project, and identify participants in a consortium council with broad participation and that shall have responsibility for ensuring effective coordination of resources; and

(f) The consortium has designed into its comprehensive plan standards for accountability. Accountability standards include, but are not limited to, the public hearing process eliciting public comment about the appropriateness of the proposed comprehensive plan. The consortium must submit reports to the family policy council outlining the public response regarding the appropriateness and effectiveness of the comprehensive plan.

(2) The family policy council may submit a prioritized list of projects recommended for funding in the governor's budget document.

(3) The participating state agencies shall identify funds to implement the proposed projects from budget requests or existing appropriations for services to children and their families.

**Sec. 6.** RCW 28A.300.040 and 1991 c 116 s 2 are each amended to read as follows:

In addition to any other powers and duties as provided by law, the powers and duties of the superintendent of public instruction shall be:

(1) To have supervision over all matters pertaining to the public schools of the state.

(2) To report to the governor and the legislature such information and data as may be required for the management and improvement of the schools.

(3) To prepare and have printed such forms, registers, courses of study, rules and regulations for the government of the common schools, questions prepared for the examination of persons as provided for in RCW 28A.305.130(9), and such other material and books as may be necessary for the discharge of the duties of teachers and officials charged with the administration of the laws relating to the common schools, and to distribute the same to educational service district superintendents.

(4) To travel, without neglecting his or her other official duties as superintendent of public instruction, for the purpose of attending educational meetings or conventions, of visiting schools, of consulting educational service district superintendents or other school officials.

(5) To prepare and from time to time to revise a manual of the Washington state common school code, copies of which shall be provided in such numbers as determined by the superintendent of public instruction at no cost to those public agencies within the common school system and which shall be sold at approximate actual cost of publication and distribution per volume to all other public and nonpublic agencies or individuals, said manual to contain Titles 28A and 28C RCW, rules and regulations related to the common schools, and such other matter as the state superintendent or the state board of education shall determine. Proceeds of the sale of such code shall be transmitted to the public printer who shall credit the state superintendent's account within the state printing plant revolving fund by a like amount.

(6) To act as ex officio member and the chief executive officer of the state board of education.

(7) To file all papers, reports and public documents transmitted to the superintendent by the school officials of the several counties or districts of the state, each year separately. Copies of all papers filed in the superintendent's office, and the superintendent's official acts, may, or upon request, shall be certified by the superintendent and attested by the superintendent's official seal, and when so certified shall be evidence of the papers or acts so certified to.

(8) To require annually, on or before the 15th day of August, of the president, manager, or principal of every educational institution in this state, a report as required by the superintendent of public instruction; and it is the duty of every president, manager or principal, to complete and return such forms within such time as the superintendent of public instruction shall direct.

(9) To keep in the superintendent's office a record of all teachers receiving certificates to teach in the common schools of this state.

(10) To issue certificates as provided by law.

(11) To keep in the superintendent's office at the capital of the state, all books and papers pertaining to the business of the superintendent's office, and to keep and preserve in the superintendent's office a complete record of statistics, as well as a record of the meetings of the state board of education.

(12) With the assistance of the office of the attorney general, to decide all points of law which may be submitted to the superintendent in writing by any educational service district superintendent, or that may be submitted to the superintendent by any other person, upon appeal from the decision of any educational service district superintendent; and the superintendent shall publish his or her rulings and decisions from time to time for the information of school officials and teachers; and the superintendent's decision shall be final unless set aside by a court of competent jurisdiction.

(13) To administer oaths and affirmations in the discharge of the superintendent's official duties.

(14) To deliver to his or her successor, at the expiration of the superintendent's term of office, all records, books, maps, documents and papers of whatever kind belonging to the superintendent's office or which may have been received by the superintendent's for the use of the superintendent's office.

(15) To administer family services and programs to promote the state's policy as provided in section 2 of this act.

(16) To perform such other duties as may be required by law.

**Sec. 7.** RCW 43.63A.065 and 1990 1st ex.s. c 17 s 70 are each amended to read as follows:

The department shall have the following functions and responsibilities:

(1) Cooperate with and provide technical and financial assistance to the local governments and to the local agencies serving the communities of the state for the purpose of aiding and encouraging orderly, productive, and coordinated development of the state, and, unless stipulated otherwise, give priority to local communities with the greatest relative need and the fewest resources.

(2) Administer state and federal grants and programs which are assigned to the department by the governor or the legislature.

(3) Administer community services programs through private, nonprofit organizations and units of general purpose local government; these programs are directed to the poor and infirm and include community-based efforts to foster self-sufficiency and self-reliance, energy assistance programs, head start, and weatherization.

(4) Study issues affecting the structure, operation, and financing of local government as well as those state activities which involve relations with local government and report the results and recommendations to the governor, legislature, local government, and citizens of the state.

(5) Assist the governor in coordinating the activities of state agencies which have an impact on local governments and communities.

(6) Provide technical assistance to the governor and the legislature on community development policies for the state.

(7) Assist in the production, development, rehabilitation, and operation of owner-occupied or rental housing for low and moderate income persons, and qualify as a participating state agency for all programs of the Department of Housing and Urban Development or its successor.

(8) Support and coordinate local efforts to promote volunteer activities throughout the state.

(9) Participate with other states or subdivisions thereof in interstate programs and assist cities, counties, municipal corporations, governmental conferences or councils, and regional planning commissions to participate with other states or their subdivisions.

(10) Hold public hearings and meetings to carry out the purposes of this chapter.

(11) Provide a comprehensive state-level focus for state fire protection services, funding, and policy.

(12) Administer a program to identify, evaluate, and protect properties which reflect outstanding elements of the state's cultural heritage.

(13) Coordinate a comprehensive state program for mitigating, preparing for, responding to, and recovering from emergencies and disasters.

(14) Administer family services and programs to promote the state's policy as provided in section 2 of this act.

**Sec. 8.** RCW 43.70.020 and 1989 1st ex.s. c 9 s 103 are each amended to read as follows:

(1) There is hereby created a department of state government to be known as the department of health. The department shall be vested with all powers and duties transferred to it by this act and such other powers and duties as may be authorized by law. The main administrative office of the department shall be located in the city of Olympia. The secretary may establish administrative facilities in other locations, if deemed necessary for the efficient operation of the

department, and if consistent with the principles set forth in subsection (2) of this section.

(2) The department of health shall be organized consistent with the goals of providing state government with a focus in health and serving the people of this state. The legislature recognizes that the secretary needs sufficient organizational flexibility to carry out the department's various duties. To the extent practical, the secretary shall consider the following organizational principles:

(a) Clear lines of authority which avoid functional duplication within and between subelements of the department;

(b) A clear and simplified organizational design promoting accessibility, responsiveness, and accountability to the legislature, the consumer, and the general public;

(c) Maximum span of control without jeopardizing adequate supervision;

(d) A substate or regional organizational structure for the department's health service delivery programs and activities that encourages joint working agreements with local health departments and that is consistent between programs;

(e) Decentralized authority and responsibility, with clear accountability;

(f) A single point of access for persons receiving like services from the department which would limit the number of referrals between divisions.

(3) The department shall provide leadership and coordination in identifying and resolving threats to the public health by:

(a) Working with local health departments and local governments to strengthen the state and local governmental partnership in providing public protection;

(b) Developing intervention strategies;

(c) Providing expert advice to the executive and legislative branches of state government;

(d) Providing active and fair enforcement of rules;

(e) Working with other federal, state, and local agencies and facilitating their involvement in planning and implementing health preservation measures;

(f) Providing information to the public; and

(g) Carrying out such other related actions as may be appropriate to this purpose.

(4) In accordance with the administrative procedure act, chapter 34.05 RCW, the department shall ensure an opportunity for consultation, review, and comment by the department's clients before the adoption of standards, guidelines, and rules.

(5) Consistent with the principles set forth in subsection (2) of this section, the secretary may create such administrative divisions, offices, bureaus, and programs within the department as the secretary deems necessary. The secretary shall have complete charge of and supervisory powers over the department, except where the secretary's authority is specifically limited by law.

(6) The secretary shall appoint such personnel as are necessary to carry out the duties of the department in accordance with chapter 41.06 RCW.

(7) The secretary shall appoint the state health officer and such deputy secretaries, assistant secretaries, and other administrative positions as deemed necessary consistent with the principles set forth in subsection (2) of this section. All persons who administer the necessary divisions, offices, bureaus, and programs, and five additional employees shall be exempt from the provisions of chapter 41.06 RCW. The officers and employees appointed under this subsection shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for officers exempt from the state civil service law.

(8) The secretary shall administer family services and programs to promote the state's policy as provided in section 2 of this act.

NEW SECTION. Sec. 9. A new section is added to chapter 43.20A RCW to read as follows:

The secretary shall administer family services and programs to promote the state's policy as provided in section 2 of this act.

NEW SECTION. Sec. 10. A new section is added to chapter 50.08 RCW to read as follows:

The commissioner shall administer family services and programs to promote the state's policy as provided in section 2 of this act.

NEW SECTION. Sec. 11. By June 30, 1995, the family policy council shall report to the appropriate committees of the legislature on the expenditures made, outcomes attained, and other pertinent aspects of its experience in the implementation of section 5 of this act.

***\*NEW SECTION.** Sec. 12. The juvenile issues task force reauthorized under chapter ---, Laws of 1992 (either Engrossed Substitute House Bill No. 2466 or Second Substitute Senate Bill No. 6041), or the entity given the duties of the task force created in chapter 234, Laws of 1991, shall conduct a study to determine whether a network of consortia on children, youth, and families may be authorized to receive a transfer of authority to administer: (1) The program funds from council agencies including at least: (a) The prevention and early intervention programs that the department of social and health services contracted for with private agencies on January 1, 1992; (b) consolidated juvenile services within the department of social and health services; (c) all residential and foster care services within the department of social and health services; (d) drug and alcohol prevention under chapter 28A.170 RCW; (e) the Fair Start program from the superintendent of public instruction; (f) school psychological and social counseling services from the superintendent of public instruction; (g) school health and nutrition services from the superintendent of public instruction; (h) the early childhood education and assistance program in the department of community develop-*

*ment; and (i) the first steps program and for other department of health funded health education and health promotion programs where the primary target population is children; (2) a requirement that consortia prepare two-year plans that respond at a minimum to needs assessments, interagency service plans, and the goals of local school districts, public health departments, juvenile courts, and children's protective services; and (3) ways in which consortia can improve access to assistance that will strengthen the healthy family unit or community organizations, including at a minimum ways to reduce abuse of alcohol and illegal substances by children and their parents, and interpersonal violence and intentional injury to children. The study should recommend specific financial incentives to encourage the transfer of authority as outlined under this section. The juvenile issues task force shall also assess existing resources and institutes on children and family services and recommend whether an institute on children and family services affiliated with a college or university be established, or, if existing, modified or expanded.*

\*Sec. 12 was vetoed, see message at end of chapter.

***\*NEW SECTION. Sec. 13. A new section is added to chapter 74.14A RCW to read as follows:***

*The implementation of council, consortia, and institute, shall be included in all federal and state plans affecting the state's children, youth, and families, including at least those required by this chapter and applicable federal law. These plans shall be consistent with the intent and requirements of this chapter.*

\*Sec. 13 was vetoed, see message at end of chapter.

***NEW SECTION. Sec. 14.*** The legislature finds that there is an urgent and substantial need to:

(1) Enhance the development of infants and toddlers with disabilities in the state of Washington in order to minimize developmental delay and maximize individual potential and enhance the capability of families to meet the needs of their infants and toddlers with disabilities and maintain family integrity;

(2) Coordinate and enhance the state's existing early intervention services to ensure a state-wide, community-based, coordinated, interagency program of early intervention services for infants and toddlers with disabilities and their families; and

(3) Facilitate the coordination of payment for early intervention services from federal, state, local, and private sources including public and private insurance coverage.

***NEW SECTION. Sec. 15.*** For the purposes of implementing this chapter, the governor shall appoint a state birth-to-six interagency coordinating council and ensure that state agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their

families shall coordinate and collaborate in the planning and delivery of such services. The coordinating council shall report to the appropriate committees of the legislature on the implementation of this chapter by January 15, 1993.

No state or local agency currently providing early intervention services to infants and toddlers with disabilities may use funds appropriated for early intervention services for infants and toddlers with disabilities to supplant funds from other sources.

All state and local agencies shall ensure that the implementation of this chapter will not cause any interruption in existing early intervention services for infants and toddlers with disabilities.

Nothing in this chapter shall be construed to permit the restriction or reduction of eligibility under Title V of the Social Security Act, P.L. 90-248, relating to maternal and child health or Title XIX of the Social Security Act, P.L. 89-97, relating to medicaid for infants and toddlers with disabilities.

**NEW SECTION. Sec. 16.** State agencies providing or paying for early intervention services shall enter into formal interagency agreements with each other and where appropriate, with school districts, counties, and other providers, to define their relationships and financial and service responsibilities. Local agencies or entities, including local school districts, counties, and service providers receiving public money for providing or paying for early intervention services shall enter into formal interagency agreements with each other that define their relationships and financial responsibilities to provide services within each county. In establishing priorities, school districts, counties, and other service providers shall give due regard to the needs of children birth to three years of age and shall ensure that they continue to participate in providing services and collaborate with each other. The interagency agreements shall include procedures for resolving disputes, provisions for establishing maintenance requirements, and all additional components necessary to ensure collaboration and coordination.

**NEW SECTION. Sec. 17.** The state birth-to-six interagency coordinating council shall identify and work with county early childhood interagency coordinating councils to coordinate and enhance existing early intervention services and assist each community to meet the needs of infants and toddlers with disabilities and their families.

**NEW SECTION. Sec. 18.** Sections 14 through 17 of this act shall constitute a new chapter in Title 70 RCW.

**NEW SECTION. Sec. 19.** Sections 1 and 3 through 5 of this act shall constitute a new chapter in Title 70 RCW.

**NEW SECTION. Sec. 20.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 21.** Sections 1 through 13 of this act shall take effect July 1, 1992.

Passed the Senate March 12, 1992.

Passed the House March 12, 1992.

Approved by the Governor April 2, 1992, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 2, 1992.

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

"I am returning herewith, without my approval as to sections 12 and 13, Substitute Senate Bill 6428 entitled:

"AN ACT Relating to at-risk families."

Section 12 directs the Juvenile Issues Task Force to determine whether a network of local consortia may administer the program funds from state agencies serving children and families at-risk. Section 401 of Engrossed Substitute House Bill No. 2466 (the juvenile issues omnibus bill) directs the Joint Select Committee of Juvenile Issues to undertake a similar study of community-based services to children and families. Therefore, I have vetoed section 12 of Substitute Senate Bill No. 6428.

Section 13 requires that "implementation of council, consortia and the children's institute" be included in all federal and state plans affecting children, youth, and families. I believe there was an error in drafting this section because it is not clear what is meant by this requirement. To avoid confusion, I have vetoed section 13.

For the reasons stated above, I have vetoed sections 12 and 13 of Substitute Senate Bill No. 6428.

With the exception of sections 12 and 13, Substitute Senate Bill No. 6428 is approved."

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## CHAPTER 199

[Engrossed House Bill 2813]

### LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' RETIREMENT SYSTEM— ENROLLMENT IN HEALTH CARE AUTHORITY BENEFIT PLANS

Effective Date: 6/11/92

AN ACT Relating to members of the law enforcement officers' and fire fighters' retirement system; and amending RCW 41.04.205.

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

**Sec. 1.** RCW 41.04.205 and 1990 c 222 s 1 are each amended to read as follows:

(1) Notwithstanding the provisions of RCW 41.04.180, the employees, with their dependents, of any county, municipality, or other political subdivision of this state shall be eligible to participate in any insurance or self-insurance program administered under chapter 41.05 RCW if the legislative authority of any such county, municipality, or other political subdivisions of this state determines a transfer to an insurance or self-insurance program administered under chapter 41.05 RCW should be made(~~:(—PROVIDED, That this section shall have no application to members of the law enforcement officers' and fire fighters' retirement system under chapter 41.26 RCW: PROVIDED FURTHER,~~

~~That~~). In the event of a special district employee transfer pursuant to this section, members of the governing authority shall be eligible to be included in such transfer if such members are authorized by law as of June 25, 1976 to participate in the insurance program being transferred from and subject to payment by such members of all costs of insurance for members.

(2) When the legislative authority of a county, municipality, or other political subdivision determines to so transfer, the state health care authority shall:

(a) Establish the conditions under which the transfer may be made, which shall include the requirements that:

(i) All the eligible employees of the political subdivision transfer as a unit, and

(ii) The political subdivision involved obligate itself to make employer contributions in an amount at least equal to those provided by the state as employer; and

(b) Hold public hearings on the application for transfer; and

(c) Have the sole right to reject the application.

Approval of the application by the state health care authority shall effect a transfer of the employees involved to the insurance, self-insurance, or health care program applied for.

(3) Any application of this section to members of the law enforcement officers' and fire fighters' retirement system under chapter 41.26 RCW is subject to chapter 41.56 RCW.

Passed the House February 15, 1992.

Passed the Senate March 6, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

## CHAPTER 200

[House Bill 2844]

TOW TRUCK OPERATORS—

DEFICIENCY CLAIMS ON LAW ENFORCEMENT IMPOUNDS

Effective Date: 6/11/92

AN ACT Relating to deficiency claims against owners of impounded vehicles; and amending RCW 46.55.140.

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

**Sec. 1.** RCW 46.55.140 and 1991 c 20 s 2 are each amended to read as follows:

(1) A registered tow truck operator who has a valid and signed impoundment authorization has a lien upon the impounded vehicle for services provided in the towing and storage of the vehicle, unless the impoundment is determined to have been invalid. The lien does not apply to personal property in or upon

the vehicle that is not permanently attached to or is not an integral part of the vehicle. The registered tow truck operator also has a deficiency claim against the registered owner of the vehicle for services provided in the towing and storage of the vehicle not to exceed the sum of three hundred dollars less the amount bid at auction, and for vehicles of over ten thousand pounds gross vehicle weight, the operator has a deficiency claim of one thousand dollars less the amount bid at auction, unless the impound is determined to be invalid. The limitation on towing and storage deficiency claims does not apply to an impound directed by a law enforcement officer. In no case may the cost of the auction or a buyer's fee be added to the amount charged for the vehicle at the auction, the vehicle's lien, or the overage due. A registered owner who has completed and filed with the department the seller's report as provided for by RCW 46.12.101 and has timely and properly filed the seller's report is relieved of liability under this section. The person named as the new owner of the vehicle on the timely and properly filed seller's report shall assume liability under this section.

(2) Any person who tows, removes, or otherwise disturbs any vehicle parked, stalled, or otherwise left on privately owned or controlled property, and any person owning or controlling the private property, or either of them, are liable to the owner or operator of a vehicle, or each of them, for consequential and incidental damages arising from any interference with the ownership or use of the vehicle which does not comply with the requirements of this chapter.

Passed the House March 7, 1992.

Passed the Senate March 3, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

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## CHAPTER 201

[Engrossed Second Substitute Senate Bill 5724]

PULP AND PAPER MILLS—CONTROL OF DISCHARGE OF CHLORINATED ORGANICS

Effective Date: 6/11/92

AN ACT Relating to water pollution control of chlorinated organic compound emissions; and adding a new section to chapter 90.48 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 90.48 RCW to read as follows:

(1) The department may require each pulp mill and paper mill discharging chlorinated organics to conduct and submit an engineering report on the cost of installing technology designed to reduce the amount of chlorinated organic compounds discharged into the waters of the state. The department shall allow at least twenty-four months from the effective date of this act for each pulp mill and each paper mill to submit an engineering report.

(2) The department may not issue a permit establishing limits to the discharge of chlorinated organic compounds by a pulp mill or a paper mill under RCW 90.48.160 or 90.48.260 until at least nine months after receiving an engineering report from a kraft mill and at least fifteen months after receiving an engineering report from a sulfite mill.

(3) Nothing in this section shall apply to dioxin compounds.

Passed the Senate March 12, 1992.

Passed the House March 12, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

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## CHAPTER 202

[Senate Bill 6452]

### LODGING TAX—AUTHORIZED USES FOR REVENUES

Effective Date: 6/11/92

AN ACT Relating to the allowed uses of the proceeds from the special excise tax on lodging; and amending RCW 67.28.210.

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

**Sec. 1.** RCW 67.28.210 and 1991 c 331 s 3 are each amended to read as follows:

All taxes levied and collected under RCW 67.28.180, ~~((67.28.230,))~~ 67.28.240, and 67.28.260 shall be credited to a special fund in the treasury of the county or city imposing such tax. Such taxes shall be levied only for the purpose of paying all or any part of the cost of acquisition, construction, or operating of stadium facilities, convention center facilities, performing arts center facilities, and/or visual arts center facilities or to pay or secure the payment of all or any portion of general obligation bonds or revenue bonds issued for such purpose or purposes under this chapter, or to pay for advertising, publicizing, or otherwise distributing information for the purpose of attracting visitors and encouraging tourist expansion when a county or city has imposed such tax for such purpose, or as one of the purposes hereunder, and until withdrawn for use, the moneys accumulated in such fund or funds may be invested in interest bearing securities by the county or city treasurer in any manner authorized by law. In addition such taxes may be used to develop strategies to expand tourism: **PROVIDED**, That any county, and any city within a county, bordering upon Grays Harbor may use the proceeds of such taxes for construction and maintenance of a movable tall ships tourist attraction in cooperation with a tall ships restoration society, except to the extent that such proceeds are used for payment of principal and interest on debt incurred prior to June 11, 1986: **PROVIDED FURTHER**, That any city or county may use the proceeds of such taxes for the refurbishing and operation of a steam railway for tourism promotion purposes: **PROVIDED FURTHER**, That any city bordering on the Pacific Ocean

with a population of not less than one thousand and the county in which such a city is located may use the proceeds of such taxes for funding special events or festivals, or promotional infrastructures including but not limited to an ocean beach boardwalk.

Passed the Senate March 8, 1992.

Passed the House March 6, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

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### CHAPTER 203

[Engrossed Substitute Senate Bill 6174]

#### COUNSELING FOR FAMILIES OF HOMICIDE VICTIMS

Effective Date: 6/11/92

AN ACT Relating to family members of homicide victims; and amending RCW 7.68.070.

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

**Sec. 1.** RCW 7.68.070 and 1990 c 3 s 502 are each amended to read as follows:

The right to benefits under this chapter and the amount thereof will be governed insofar as is applicable by the provisions contained in chapter 51.32 RCW as now or hereafter amended except as provided in this section:

(1) The provisions contained in RCW 51.32.015, 51.32.030, 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 as now or hereafter amended are not applicable to this chapter.

(2) Each victim injured as a result of a criminal act, including criminal acts committed between July 1, 1981, and January 1, 1983, or the victim's family or dependents in case of death of the victim, are entitled to benefits in accordance with this chapter, subject to the limitations under RCW 7.68.015. The rights, duties, responsibilities, limitations, and procedures applicable to a worker as contained in RCW 51.32.010 as now or hereafter amended are applicable to this chapter.

(3) The limitations contained in RCW 51.32.020 as now or hereafter amended are applicable to claims under this chapter. In addition thereto, no person or spouse, child, or dependent of such person is entitled to benefits under this chapter when the injury for which benefits are sought, was:

(a) The result of consent, provocation, or incitement by the victim;

(b) Sustained while the crime victim was engaged in the attempt to commit, or the commission of, a felony; or

(c) Sustained while the victim was confined in any county or city jail, federal jail or prison or in any other federal institution, or any state correctional institution maintained and operated by the department of social and health services or the department of corrections, prior to release from lawful custody;

or confined or living in any other institution maintained and operated by the department of social and health services or the department of corrections.

(4) The benefits established upon the death of a worker and contained in RCW 51.32.050 as now or hereafter amended shall be the benefits obtainable under this chapter and provisions relating to payment contained in that section shall equally apply under this chapter: **PROVIDED**, That benefits for burial expenses shall not exceed the maximum cost used by the department of social and health services for the funeral and burial of a deceased indigent person under chapter 74.08 RCW in any claim: **PROVIDED FURTHER**, That if the criminal act results in the death of a victim who was not gainfully employed at the time of the criminal act, and who was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act;

(e) Benefits payable to an eligible surviving spouse, where there are no children of the victim at the time of the criminal act who have survived the victim or where such spouse has legal custody of all of his or her children, shall be limited to burial expenses and a lump sum payment of seven thousand five hundred dollars without reference to number of children, if any;

(b) Where any such spouse has legal custody of one or more but not all of such children, then such burial expenses shall be paid, and such spouse shall receive a lump sum payment of three thousand seven hundred fifty dollars and any such child or children not in the legal custody of such spouse shall receive a lump sum of three thousand seven hundred fifty dollars to be divided equally among such child or children;

(c) If any such spouse does not have legal custody of any of the children, the burial expenses shall be paid and the spouse shall receive a lump sum payment of up to three thousand seven hundred fifty dollars and any such child or children not in the legal custody of the spouse shall receive a lump sum payment of up to three thousand seven hundred fifty dollars to be divided equally among the child or children;

(d) If no such spouse survives, then such burial expenses shall be paid, and each surviving child of the victim at the time of the criminal act shall receive a lump sum payment of three thousand seven hundred fifty dollars up to a total of two such children and where there are more than two such children the sum of seven thousand five hundred dollars shall be divided equally among such children.

No other benefits may be paid or payable under these circumstances.

(5) The benefits established in RCW 51.32.060 as now or hereafter amended for permanent total disability proximately caused by the criminal act shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter: **PROVIDED**, That if a victim becomes permanently and totally disabled as a proximate result of the criminal act and was not gainfully employed at the time of the criminal act, the victim shall receive monthly during the period of the disability the following percentag-

es, where applicable, of the average monthly wage determined as of the date of the criminal act pursuant to RCW 51.08.018 as now or hereafter amended:

(a) If married at the time of the criminal act, twenty-nine percent of the average monthly wage.

(b) If married with one child at the time of the criminal act, thirty-four percent of the average monthly wage.

(c) If married with two children at the time of the criminal act, thirty-eight percent of the average monthly wage.

(d) If married with three children at the time of the criminal act, forty-one percent of the average monthly wage.

(e) If married with four children at the time of the criminal act, forty-four percent of the average monthly wage.

(f) If married with five or more children at the time of the criminal act, forty-seven percent of the average monthly wage.

(g) If unmarried at the time of the criminal act, twenty-five percent of the average monthly wage.

(h) If unmarried with one child at the time of the criminal act, thirty percent of the average monthly wage.

(i) If unmarried with two children at the time of the criminal act, thirty-four percent of the average monthly wage.

(j) If unmarried with three children at the time of the criminal act, thirty-seven percent of the average monthly wage.

(k) If unmarried with four children at the time of the criminal act, forty percent of the average monthly wage.

(l) If unmarried with five or more children at the time of the criminal act, forty-three percent of the average monthly wage.

(6) The benefits established in RCW 51.32.080 as now or hereafter amended for permanent partial disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section equally apply under this chapter.

(7) The benefits established in RCW 51.32.090 as now or hereafter amended for temporary total disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter: PROVIDED, That no person is eligible for temporary total disability benefits under this chapter if such person was not gainfully employed at the time of the criminal act, and was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act.

(8) The benefits established in RCW 51.32.095 as now or hereafter amended for continuation of benefits during vocational rehabilitation shall be benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter: PROVIDED, That benefits shall not exceed five thousand dollars for any single injury.

(9) The provisions for lump sum payment of benefits upon death or permanent total disability as contained in RCW 51.32.130 as now or hereafter amended apply under this chapter.

(10) The provisions relating to payment of benefits to, for or on behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100, 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and 51.32.210 as now or hereafter amended are applicable to payment of benefits to, for or on behalf of victims under this chapter.

(11) No person or spouse, child, or dependent of such person is entitled to benefits under this chapter where the person making a claim for such benefits has refused to give reasonable cooperation to state or local law enforcement agencies in their efforts to apprehend and convict the perpetrator(s) of the criminal act which gave rise to the claim.

(12) In addition to other benefits provided under this chapter, victims of sexual assault are entitled to receive appropriate counseling. Fees for such counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080. Counseling services may include, if determined appropriate by the department, counseling of members of the victim's immediate family, other than the perpetrator of the assault.

(13) Except for medical benefits authorized under RCW 7.68.080, no more than thirty thousand dollars shall be granted as a result of a single injury or death, except that benefits granted as the result of total permanent disability or death shall not exceed forty thousand dollars.

(14) Notwithstanding other provisions of this chapter and Title 51 RCW, benefits payable for total temporary disability under subsection (7) of this section, shall be limited to fifteen thousand dollars.

(15) Any person who is responsible for the victim's injuries, or who would otherwise be unjustly enriched as a result of the victim's injuries, shall not be a beneficiary under this chapter.

(16) Crime victims' compensation is not available to pay for services covered under chapter 74.09 RCW or Title XIX of the federal social security act, except to the extent that the costs for such services exceed service limits established by the department of social and health services.

(17) In addition to other benefits provided under this chapter, immediate family members of a homicide victim may receive appropriate counseling to assist in dealing with the immediate, near-term consequences of the related effects of the homicide. Fees for counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080. Payment of counseling benefits under this section may not be provided to the perpetrator of the homicide. The benefits under this subsection may be provided only with respect to homicides committed on or after July 1, 1992.

Passed the Senate February 18, 1992.

Passed the House March 3, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

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## CHAPTER 204

[Substitute House Bill 2833]

RECLAIMED WATER USE

Effective Date: 4/2/92

AN ACT Relating to water conservation and reclamation; adding a new chapter to Title 90 RCW; creating a new section; and declaring an emergency.

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

**NEW SECTION. Sec. 1.** The legislature finds that by encouraging the use of reclaimed water while assuring the health and safety of all Washington citizens and the protection of its environment, the state of Washington will continue to use water in the best interests of present and future generations.

To facilitate the opportunity to use reclaimed water as soon as is practicable, the legislature encourages the cooperative efforts of the public and private sectors and the use of pilot projects to effectuate the goals of this chapter. The legislature further directs the department of health and the department of ecology to coordinate efforts towards developing an efficient and streamlined process for creating and implementing processes for the use of reclaimed water.

**NEW SECTION. Sec. 2.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Greywater" means sewage having the consistency and strength of residential domestic type wastewater. Greywater includes wastewater from sinks, showers, and laundry fixtures, but does not include toilet or urinal waters.

(2) "Land application" means application of treated effluent for purposes of irrigation or landscape enhancement for residential, business, and governmental purposes.

(3) "Person" means any state, individual, public or private corporation, political subdivision, governmental subdivision, governmental agency, municipality, copartnership, association, firm, trust estate, or any other legal entity whatever.

(4) "Reclaimed water" means effluent derived in any part from sewage from a wastewater treatment system that has been adequately and reliably treated, so that as a result of that treatment, it is suitable for a direct beneficial use or a controlled use that would not otherwise occur.

(5) "Sewage" means water-carried human wastes, including kitchen, bath, and laundry waste from residences, buildings, industrial and commercial establishments, or other places, together with such ground water infiltration, surface waters, or industrial wastewater as may be present.

(6) "User" means any person who uses reclaimed water.

(7) "Wastewater" means water and wastes discharged from homes, businesses, and industry to the sewer system.

**NEW SECTION. Sec. 3.** (1) The department of ecology shall, in coordination with the department of health, develop interim standards for pilot projects under subsection (3) of this section on or before July 1, 1992, for the use of reclaimed water in land applications.

(2) The department of health shall, in coordination with the department of ecology, develop interim standards for pilot projects under subsection (3) of this section on or before November 15, 1992, for the use of reclaimed water in commercial and industrial activities.

(3) The department of ecology and the department of health shall assist interested parties in the development of pilot projects to aid in achieving the purposes of this chapter.

**NEW SECTION. Sec. 4.** (1) The department of health shall, in coordination with the department of ecology, adopt a single set of standards, procedures, and guidelines on or before August 1, 1993, for the industrial and commercial use of reclaimed water.

(2) The department of health may issue a reclaimed water permit for industrial and commercial uses of reclaimed water to the generator of reclaimed water who may then distribute the water, subject to provisions in the permit governing the location, rate, water quality, and purposes of use.

(3) The department of health in consultation with the advisory committee established in section 6 of this act, shall develop recommendations for a fee structure for permits issued under subsection (2) of this section. Fees shall be established in amounts to fully recover, and not exceed, expenses incurred by the department of health in processing permit applications and modifications, monitoring and evaluating compliance with permits, and conducting inspections and supporting the reasonable overhead expenses that are directly related to these activities. Permit fees may not be used for research or enforcement activities. The department of health shall not issue permits under this section until a fee structure has been established.

(4) A permit under this section for use of reclaimed water may be issued only to a municipal, quasi-municipal, or other governmental entity or to the holder of a waste discharge permit issued under chapter 90.48 RCW.

(5) The authority and duties created in this section are in addition to any authority and duties already provided in law with regard to sewage and wastewater collection, treatment, and disposal for the protection of health and safety of the state's waters. Nothing in this section limits the powers of the state or any political subdivision to exercise such authority.

**NEW SECTION. Sec. 5.** (1) The department of ecology shall, in coordination with the department of health, adopt a single set of standards,

procedures, and guidelines, on or before August 1, 1993, for land applications of reclaimed water.

(2) A permit is required for any land application of reclaimed water. The department of ecology may issue a reclaimed water permit under chapter 90.48 RCW to the generator of reclaimed water who may then distribute the water, subject to provisions in the permit governing the location, rate, water quality, and purpose of use. The department of ecology shall not issue more than one permit for any individual land application of reclaimed water to a single generator.

(3) In cases where the department of ecology determines, in land applications of reclaimed water, that a significant risk to the public health exists, the department shall refer the application to the department of health for review and consultation and the department of health may require fees appropriate for review and consultation from the applicant pursuant to RCW 43.70.250.

(4) A permit under this section for use of reclaimed water may be issued only to a municipal, quasi-municipal, or other governmental entity or to the holder of a waste discharge permit issued under chapter 90.48 RCW.

(5) The authority and duties created in this section are in addition to any authority and duties already provided in law. Nothing in this section limits the powers of the state or any political subdivision to exercise such authority.

**NEW SECTION.** Sec. 6. (1) The department of health shall, before May 1, 1992, form an advisory committee, in coordination with the department of ecology and the department of agriculture, which will provide technical assistance in the development of standards, procedures, and guidelines required by this chapter. Such committee shall be composed of individuals from the public wastewater utilities, landscaping enhancement industry, commercial and industrial application community, and any other persons deemed technically helpful by the department of health.

(2) The department of health shall report to the joint select committee on water resource policy by December 1, 1992, on the fee structure which has been recommended under section 4(3) of this act and review fees authorized under section 5(3) of this act.

**NEW SECTION.** Sec. 7. The secretary of health has all of the enforcement powers granted to the secretary of health under chapter 43.70 RCW to enforce this chapter.

**NEW SECTION.** Sec. 8. Any person lawfully using reclaimed water before the effective date of this act may continue to do so and is not required to comply with the standards, procedures, and guidelines under chapter 90.— RCW (sections 1 through 8 of this act) before July 1, 1995.

**NEW SECTION.** Sec. 9. Sections 1 through 8 of this act shall constitute a new chapter in Title 90 RCW.

**NEW SECTION.** Sec. 10. The department of health shall report to the legislature on progress, compliance, and overall participation in the use of

reclaimed water in the state of Washington and, to the extent possible, on the resulting savings of water. The report shall also review and evaluate all uses of reclaimed water as of the effective date of this act, with recommendations as to the application of standards, procedures, and guidelines by the department of health to such existing uses, including guidelines and government agency approvals necessary to assure an adequate supply of safe, high quality food products for both domestic and export markets. The report shall further consider potential uses of greywater, including potential health impacts, and provide recommendations for such uses. The department of health shall prepare the report in coordination with the department of ecology, state building code council, and state board of health. The report under this subsection is due August 1, 1994.

**NEW SECTION. Sec. 11.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 7, 1992.

Passed the Senate March 4, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

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## CHAPTER 205

[Engrossed Substitute House Bill 2466]

JUVENILE JUSTICE AMENDMENTS

Effective Date: 6/11/92

AN ACT Relating to recommendations of the juvenile issues task force; amending RCW 13.40.010, 13.40.020, 13.40.027, 13.40.0357, 13.40.038, 13.40.050, 13.40.070, 13.40.080, 13.40.150, 2.56.030, 4.24.190, 9.41.010, 9.41.040, 13.04.011, 28A.225.020, 28A.225.030, 28A.225.090, 28A.225.150, 13.32A.130, 13.32A.140, 13.32A.150, 74.13.032, 74.13.033, 74.13.034, 74.04.055, and 71.34.010; amending 1991 c 234 s 1 (uncodified); amending 1991 c 234 s 2 (uncodified); adding new sections to chapter 13.16 RCW; adding a new section to chapter 28A.600 RCW; adding a new section to chapter 28A.225 RCW; adding new sections to chapter 13.32A RCW; adding new sections to chapter 71.34 RCW; adding new sections to chapter 70.96A RCW; adding a new section to chapter 13.40 RCW; creating new sections; prescribing penalties; and providing an effective date.

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

### PART I - JUVENILE JUSTICE

**Sec. 101.** RCW 13.40.010 and 1977 ex.s. c 291 s 55 are each amended to read as follows:

(1) This chapter shall be known and cited as the Juvenile Justice Act of 1977.

(2) It is the intent of the legislature that a system capable of having primary responsibility for, being accountable for, and responding to the needs of youthful offenders, as defined by this chapter, be established. It is the further intent of the legislature that youth, in turn, be held accountable for their offenses and that

both communities and the juvenile courts carry out their functions consistent with this intent. To effectuate these policies, ~~((it shall be the purpose))~~ the legislature declares the following to be equally important purposes of this chapter ~~((tø))~~:

- (a) Protect the citizenry from criminal behavior;
- (b) Provide for determining whether accused juveniles have committed offenses as defined by this chapter;
- (c) Make the juvenile offender accountable for his or her criminal behavior;
- (d) Provide for punishment commensurate with the age, crime, and criminal history of the juvenile offender;
- (e) Provide due process for juveniles alleged to have committed an offense;
- (f) Provide necessary treatment, supervision, and custody for juvenile offenders;
- (g) Provide for the handling of juvenile offenders by communities whenever consistent with public safety;
- (h) Provide for restitution to victims of crime;
- (i) Develop effective standards and goals for the operation, funding, and evaluation of all components of the juvenile justice system and related services at the state and local levels; and
- (j) Provide for a clear policy to determine what types of offenders shall receive punishment, treatment, or both, and to determine the jurisdictional limitations of the courts, institutions, and community services.

**\*Sec. 102. RCW 13.40.020 and 1990 1st ex.s. c 12 s 1 are each amended to read as follows:**

***For the purposes of this chapter:***

***(1) "Serious offender" means a person fifteen years of age or older who has committed an offense which if committed by an adult would be:***

***(a) A class A felony, or an attempt to commit a class A felony;***

***(b) Manslaughter in the first degree; or***

***(c) Assault in the second degree, extortion in the first degree, child molestation in the second degree, kidnapping in the second degree, robbery in the second degree, residential burglary, or burglary in the second degree, where such offenses include the infliction of bodily harm upon another or where during the commission of or immediate withdrawal from such an offense the perpetrator is armed with a deadly weapon or firearm as defined in RCW 9A.04.110;***

***(2) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense. Community service may be performed through public or private organizations or through work crews;***

***(3) "Community supervision" means an order of disposition by the court of an adjudicated youth not committed to the department. A community supervision order for a single offense may be for a period of up to two years for a sex offense as defined by RCW 9.94A.030 and up to one year for other***

offenses ~~((and))~~. Community supervision is an individualized program comprised of one or more of the following:

(a) Community-based sanctions;

(b) Community-based rehabilitation;

(c) Monitoring and reporting requirements;

(4) Community-based sanctions may include one or more of the following:

(a) A fine, not to exceed one hundred dollars;

(b) Community service not to exceed one hundred fifty hours of service;

~~((e))~~ (5) "Community-based rehabilitation" means one or more of the following: Attendance of information classes;

~~((d) Counseling; or~~

~~(e) Such other services to the extent funds are available for such services;)) counseling, substance abuse treatment programs, outpatient mental health programs, anger management classes, or other services; or attendance at school or other educational programs appropriate for the juvenile as determined by the school district. Placement in community-based rehabilitation programs is subject to available funds;~~

(6) "Monitoring and reporting requirements" means one or more of the following: Curfews; requirements to remain at home, school, work, or court-ordered treatment programs during specified hours; restrictions from leaving or entering specified geographical areas; requirements to report to the probation officer as directed and to remain under the probation officer's supervision; and other conditions~~((r))~~ or limitations as the court may require which may not include confinement;

~~((4))~~ (7) "Confinement" means ~~((physical custody by the department of social and health services in a facility operated by or pursuant to a contract with the state, or physical custody in a facility operated by or pursuant to a contract with any county)) incarceration in a detention facility following: Arrest pending a detention hearing under RCW 13.40.050; entry of an order of detention entered pursuant to RCW 13.40.050; commitment to a county detention facility; modification of a disposition for violation of the disposition; or modification of parole for violation of parole. The county may operate or contract with vendors to operate county detention facilities. The department may operate or contract to operate detention facilities for juveniles committed to the department. Confinement of less than thirty-one days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;~~

~~((5))~~ (8) "Court", when used without further qualification, means the juvenile court judge(s) or commissioner(s);

~~((6))~~ (9) "Criminal history" includes all criminal complaints against the respondent for which, prior to the commission of a current offense:

(a) The allegations were found correct by a court. If a respondent is convicted of two or more charges arising out of the same course of conduct,

only the highest charge from among these shall count as an offense for the purposes of this chapter; or

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history;

~~((7))~~ (10) "Department" means the department of social and health services;

~~((8))~~ (11) "Detention facility" means a facility for the physical confinement of a juvenile alleged to have committed an offense or an adjudicated offender subject to a disposition or modification order. Detention facilities may be secure, semisecure, or nonsecure, and may include group homes, foster homes, and home detention with electronic or staff monitoring. Detention foster homes and group homes may not be used for placement of juveniles who are ordered into rehabilitation placements pursuant to a community supervision disposition. "Secure detention" means lockup or staff-secure facilities. "Nonsecure detention" means residential placement in the community in a physically nonrestrictive environment under the supervision of and funded by the local government department of youth services or equivalent department. "Home detention" means placement of the juvenile in the custody of the juvenile's parent, guardian, or custodian in a physically nonrestrictive environment under the supervision of and funded by the local government department of youth services or equivalent department with electronic monitoring or department staff monitoring;

(12) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender, or any other person or entity except a law enforcement official or entity, with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW ((13.04.040, as now or hereafter amended,)) 13.40.080, or any person or entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter;

~~((9))~~ (13) "Institution" means a juvenile facility established pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

~~((10))~~ (14) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years and who has not been previously transferred to adult court;

~~((11))~~ (15) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense, including a person eighteen years of age or older over whom jurisdiction has been extended under RCW 13.40.300;

~~((12))~~ (16) "Manifest injustice" means a disposition that would either impose an excessive penalty on the juvenile or would impose a serious, and clear danger to society in light of the purposes of this chapter;

~~((13))~~ (17) "Middle offender" means a person who has committed an offense and who is neither a minor or first offender nor a serious offender;

~~((14))~~ (18) "Minor or first offender" means a person sixteen years of age or younger whose current offense(s) and criminal history fall entirely within one of the following categories:

(a) Four misdemeanors;

(b) Two misdemeanors and one gross misdemeanor;

(c) One misdemeanor and two gross misdemeanors;

(d) Three gross misdemeanors;

(e) One class C felony except manslaughter in the second degree and one misdemeanor or gross misdemeanor;

(f) One class B felony except: Any felony which constitutes an attempt to commit a class A felony; manslaughter in the first degree; assault in the second degree; extortion in the first degree; indecent liberties; kidnapping in the second degree; robbery in the second degree; burglary in the second degree; residential burglary; vehicular homicide; or arson in the second degree.

For purposes of this definition, current violations shall be counted as misdemeanors;

~~((15))~~ (19) "Offense" means an act designated a violation or a crime if committed by an adult under the law of this state, under any ordinance of any city or county of this state, under any federal law, or under the law of another state if the act occurred in that state;

~~((16))~~ (20) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

~~((17))~~ (21) "Restitution" means financial reimbursement by the offender to the victim, and shall be limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, lost wages resulting from physical injury, and costs of the victim's counseling reasonably related to the offense if the offense is a sex offense. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or replace civil remedies or defenses available to the victim or offender;

~~((18))~~ (22) "Secretary" means the secretary of the department of social and health services;

~~((19))~~ (23) "Services" mean services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

~~((20))~~ (24) "Sex offense" means an offense defined as a sex offense in RCW 9.94A.030;

~~((21))~~ (25) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of his or her sexual gratification;

~~((22))~~ (26) "Foster care" means temporary physical care in a foster family home or group care facility as defined in RCW 74.15.020 and licensed by the department, or other legally authorized care;

~~((23))~~ (27) "Violation" means an act or omission, which if committed by an adult, must be proven beyond a reasonable doubt, and is punishable by sanctions which do not include incarceration.

\*Sec. 102 was vetoed, see message at end of chapter.

Sec. 103. RCW 13.40.027 and 1989 c 407 s 2 are each amended to read as follows:

(1) It is the responsibility of the commission to: (a)(i) Evaluate the effectiveness of existing disposition standards and related statutes in implementing policies set forth in RCW 13.40.010 generally and (ii) specifically review the guidelines relating to the confinement of minor and first offenders as well as the use of diversion; (b) solicit the comments and suggestions of the juvenile justice community concerning disposition standards; and (c) make recommendations to the legislature regarding revisions or modifications of the disposition standards in accordance with RCW 13.40.030. The evaluations shall be submitted to the legislature by December 1, 1992, and on December 1 of each even-numbered year thereafter.

(2) It is the responsibility of the department to: (a) Provide the commission with available data concerning the implementation of the disposition standards and related statutes and their effect on the performance of the department's responsibilities relating to juvenile offenders; (b) at the request of the commission, provide technical and administrative assistance to the commission in the performance of its responsibilities; and (c) provide the commission and legislature with recommendations for modification of the disposition standards.

\*Sec. 104. RCW 13.40.0357 and 1989 c 407 s 7 are each amended to read as follows:

**SCHEDULE A  
DESCRIPTION AND OFFENSE CATEGORY**

<b>JUVENILE DISPOSITION OFFENSE CATEGORY</b>	<b>DESCRIPTION (RCW CITATION)</b>	<b>JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION</b>
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<b>A</b>	<b>Arson and Malicious Mischief Arson I (9A.48.020)</b>	<b>B+</b>
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<b>B</b>	<b>Arson 2 (9A.48.030)</b>	<b>C</b>
<b>C</b>	<b>Reckless Burning 1 (9A.48.040)</b>	<b>D</b>
<b>D</b>	<b>Reckless Burning 2 (9A.48.050)</b>	<b>E</b>
<b>B</b>	<b>Malicious Mischief 1 (9A.48.070)</b>	<b>C</b>
<b>C</b>	<b>Malicious Mischief 2 (9A.48.080)</b>	<b>D</b>
<b>D</b>	<b>Malicious Mischief 3 (&lt;\$50 is E class) (9A.48.090)</b>	<b>E</b>
<b>E</b>	<b>Tampering with Fire Alarm Apparatus (9.40.100)</b>	<b>E</b>
<b>A</b>	<b>Possession of Incendiary Device (9.40.120)</b>	<b>B+</b>
	<b>Assault and Other Crimes Involving Physical Harm</b>	
<b>A</b>	<b>Assault 1 (9A.36.011)</b>	<b>B+</b>
<b>B+</b>	<b>Assault 2 (9A.36.021)</b>	<b>C+</b>
<b>C+</b>	<b>Assault 3 (9A.36.031)</b>	<b>D+</b>
<b>D+</b>	<b>Assault 4 (9A.36.041)</b>	<b>E</b>
<b>D+</b>	<b>Reckless Endangerment (9A.36.050)</b>	<b>E</b>
<b>C+</b>	<b>Promoting Suicide Attempt (9A.36.060)</b>	<b>D+</b>
<b>D+</b>	<b>Coercion (9A.36.070)</b>	<b>E</b>
<b>C+</b>	<b>Custodial Assault (9A.36.100)</b>	<b>D+</b>
	<b>Burglary and Trespass</b>	
<b>B+</b>	<b>Burglary 1 (9A.52.020)</b>	<b>C+</b>
<b>B</b>	<b>Burglary 2 (9A.52.030)</b>	<b>C</b>
<b>D</b>	<b>Burglary Tools (Possession of) (9A.52.060)</b>	<b>E</b>
<b>D</b>	<b>Criminal Trespass 1 (9A.52.070)</b>	<b>E</b>
<b>E</b>	<b>Criminal Trespass 2 (9A.52.080)</b>	<b>E</b>
<b>D</b>	<b>Vehicle Prowling (9A.52.100)</b>	<b>E</b>
	<b>Drugs</b>	
<b>E</b>	<b>Possession/Consumption of Alcohol (66.44.270)</b>	<b>E</b>
<b>C</b>	<b>Illegally Obtaining Legend Drug (69.41.020)</b>	<b>D</b>
<b>C+</b>	<b>Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030)</b>	<b>D+</b>
<b>E</b>	<b>Possession of Legend Drug (69.41.030)</b>	<b>E</b>
<b>B+</b>	<b>Violation of Uniform Controlled Substances Act - Narcotic Sale</b>	

	<i>(69.50.401(a)(1)(i))</i>	<b>B+</b>
<b>C</b>	<i>Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.401(a)(1)(ii))</i>	<b>C</b>
<b>E</b>	<i>Possession of Marihuana &lt;40 grams (69.50.401(e))</i>	<b>E</b>
<b>C</b>	<i>Fraudulently Obtaining Controlled Substance (69.50.403)</i>	<b>C</b>
<b>C+</b>	<i>Sale of Controlled Substance for Profit (69.50.410)</i>	<b>C+</b>
<b>E</b>	<del><i>((Glue Sniffing (9.47A.050))</i></del> <i>Unlawful Inhalation (9.47A.020)</i>	<b>E</b>
<b>B</b>	<i>Violation of Uniform Controlled Substances Act - Narcotic Counterfeit Substances (69.50.401(b)(1)(i))</i>	<b>B</b>
<b>C</b>	<i>Violation of Uniform Controlled Substances Act - Nonnarcotic Counterfeit Substances (69.50.401(b)(1) (ii), (iii), (iv))</i>	<b>C</b>
<b>C</b>	<i>Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.401(d))</i>	<b>C</b>
<b>C</b>	<i>Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.401(c))</i>	<b>C</b>
	<i>Firearms and Weapons</i>	
<del><b>(C+</b></del>	<del><i>Committing Crime when Armed (9.41.025)</i></del>	<del><b>D+</b></del>
<b>E</b>	<i>Carrying Loaded Pistol Without Permit (9.41.050)</i>	<b>E</b>
<b>E</b>	<i>Use of Firearms by Minor (&lt;14) (9.41.240)</i>	<b>E</b>
<b>D+</b>	<i>Possession of Dangerous Weapon (9.41.250)</i>	<b>E</b>
<b>D</b>	<i>Intimidating Another Person by use of Weapon (9.41.270)</i>	<b>E</b>
	<i>Homicide</i>	
<b>A+</b>	<i>Murder 1 (9A.32.030)</i>	<b>A</b>
<b>A+</b>	<i>Murder 2 (9A.32.050)</i>	<b>B+</b>
<b>B+</b>	<i>Manslaughter 1 (9A.32.060)</i>	<b>C+</b>

C+	<i>Manslaughter 2 (9A.32.070)</i>	D+
B+	<i>Vehicular Homicide (46.61.520)</i>	C+
	<i>Kidnapping</i>	
A	<i>Kidnap 1 (9A.40.020)</i>	B+
B+	<i>Kidnap 2 (9A.40.030)</i>	C+
C+	<i>Unlawful Imprisonment (9A.40.040)</i>	D+
<del>((D</del>	<del><i>Custodial Interference (9A.40.050)</i></del>	<del>E))</del>
	<i>Obstructing Governmental Operation</i>	
E	<i>Obstructing a Public Servant (9A.76.020)</i>	E
E	<i>Resisting Arrest (9A.76.040)</i>	E
B	<i>Introducing Contraband 1 (9A.76.140)</i>	C
C	<i>Introducing Contraband 2 (9A.76.150)</i>	D
E	<i>Introducing Contraband 3 (9A.76.160)</i>	E
B+	<i>Intimidating a Public Servant (9A.76.180)</i>	C+
B+	<i>Intimidating a Witness (9A.72.110)</i>	C+
<del>((E</del>	<del><i>Criminal Contempt (9.23.010)</i></del>	<del>E))</del>
	<i>Public Disturbance</i>	
C+	<i>Riot with Weapon (9A.84.010)</i>	D+
D+	<i>Riot Without Weapon (9A.84.010)</i>	E
E	<i>Failure to Disperse (9A.84.020)</i>	E
E	<i>Disorderly Conduct (9A.84.030)</i>	E
	<i>Sex Crimes</i>	
A	<i>Rape 1 (9A.44.040)</i>	B+
A-	<i>Rape 2 (9A.44.050)</i>	B+
C+	<i>Rape 3 (9A.44.060)</i>	D+
A-	<i>Rape of a Child 1 (9A.44.073)</i>	B+
B	<i>Rape of a Child 2 (9A.44.076)</i>	C+
B	<i>Incest 1 (9A.64.020(1))</i>	C
C	<i>Incest 2 (9A.64.020(2))</i>	D
D+	<del><i>(Public Indecency)</i></del> <i>Indecent Exposure (Victim &lt;14) (9A.88.010)</i>	E
E	<del><i>(Public Indecency)</i></del> <i>Indecent Exposure (Victim 14 or over) (9A.88.010)</i>	E

B+	<i>Promoting Prostitution 1</i> (9A.88.070)	C+
C+	<i>Promoting Prostitution 2</i> (9A.88.080)	D+
E	<i>O &amp; A (Prostitution)</i> (9A.88.030)	E
B+	<i>Indecent Liberties</i> (9A.44.100)	C+
B+	<i>Child Molestation 1</i> (9A.44.083)	C+
C+	<i>Child Molestation 2</i> (9A.44.086)	C
	<i>Theft, Robbery, Extortion, and Forgery</i>	
B	<i>Theft 1</i> (9A.56.030)	C
C	<i>Theft 2</i> (9A.56.040)	D
D	<i>Theft 3</i> (9A.56.050)	E
B	<i>Theft of Livestock</i> (9A.56.080)	C
C	<i>Forgery</i> ( <del>((9A.56.020))</del> ) (9A.60.020)	D
A	<i>Robbery 1</i> (9A.56.200)	B+
B+	<i>Robbery 2</i> (9A.56.210)	C+
B+	<i>Extortion 1</i> (9A.56.120)	C+
C+	<i>Extortion 2</i> (9A.56.130)	D+
B	<i>Possession of Stolen Property 1</i> (9A.56.150)	C
C	<i>Possession of Stolen Property 2</i> (9A.56.160)	D
D	<i>Possession of Stolen Property 3</i> (9A.56.170)	E
C	<i>Taking Motor Vehicle Without Owner's Permission</i> (9A.56.070)	D
	<i>Motor Vehicle Related Crimes</i>	
E	<i>Driving Without a License</i> (46.20.021)	E
C	<i>Hit and Run - Injury</i> (46.52.020(4))	D
D	<i>Hit and Run-Attended</i> (46.52.020(5))	E
E	<i>Hit and Run-Unattended</i> (46.52.010)	E
C	<i>Vehicular Assault</i> (46.61.522)	D
C	<i>Attempting to Elude Pursuing Police Vehicle</i> (46.61.024)	D
E	<i>Reckless Driving</i> (46.61.500)	E
D	<i>Driving While Under the Influence</i> (46.61.515)	E
B+	<i>Negligent Homicide by Motor Vehicle</i> (46.61.520)	C+

<i>D</i>	<i>Vehicle Prowling (9A.52.100)</i>	<i>E</i>
<i>C</i>	<i>Taking Motor Vehicle Without Owner's Permission (9A.56.070)</i>	<i>D</i>
	<i>Other</i>	
<i>B</i>	<i>Bomb Threat (9.61.160)</i>	<i>C</i>
<i>C</i>	<i>Escape 1<sup>1</sup> (9A.76.110)</i>	<i>C</i>
<i>C</i>	<i>Escape 2<sup>1</sup> (9A.76.120)</i>	<i>C</i>
<i>D</i>	<i>Escape 3 (9A.76.130)</i>	<i>E</i>
<i>C</i>	<i>Failure to Appear in Court (10.19.130)</i>	<i>D</i>
<i>E</i>	<i>Tampering with Fire Alarm Apparatus (9.40.100)</i>	<i>E</i>
<i>E</i>	<i>Obscene, Harassing, Etc., Phone Calls (9.61.230)</i>	<i>E</i>
<i>A</i>	<i>Other Offense Equivalent to an Adult Class A Felony</i>	<i>B+</i>
<i>B</i>	<i>Other Offense Equivalent to an Adult Class B Felony</i>	<i>C</i>
<i>C</i>	<i>Other Offense Equivalent to an Adult Class C Felony</i>	<i>D</i>
<i>D</i>	<i>Other Offense Equivalent to an Adult Gross Misdemeanor</i>	<i>E</i>
<i>E</i>	<i>Other Offense Equivalent to an Adult Misdemeanor</i>	<i>E</i>
<i>V</i>	<i>Violation of Order of Restitution, Community Supervision, or Confinement (13.40.200)<sup>2</sup></i>	<i>V</i>

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

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

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

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

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

#### SCHEDULE B PRIOR OFFENSE INCREASE FACTOR

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

**TIME SPAN**

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

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

**SCHEDULE C  
CURRENT OFFENSE POINTS**

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

**AGE**

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

**JUVENILE SENTENCING STANDARDS  
SCHEDULE D-1**

*This schedule may only be used for minor/first offenders. After the determination is made that a youth is a minor/first offender, the court has the discretion to select sentencing option A, B, or C. A disposition order for a minor/first offender may not include an order of confinement.*

**MINOR/FIRST OFFENDER****OPTION A****STANDARD RANGE**

<b>Points</b>	<b>Community Supervision</b>	<b>Community Service Hours</b>	<b>Fine</b>
1-9	((0-3)) <u>0-12</u> months	and/or 0-8	and/or 0-\$10
10-19	((0-3)) <u>0-12</u> months	and/or 0-8	and/or 0-\$10
20-29	((0-3)) <u>0-12</u> months	and/or 0-16	and/or 0-\$10
30-39	((0-3)) <u>0-12</u> months	and/or 8-24	and/or 0-\$25
40-49	((3-6)) <u>0-12</u> months	and/or 16-32	and/or 0-\$25
50-59	((3-6)) <u>0-12</u> months	and/or 24-40	and/or 0-\$25
60-69	((6-9)) <u>0-12</u> months	and/or 32-48	and/or 0-\$50
70-79	((6-9)) <u>0-12</u> months	and/or 40-55	and/or 0-\$50
80-89	((9-12)) <u>0-12</u> months	and/or 48-64	and/or 10-\$100
90-109	((9-12)) <u>0-12</u> months	and/or 56-72	and/or 10-\$100

**OR****OPTION B****STATUTORY OPTION****0-12 Months Community Supervision****0-150 Hours Community Service****0-100 Fine**

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

**OR****OPTION C****MANIFEST INJUSTICE**

*When a term of community supervision would effectuate a manifest injustice, another disposition may be imposed. When a judge imposes a sentence of confinement exceeding 30 days, the court shall sentence the juvenile to a maximum term and the provisions of RCW ((13.40.030(5))) 13.40.030(2), as now or hereafter amended, shall be used to determine the range.*

**JUVENILE SENTENCING STANDARDS****SCHEDULE D-2**

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

**MIDDLE OFFENDER  
OPTION A  
STANDARD RANGE**

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

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

**All A+ offenses 180-224 weeks**

**OR**

**OPTION B  
STATUTORY OPTION**

- 0-12 Months Community Supervision**
- 0-150 Hours Community Service**
- 0-100 Fine**

**The court may impose a determinate disposition of community supervision and/ or up to 30 days confinement; in which case, if confinement has been imposed, the court shall state either aggravating or mitigating factors as set forth in RCW 13.40.150, as now or hereafter amended.**

OR

## OPTION C

## MANIFEST INJUSTICE

*If the court determines that a disposition under A or B would effectuate a manifest injustice, the court shall sentence the juvenile to a maximum term and the provisions of RCW ((13.40.030(5))) 13.40.030(2), as now or hereafter amended, shall be used to determine range.*

## JUVENILE SENTENCING STANDARDS

## SCHEDULE D-3

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

## SERIOUS OFFENDER

## OPTION A

## STANDARD RANGE

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

OR

## OPTION B

## MANIFEST INJUSTICE

*A disposition outside the standard range shall be determined and shall be comprised of confinement or community supervision or a combination thereof. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding 30 days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW ((13.40.030(5))) 13.40.030(2), as now or hereafter amended, shall be used to determine the range.*

\*Sec. 104 was vetoed, see message at end of chapter.

Sec. 105. RCW 13.40.038 and 1986 c 288 s 7 are each amended to read as follows:

It is the policy of this state that all county juvenile detention facilities provide a humane, safe, and rehabilitative environment and that unadjudicated

youth remain in the community whenever possible, consistent with public safety and the provisions of chapter 13.40 RCW.

The counties shall develop and implement detention intake standards and risk assessment standards to determine whether detention is warranted and if so whether the juvenile should be placed in secure, nonsecure, or home detention to implement the goals of this section. Inability to pay for a less restrictive detention placement shall not be a basis for denying a respondent a less restrictive placement in the community. The detention and risk assessment standards shall be developed and implemented no later than December 31, 1992.

**Sec. 106.** RCW 13.40.050 and 1979 c 155 s 58 are each amended to read as follows:

(1) When a juvenile taken into custody is held in detention:

(a) An information, a community supervision modification or termination of diversion petition, or a parole modification petition shall be filed within seventy-two hours, Saturdays, Sundays, and holidays excluded, or the juvenile shall be released; and

(b) A detention hearing, a community supervision modification or termination of diversion petition, or a parole modification petition shall be held within seventy-two hours, Saturdays, Sundays, and holidays excluded, from the time of filing the information or petition, to determine whether continued detention is necessary under RCW 13.40.040.

(2) Notice of the detention hearing, stating the time, place, and purpose of the hearing, and stating the right to counsel, shall be given to the parent, guardian, or custodian if such person can be found and shall also be given to the juvenile if over twelve years of age.

(3) At the commencement of the detention hearing, the court shall advise the parties of their rights under this chapter and shall appoint counsel as specified in this chapter.

(4) The court shall, based upon the allegations in the information, determine whether the case is properly before it or whether the case should be treated as a diversion case under RCW 13.40.080. If the case is not properly before the court the juvenile shall be ordered released.

(5) Notwithstanding a determination that the case is properly before the court and that probable cause exists, a juvenile shall at the detention hearing be ordered released on the juvenile's personal recognizance pending further hearing unless the court finds detention is necessary under RCW 13.40.040 as now or hereafter amended.

(6) If detention is not necessary under RCW 13.40.040, as now or hereafter amended, the court shall impose the most appropriate of the following conditions or, if necessary, any combination of the following conditions:

(a) Place the juvenile in the custody of a designated person agreeing to supervise such juvenile;

(b) Place restrictions on the travel of the juvenile during the period of release;

(c) Require the juvenile to report regularly to and remain under the supervision of the juvenile court;

(d) Impose any condition other than detention deemed reasonably necessary to assure appearance as required; or

(e) Require that the juvenile return to detention during specified hours.

(7) If the parent, guardian, or custodian of the juvenile in detention is available, the court shall consult with them prior to a determination to further detain or release the juvenile or treat the case as a diversion case under RCW 13.40.080.

**Sec. 107.** RCW 13.40.070 and 1989 c 407 s 9 are each amended to read as follows:

(1) Complaints referred to the juvenile court alleging the commission of an offense shall be referred directly to the prosecutor. The prosecutor, upon receipt of a complaint, shall screen the complaint to determine whether:

(a) The alleged facts bring the case within the jurisdiction of the court; and

(b) On a basis of available evidence there is probable cause to believe that the juvenile did commit the offense.

(2) If the identical alleged acts constitute an offense under both the law of this state and an ordinance of any city or county of this state, state law shall govern the prosecutor's screening and charging decision for both filed and diverted cases.

(3) If the requirements of subsections (1) (a) and (b) of this section are met, the prosecutor shall either file an information in juvenile court or divert the case, as set forth in subsections (5), (6), and (7) of this section. If the prosecutor finds that the requirements of subsection (1) (a) and (b) of this section are not met, the prosecutor shall maintain a record, for one year, of such decision and the reasons therefor. In lieu of filing an information or diverting an offense a prosecutor may file a motion to modify community supervision where such offense constitutes a violation of community supervision.

(4) An information shall be a plain, concise, and definite written statement of the essential facts constituting the offense charged. It shall be signed by the prosecuting attorney and conform to chapter 10.37 RCW.

(5) Where a case is legally sufficient, the prosecutor shall file an information with the juvenile court if:

(a) An alleged offender is accused of a class A felony, a class B felony, an attempt to commit a class B felony, ~~((assault in the third degree, rape in the third degree))~~ a class C felony listed in RCW 9.94A.440(2) as a crime against persons, or any other offense listed in RCW 13.40.020(1) (b) or (c); or

(b) An alleged offender is accused of a felony and has a criminal history of at least one class A or class B felony, or two class C felonies, or at least two gross misdemeanors, or at least two misdemeanors and one additional misde-

meanor or gross misdemeanor, or at least one class C felony and one misdemeanor or gross misdemeanor; or

(c) An alleged offender has previously been committed to the department;

or

(d) An alleged offender has been referred by a diversion unit for prosecution or desires prosecution instead of diversion; or

~~((d))~~ (e) An alleged offender has three or more diversions on the alleged offender's criminal history ~~((within eighteen months of the current alleged offense)).~~

(6) Where a case is legally sufficient the prosecutor shall divert the case if the alleged offense is a misdemeanor or gross misdemeanor or violation and the alleged offense(s) in combination with the alleged offender's criminal history do not exceed two offenses or violations and do not include any felonies: PROVIDED, That if the alleged offender is charged with a related offense that must or may be filed under subsections (5) and (7) of this section, a case under this subsection may also be filed.

(7) Where a case is legally sufficient and falls into neither subsection (5) nor (6) of this section, it may be filed or diverted. In deciding whether to file or divert an offense under this section the prosecutor shall be guided only by the length, seriousness, and recency of the alleged offender's criminal history and the circumstances surrounding the commission of the alleged offense.

(8) Whenever a juvenile is placed in custody or, where not placed in custody, referred to a diversionary interview, the parent or legal guardian of the juvenile shall be notified as soon as possible concerning the allegation made against the juvenile and the current status of the juvenile. Where a case involves victims of crimes against persons or victims whose property has not been recovered at the time a juvenile is referred to a diversionary unit, the victim shall be notified of the referral and informed how to contact the unit.

(9) The responsibilities of the prosecutor under subsections (1) through (8) of this section may be performed by a juvenile court probation counselor for any complaint referred to the court alleging the commission of an offense which would not be a felony if committed by an adult, if the prosecutor has given sufficient written notice to the juvenile court that the prosecutor will not review such complaints.

(10) The prosecutor, juvenile court probation counselor, or diversion unit may, in exercising their authority under this section or RCW 13.40.080, refer juveniles to mediation or victim offender reconciliation programs. Such mediation or victim offender reconciliation programs shall be voluntary for victims.

**Sec. 108.** RCW 13.40.080 and 1985 c 73 s 2 are each amended to read as follows:

(1) A diversion agreement shall be a contract between a juvenile accused of an offense and a diversionary unit whereby the juvenile agrees to fulfill certain

conditions in lieu of prosecution. Such agreements may be entered into only after the prosecutor, or probation counselor pursuant to this chapter, has determined that probable cause exists to believe that a crime has been committed and that the juvenile committed it. Such agreements shall be entered into as expeditiously as possible.

(2) A diversion agreement shall be limited to:

(a) Community service not to exceed one hundred fifty hours, not to be performed during school hours if the juvenile is attending school;

(b) Restitution limited to the amount of actual loss incurred by the victim, and to an amount the juvenile has the means or potential means to pay;

(c) Attendance at up to ~~((two))~~ ten hours of counseling and/or up to ~~((ten))~~ twenty hours of educational or informational sessions at a community agency: **PROVIDED**, That the state shall not be liable for costs resulting from the diversionary unit exercising the option to permit diversion agreements to mandate attendance at up to ~~((two))~~ ten hours of counseling and/or up to ~~((ten))~~ twenty hours of educational or informational sessions; and

(d) A fine, not to exceed one hundred dollars. In determining the amount of the fine, the diversion unit shall consider only the juvenile's financial resources and whether the juvenile has the means to pay the fine. The diversion unit shall not consider the financial resources of the juvenile's parents, guardian, or custodian in determining the fine to be imposed.

(3) In assessing periods of community service to be performed and restitution to be paid by a juvenile who has entered into a diversion agreement, the court officer to whom this task is assigned shall consult with victims who have contacted the diversionary unit and, to the extent possible, involve members of the community. Such members of the community shall meet with the juvenile and advise the court officer as to the terms of the diversion agreement and shall supervise the juvenile in carrying out its terms.

(4) A diversion agreement may not exceed a period of six months ~~((for a misdemeanor or gross misdemeanor or one year for a felony))~~ and may include a period extending beyond the eighteenth birthday of the divertee. Any restitution assessed during its term may not exceed an amount which the juvenile could be reasonably expected to pay during this period. If additional time is necessary for the juvenile to complete restitution to the victim, the time period limitations of this subsection may be extended by an additional six months.

(5) The juvenile shall retain the right to be referred to the court at any time prior to the signing of the diversion agreement.

(6) Divertees and potential divertees shall be afforded due process in all contacts with a diversionary unit regardless of whether the juveniles are accepted for diversion or whether the diversion program is successfully completed. Such due process shall include, but not be limited to, the following:

(a) A written diversion agreement shall be executed stating all conditions in clearly understandable language;

(b) Violation of the terms of the agreement shall be the only grounds for termination;

(c) No divertee may be terminated from a diversion program without being given a court hearing, which hearing shall be preceded by:

(i) Written notice of alleged violations of the conditions of the diversion program; and

(ii) Disclosure of all evidence to be offered against the divertee;

(d) The hearing shall be conducted by the juvenile court and shall include:

(i) Opportunity to be heard in person and to present evidence;

(ii) The right to confront and cross-examine all adverse witnesses;

(iii) A written statement by the court as to the evidence relied on and the reasons for termination, should that be the decision; and

(iv) Demonstration by evidence that the divertee has substantially violated the terms of his or her diversion agreement.

(e) The prosecutor may file an information on the offense for which the divertee was diverted:

(i) In juvenile court if the divertee is under eighteen years of age; or

(ii) In superior court or the appropriate court of limited jurisdiction if the divertee is eighteen years of age or older.

(7) The diversion unit shall, subject to available funds, be responsible for providing interpreters when juveniles need interpreters to effectively communicate during diversion unit hearings or negotiations.

(8) The diversion unit shall be responsible for advising a divertee of his or her rights as provided in this chapter.

~~((8))~~ (9) The diversion unit may refer a juvenile to community-based counseling or treatment programs.

(10) The right to counsel shall inure prior to the initial interview for purposes of advising the juvenile as to whether he or she desires to participate in the diversion process or to appear in the juvenile court. The juvenile may be represented by counsel at any critical stage of the diversion process, including intake interviews and termination hearings. The juvenile shall be fully advised at the intake of his or her right to an attorney and of the relevant services an attorney can provide. For the purpose of this section, intake interviews mean all interviews regarding the diversion agreement process.

The juvenile shall be advised that a diversion agreement shall constitute a part of the juvenile's criminal history as defined by RCW 13.40.020(~~((6))~~)(9) as now or hereafter amended. A signed acknowledgment of such advisement shall be obtained from the juvenile, and the document shall be maintained by the diversionary unit together with the diversion agreement, and a copy of both documents shall be delivered to the prosecutor if requested by the prosecutor. The supreme court shall promulgate rules setting forth the content of such advisement in simple language.

~~((9))~~ (11) When a juvenile enters into a diversion agreement, the juvenile court may receive only the following information for dispositional purposes:

- (a) The fact that a charge or charges were made;
- (b) The fact that a diversion agreement was entered into;
- (c) The juvenile's obligations under such agreement;
- (d) Whether the alleged offender performed his or her obligations under such agreement; and
- (e) The facts of the alleged offense.

~~((10))~~ (12) A diversionary unit may refuse to enter into a diversion agreement with a juvenile. When a diversionary unit refuses to enter a diversion agreement with a juvenile, it shall immediately refer such juvenile to the court for action and shall forward to the court the criminal complaint and a detailed statement of its reasons for refusing to enter into a diversion agreement. The diversionary unit shall also immediately refer the case to the prosecuting attorney for action if such juvenile violates the terms of the diversion agreement.

~~((11))~~ (13) A diversionary unit may, in instances where it determines that the act or omission of an act for which a juvenile has been referred to it involved no victim, or where it determines that the juvenile referred to it has no prior criminal history and is alleged to have committed an illegal act involving no threat of or instance of actual physical harm and involving not more than fifty dollars in property loss or damage and that there is no loss outstanding to the person or firm suffering such damage or loss, counsel and release or release such a juvenile without entering into a diversion agreement~~((: PROVIDED, That))~~. A diversion unit's authority to counsel and release a juvenile under this subsection shall include the authority to refer the juvenile to community-based counseling or treatment programs. Any juvenile ~~((so handled))~~ released under this subsection shall be advised that the act or omission of any act for which he or she had been referred shall constitute a part of the juvenile's criminal history as defined by RCW 13.40.020~~((6))~~(9) as now or hereafter amended. A signed acknowledgment of such advisement shall be obtained from the juvenile, and the document shall be maintained by the unit, and a copy of the document shall be delivered to the prosecutor if requested by the prosecutor. The supreme court shall promulgate rules setting forth the content of such advisement in simple language~~((: PROVIDED FURTHER, That))~~. A juvenile determined to be eligible by a diversionary unit for ~~((such))~~ release as provided in this subsection shall retain the same right to counsel and right to have his or her case referred to the court for formal action as any other juvenile referred to the unit.

~~((12))~~ (14) A diversion unit may supervise the fulfillment of a diversion agreement entered into before the juvenile's eighteenth birthday and which includes a period extending beyond the divertee's eighteenth birthday.

~~((13))~~ (15) If a fine required by a diversion agreement cannot reasonably be paid due to a change of circumstance, the diversion agreement may be modified at the request of the divertee and with the concurrence of the diversion

unit to convert an unpaid fine into community service. The modification of the diversion agreement shall be in writing and signed by the divertee and the diversion unit. The number of hours of community service in lieu of a monetary penalty shall be converted at the rate of the prevailing state minimum wage per hour.

((14)) (16) Fines imposed under this section shall be collected and paid into the county general fund in accordance with procedures established by the juvenile court administrator under RCW 13.04.040 and may be used only for juvenile services. In the expenditure of funds for juvenile services, there shall be a maintenance of effort whereby counties exhaust existing resources before using amounts collected under this section.

**Sec. 109.** RCW 13.40.150 and 1990 c 3 s 605 are each amended to read as follows:

(1) In disposition hearings all relevant and material evidence, including oral and written reports, may be received by the court and may be relied upon to the extent of its probative value, even though such evidence may not be admissible in a hearing on the information. The youth or the youth's counsel and the prosecuting attorney shall be afforded an opportunity to examine and controvert written reports so received and to cross-examine individuals making reports when such individuals are reasonably available, but sources of confidential information need not be disclosed. The prosecutor and counsel for the juvenile may submit recommendations for disposition.

(2) For purposes of disposition:

- (a) Violations which are current offenses count as misdemeanors;
- (b) Violations may not count as part of the offender's criminal history;
- (c) In no event may a disposition for a violation include confinement.

(3) Before entering a dispositional order as to a respondent found to have committed an offense, the court shall hold a disposition hearing, at which the court shall:

(a) Consider the facts supporting the allegations of criminal conduct by the respondent;

(b) Consider information and arguments offered by parties and their counsel;

(c) Consider any predisposition reports;

(d) Consult with the respondent's parent, guardian, or custodian on the appropriateness of dispositional options under consideration and afford the respondent and the respondent's parent, guardian, or custodian an opportunity to speak in the respondent's behalf;

(e) Allow the victim or a representative of the victim and an investigative law enforcement officer to speak;

(f) Determine the amount of restitution owing to the victim, if any;

(g) Determine whether the respondent is a serious offender, a middle offender, or a minor or first offender;

(h) Consider whether or not any of the following mitigating factors exist:

(i) The respondent's conduct neither caused nor threatened serious bodily injury or the respondent did not contemplate that his or her conduct would cause or threaten serious bodily injury;

(ii) The respondent acted under strong and immediate provocation;

(iii) The respondent was suffering from a mental or physical condition that significantly reduced his or her culpability for the offense though failing to establish a defense;

(iv) Prior to his or her detection, the respondent compensated or made a good faith attempt to compensate the victim for the injury or loss sustained; and

(v) There has been at least one year between the respondent's current offense and any prior criminal offense;

(i) Consider whether or not any of the following aggravating factors exist:

(i) In the commission of the offense, or in flight therefrom, the respondent inflicted or attempted to inflict serious bodily injury to another;

(ii) The offense was committed in an especially heinous, cruel, or depraved manner;

(iii) The victim or victims were particularly vulnerable;

(iv) The respondent has a recent criminal history or has failed to comply with conditions of a recent dispositional order or diversion agreement;

(v) The current offense included a finding of sexual motivation pursuant to RCW 9.94A.127;

(vi) The respondent was the leader of a criminal enterprise involving several persons; and

(vii) There are other complaints which have resulted in diversion or a finding or plea of guilty but which are not included as criminal history.

(4) The following factors may not be considered in determining the punishment to be imposed:

(a) The sex of the respondent;

(b) The race or color of the respondent or the respondent's family;

(c) The creed or religion of the respondent or the respondent's family;

(d) The economic or social class of the respondent or the respondent's family; and

(e) Factors indicating that the respondent may be or is a dependent child within the meaning of this chapter.

(5) A court may not commit a juvenile to a state institution solely because of the lack of facilities, including treatment facilities, existing in the community.

***\*NEW SECTION. Sec. 110. (1) The counties are expressly authorized to implement and operate a youthful offender discipline program to provide an intensive educational and physical training and rehabilitative program for appropriate children.***

***(2) A child may be placed in a youth offender discipline program if he is at least fourteen years of age but less than eighteen years of age at the time of adjudication and has been committed to the department as:***

- (a) *A serious offender, as defined in RCW 13.40.020(1); or*
- (b) *A minor or first offender, as defined in RCW 13.40.020(14).*

\*Sec. 110 was vetoed, see message at end of chapter.

**\*NEW SECTION. Sec. 111.** (1) *Each county establishing a youth offender discipline program shall screen children sent to the program, so that only those children who have medical and psychological profiles conducive to successfully completing an intensive work, educational, and disciplinary program may be admitted to the program. A participating county shall adopt rules for screening such admissions.*

(2) *The program shall include educational assignments, work assignments, and physical training exercises. Children shall be required to participate in educational, vocational, and substance abuse programs.*

\*Sec. 111 was vetoed, see message at end of chapter.

**\*NEW SECTION. Sec. 112.** *Each county establishing a youth offender discipline program shall:*

(1) *Provide an aftercare component for monitoring and assisting the release of program participants into the community;*

(2) *Adopt rules for the program and aftercare which provide for at least six months of participation in the program and aftercare for successful completion and which also provide disciplinary sanctions and restrictions on the privileges of the general population of children in the program; and*

(3) *Keep records and monitor criminal activity, educational progress, and employment placement of program participants after their release from the program. An outcome evaluation study shall be published no later eighteen months after the program becomes operational, which includes a comparison of criminal activity, educational progress, and employment placements of children completing the program with the criminal activity, educational progress, and employment records of children completing other types of programs.*

\*Sec. 112 was vetoed, see message at end of chapter.

**\*NEW SECTION. Sec. 113.** *A participating county may also contract with private organizations for the operation of the youth offender discipline program and aftercare.*

\*Sec. 113 was vetoed, see message at end of chapter.

**\*NEW SECTION. Sec. 114.** (1) *If a child in the youth offender discipline program becomes unmanageable or medically or psychologically ineligible, the participating county shall remove the child from the program.*

(2) *A participating county shall either establish criteria for training contract staff or provide a special training program for county personnel selected for the youth offender discipline program, which shall include*

*appropriate methods of dealing with children who have been placed in such a stringent program.*

**\*Sec. 114 was vetoed, see message at end of chapter.**

**Sec. 115.** RCW 2.56.030 and 1989 c 95 s 2 are each amended to read as follows:

The administrator for the courts shall, under the supervision and direction of the chief justice:

(1) Examine the administrative methods and systems employed in the offices of the judges, clerks, stenographers, and employees of the courts and make recommendations, through the chief justice, for the improvement of the same;

(2) Examine the state of the dockets of the courts and determine the need for assistance by any court;

(3) Make recommendations to the chief justice relating to the assignment of judges where courts are in need of assistance and carry out the direction of the chief justice as to the assignments of judges to counties and districts where the courts are in need of assistance;

(4) Collect and compile statistical and other data and make reports of the business transacted by the courts and transmit the same to the chief justice to the end that proper action may be taken in respect thereto;

(5) Prepare and submit budget estimates of state appropriations necessary for the maintenance and operation of the judicial system and make recommendations in respect thereto;

(6) Collect statistical and other data and make reports relating to the expenditure of public moneys, state and local, for the maintenance and operation of the judicial system and the offices connected therewith;

(7) Obtain reports from clerks of courts in accordance with law or rules adopted by the supreme court of this state on cases and other judicial business in which action has been delayed beyond periods of time specified by law or rules of court and make report thereof to supreme court of this state;

(8) Act as secretary of the judicial conference referred to in RCW 2.56.060;

(9) Formulate and submit to the judicial council of this state recommendations of policies for the improvement of the judicial system;

(10) Submit annually, as of February 1st, to the chief justice and the judicial council, a report of the activities of the administrator's office for the preceding calendar year;

(11) Administer programs and standards for the training and education of judicial personnel;

(12) Examine the need for new superior court and district judge positions under a weighted caseload analysis that takes into account the time required to hear all the cases in a particular court and the amount of time existing judges have available to hear cases in that court. The results of the weighted caseload analysis shall be reviewed by the board for judicial administration and the judicial council, both of which shall make recommendations to the legislature by

January 1, 1989. It is the intent of the legislature that weighted caseload analysis become the basis for creating additional district court positions, and recommendations should address that objective;

(13) Provide staff to the judicial retirement account plan under chapter 2.14 RCW;

(14) Attend to such other matters as may be assigned by the supreme court of this state;

(15) Within available funds, develop a curriculum for a general understanding of child development, placement, and treatment resources, as well as specific legal skills and knowledge of relevant statutes including chapters 13.32A ((and)), 13.34, and 13.40 RCW, cases, court rules, interviewing skills, and special needs of the abused or neglected child. This curriculum shall be completed and made available to all juvenile court judges, court personnel, and service providers by July 1, 1988. The curriculum shall be updated yearly to reflect changes in statutes, court rules, or case law;

(16) Develop a curriculum for a general understanding of ~~((hate or bias))~~ crimes of malicious harassment, as well as specific legal skills and knowledge of RCW 9A.36.080, relevant cases, court rules, and the special needs of malicious harassment victims. This curriculum shall be completed and made available to all superior court and court of appeals judges and to all justices of the supreme court by July 1, 1989.

**Sec. 116.** RCW 4.24.190 and 1977 ex.s. c 145 s 1 are each amended to read as follows:

The parent or parents of any minor child under the age of eighteen years who is living with the parent or parents and who shall willfully or maliciously destroy property, real or personal or mixed, or who shall willfully and maliciously inflict personal injury on another person, shall be liable to the owner of such property or to the person injured in a civil action at law for damages in an amount not to exceed ~~((three))~~ five thousand dollars. This section shall in no way limit the amount of recovery against the parent or parents for their own common law negligence.

**Sec. 117.** RCW 9.41.010 and 1983 c 232 s 1 are each amended to read as follows:

(1) "Short firearm" or "pistol" as used in this chapter means any firearm with a barrel less than twelve inches in length.

(2) "Crime of violence" as used in this chapter means:

(a) Any of the following felonies, as now existing or hereafter amended: Any felony defined under any law as a class A felony or an attempt to commit a class A felony, criminal solicitation of or criminal conspiracy to commit a class A felony, manslaughter in the first degree, manslaughter in the second degree, indecent liberties if committed by forcible compulsion, rape in the second degree, kidnapping in the second degree, arson in the second degree, assault in the

second degree, extortion in the first degree, burglary in the second degree, and robbery in the second degree;

(b) Any conviction or adjudication for a felony offense in effect at any time prior to July 1, 1976, which is comparable to a felony classified as a crime of violence in subsection (2)(a) of this section; and

(c) Any federal or out-of-state conviction or adjudication for an offense comparable to a felony classified as a crime of violence under subsection (2) (a) or (b) of this section.

(3) "Firearm" as used in this chapter means a weapon or device from which a projectile may be fired by an explosive such as gunpowder.

(4) "Commercial seller" as used in this chapter means a person who has a federal firearms license.

**Sec. 118.** RCW 9A.10.040 and 1983 c 232 s 2 are each amended to read as follows:

(1) A person is guilty of the crime of unlawful possession of a short firearm or pistol, if, having previously been convicted or, as a juvenile, adjudicated in this state or elsewhere of a crime of violence or of a felony in which a firearm was used or displayed, the person owns or has in his possession any short firearm or pistol.

(2) Unlawful possession of a short firearm or pistol shall be punished as a class C felony under chapter 9A.20 RCW.

(3) As used in this section, a person has been "convicted or adjudicated" at such time as a plea of guilty has been accepted or a verdict of guilty has been filed, notwithstanding the pendency of any future proceedings including but not limited to sentencing or disposition, post-trial or post-factfinding motions, and appeals. A person shall not be precluded from possession if the conviction or adjudication has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted or adjudicated or the conviction or disposition has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence.

(4) Except as provided in subsection (5) of this section, a person is guilty of the crime of unlawful possession of a short firearm or pistol if, after having been convicted or adjudicated of any felony violation of the uniform controlled substances act, chapter 69.50 RCW, or equivalent statutes of another jurisdiction, or after any period of confinement under RCW 71.05.320 or an equivalent statute of another jurisdiction, or following a record of commitment pursuant to chapter 10.77 RCW or equivalent statutes of another jurisdiction, he owns or has in his possession or under his control any short firearm or pistol.

(5) Notwithstanding subsection (1) of this section, a person convicted of an offense other than murder, manslaughter, robbery, rape, indecent liberties, arson, assault, kidnapping, extortion, burglary, or violations with respect to controlled substances under RCW 69.50.401(a) and 69.50.410, who received a probationary

sentence under RCW 9.95.200, and who received a dismissal of the charge under RCW 9.95.240, shall not be precluded from ownership, possession, or control of a firearm as a result of the conviction.

**Sec. 119.** RCW 13.04.011 and 1979 c 155 s 1 are each amended to read as follows:

For purposes of this title:

(1) Except as specifically provided in RCW 13.40.020 and chapter 13.24 RCW, as now or hereafter amended, "juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years;

(2) "Juvenile offender" and "juvenile offense" have the meaning ascribed in RCW (~~(13.40.010 through 13.40.240)~~ 13.40.020);

(3) "Court" when used without further qualification means the juvenile court judge(s) or commissioner(s);

(4) "Parent" or "parents," except as used in chapter 13.34 RCW, as now or hereafter amended, means that parent or parents who have the right of legal custody of the child. "Parent" or "parents" as used in chapter 13.34 RCW, means the biological or adoptive parents of a child unless the legal rights of that person have been terminated by judicial proceedings;

(5) "Custodian" means that person who has the legal right to custody of the child.

**NEW SECTION. Sec. 120.** A new section is added to chapter 28A.600 RCW to read as follows:

School districts may participate in the exchange of information with law enforcement and juvenile court officials to the extent permitted by the family educational and privacy rights act of 1974, 20 U.S.C. Sec. 1232g. When directed by court order or pursuant to any lawfully issued subpoena, a school district shall make student records and information available to law enforcement officials, probation officers, court personnel, and others legally entitled to the information. Parents and students shall be notified by the school district of all such orders or subpoenas in advance of compliance with them.

## PART II - FAMILIES AT RISK

**NEW SECTION. Sec. 201.** A new section is added to chapter 28A.225 RCW to read as follows:

Each school within a school district shall inform the students and the parents of the students enrolled in the school about the compulsory education requirements under this chapter. The school shall distribute the information at least annually.

**Sec. 202.** RCW 28A.225.020 and 1986 c 132 s 2 are each amended to read as follows:

If a juvenile required to attend school under the laws of the state of Washington fails to attend school without valid justification (~~(recurrently or for an extended period of time)~~), the juvenile's school(~~(, where appropriate,)~~) shall:

(1) Inform the juvenile's custodial parent, parents or guardian by a notice in writing (~~(in English and, if different, in the primary language of the custodial parent, parents or guardian and by other means reasonably necessary to achieve notice of the fact)~~) or by telephone that the juvenile has failed to attend school without valid justification (~~(recurrently or for an extended period of time)~~) after one unexcused absence within any month during the current school year;

(2) Schedule a conference or conferences with the custodial parent, parents or guardian and juvenile at a time and place reasonably convenient for all persons included for the purpose of analyzing the causes of the juvenile's absences after two unexcused absences within any month during the current school year. If a regularly scheduled parent-teacher conference day is to take place within thirty days of the second unexcused absence, then the school district may schedule this conference on that day; and

(3) Take steps to eliminate or reduce the juvenile's absences. These steps shall include, where appropriate, adjusting the juvenile's school program or school or course assignment, providing more individualized or remedial instruction, preparing the juvenile for employment with specific vocational courses or work experience, or both, and assisting the parent or student to obtain supplementary services that might eliminate or ameliorate the cause or causes for the absence from school.

**Sec. 203.** RCW 28A.225.030 and 1990 c 33 s 220 are each amended to read as follows:

If action taken by a school pursuant to RCW 28A.225.020 is not successful in substantially reducing a student's absences from school, any of the following actions may be taken after five or more unexcused absences during the current school year: (1) The attendance officer of the school district through its attorney may petition the juvenile court to assume jurisdiction under RCW 28A.200.010, 28A.200.020, and 28A.225.010 through 28A.225.150 for the purpose of alleging a violation of RCW 28A.225.010 by the parent; or (2) a petition alleging a violation of RCW 28A.225.010 by a child may be filed with the juvenile court by the parent of such child or by the attendance officer of the school district through its attorney at the request of the parent. If the court assumes jurisdiction in such an instance, the provisions of RCW 28A.200.010, 28A.200.020, and 28A.225.010 through 28A.225.150, except where otherwise stated, shall apply.

**Sec. 204.** RCW 28A.225.090 and 1990 c 33 s 226 are each amended to read as follows:

Any person violating any of the provisions of either RCW 28A.225.010 or 28A.225.080 shall be fined not more than twenty-five dollars for each day of unexcused absence from school. However, a child found to be in violation of RCW 28A.225.010 shall be required to attend school and shall not be fined. If the child fails to comply with the court order to attend school, the court may order the child be punished by detention or may impose alternatives to detention such as community service hours or participation in dropout prevention programs

or referral to a community truancy board, if available. Failure by a child to comply with an order issued under this section shall not be punishable by detention for a period greater than that permitted pursuant to a contempt proceeding against a child under chapter 13.32A RCW. It shall be a defense for a parent charged with violating RCW 28A.225.010 to show that he or she exercised reasonable diligence in attempting to cause a child in his or her custody to attend school or that the juvenile's school did not perform its duties as required in RCW 28A.225.020. Any fine imposed pursuant to this section may be suspended upon the condition that a parent charged with violating RCW 28A.225.010 shall participate with the school and the juvenile in a supervised plan for the juvenile's attendance at school or upon condition that the parent attend a conference or conferences scheduled by a school for the purpose of analyzing the causes of a child's absence.

Attendance officers shall make complaint for violation of the provisions of RCW 28A.225.010 through 28A.225.140 to a judge of the superior or district court.

**Sec. 205.** RCW 28A.225.150 and 1990 c 33 s 232 are each amended to read as follows:

The school district attendance officer shall report biannually to the educational service district superintendent, in the instance of petitions filed alleging a violation by a child under RCW 28A.225.030:

- (1) The number of petitions filed by a school district or by a parent;
- (2) The frequency of each action taken under RCW 28A.225.020 prior to the filing of such petition;
- (3) When deemed appropriate under RCW 28A.225.020, the frequency of delivery of supplemental services; and
- (4) Disposition of cases filed with the juvenile court, including the frequency of contempt orders issued to enforce a court's order under RCW 28A.225.090.

The educational service district superintendent shall compile such information and report annually to the superintendent of public instruction. The superintendent of public instruction shall compile such information and report to the committees of the house of representatives and the senate by ~~((January 1,~~ 1988)) September 1 of each year.

**Sec. 206.** RCW 13.32A.130 and 1990 c 276 s 8 are each amended to read as follows:

A child admitted to a crisis residential center under this chapter who is not returned to the home of his or her parent or who is not placed in an alternative residential placement under an agreement between the parent and child, shall, except as provided for by RCW 13.32A.140 and 13.32A.160(2), reside in such placement under the rules and regulations established for the center for a period not to exceed ~~((seventy-two hours, excluding Saturdays, Sundays, and holidays,))~~ five consecutive days from the time of intake, except as otherwise provided by this chapter. Crisis residential center staff shall make a concerted effort to

achieve a reconciliation of the family. If a reconciliation and voluntary return of the child has not been achieved within forty-eight hours(~~(, excluding Saturdays, Sundays and holidays,)~~) from the time of intake, and if the person in charge of the center does not consider it likely that reconciliation will be achieved within the (~~(seventy-two-hour)~~) five-day period, then the person in charge shall inform the parent and child of (1) the availability of counseling services; (2) the right to file a petition for an alternative residential placement, the right of a parent to file an at-risk youth petition, and the right of the parent and child to obtain assistance in filing the petition; and (3) the right to request a review of any alternative residential placement: PROVIDED, That at no time shall information regarding a parent's or child's rights be withheld if requested: PROVIDED FURTHER, That the department shall develop and distribute to all law enforcement agencies and to each crisis residential center administrator a written statement delineating such services and rights. Every officer taking a child into custody shall provide the child and his or her parent(s) or responsible adult with whom the child is placed with a copy of such statement. In addition, the administrator of the facility or his or her designee shall provide every resident and parent with a copy of such statement.

*\*Sec. 207. RCW 13.32A.140 and 1990 c 276 s 9 are each amended to read as follows:*

*The department shall file a petition to approve an alternative residential placement on behalf of a child under any of the following sets of circumstances:*

*(1) The child has been admitted to a crisis residential center or has been placed with a responsible person other than his or her parent, and:*

*(a) The parent has been notified that the child was so admitted or placed;*

*(b) (~~(Seventy-two hours, including Saturdays, Sundays, and holidays,)~~)*

*Five consecutive days have passed since such notification;*

*(c) No agreement between the parent and the child as to where the child shall live has been reached;*

*(d) No petition requesting approval of an alternative residential placement has been filed by either the child or parent or legal custodian;*

*(e) The parent has not filed an at-risk youth petition; and*

*(f) The child has no suitable place to live other than the home of his or her parent.*

*(2) The child has been admitted to a crisis residential center and:*

*(a) (~~(Seventy-two hours, including Saturdays, Sundays, and holidays,)~~)*

*Five consecutive days have passed since such placement;*

*(b) The staff, after searching with due diligence, have been unable to contact the parent of such child; and*

*(c) The child has no suitable place to live other than the home of his or her parent.*

**(3) An agreement between parent and child made pursuant to RCW 13.32A.090(2)(e) or pursuant to RCW 13.32A.120(1) is no longer acceptable to parent or child, and:**

**(a) The party to whom the arrangement is no longer acceptable has so notified the department;**

**(b) ~~((Seventy-two hours, including Saturdays, Sundays, and holidays,))~~  
Five consecutive days have passed since such notification;**

**(c) No new agreement between parent and child as to where the child shall live has been reached;**

**(d) No petition requesting approval of an alternative residential placement has been filed by either the child or the parent;**

**(e) The parent has not filed an at-risk youth petition; and**

**(f) The child has no suitable place to live other than the home of his or her parent.**

**Under the circumstances of subsections (1), (2), or (3) of this section, the child shall remain in a licensed child care facility, including but not limited to a crisis residential center, or in any other suitable residence to be determined by the department until an alternative residential placement petition filed by the department on behalf of the child is reviewed by the juvenile court and is resolved by such court. The department may authorize emergency medical or dental care for a child placed under this section. The state, when the department files a petition for alternative residential placement under this section, shall be represented as provided for in RCW 13.04.093.**

**\*Sec. 207 was vetoed, see message at end of chapter.**

**Sec. 208. RCW 13.32A.150 and 1990 c 276 s 10 are each amended to read as follows:**

**(1) Except as otherwise provided in this section the juvenile court shall not accept the filing of an alternative residential placement petition by the child or the parents or the filing of an at-risk youth petition by the parent, unless verification is provided that a family assessment has been completed by the department. The family assessment shall be aimed at family reconciliation and avoidance of the out-of-home placement of the child. If the department is unable to complete an assessment within two working days following a request for assessment the child or the parents may proceed under subsection (2) of this section or the parent may proceed under subsection (3) of this section.**

**(2) A child or a child's parent may file with the juvenile court a petition to approve an alternative residential placement for the child outside the parent's home. The department shall, when requested, assist either a parent or child in the filing of the petition. The petition shall only ask that the placement of a child outside the home of his or her parent be approved. The filing of a petition to approve such placement is not dependent upon the court's having obtained any prior jurisdiction over the child or his or her parent, and confers upon the court**

a special jurisdiction to approve or disapprove an alternative residential placement.

(3) A child's parent may file with the juvenile court a petition in the interest of a child alleged to be an at-risk youth. The department shall, when requested, assist the parent in filing the petition. The petition shall be filed in the county where the petitioning parent resides. The petition shall set forth the name, age, and residence of the child and the names and residence of the child's parents and shall allege that:

(a) The child is an at-risk youth as defined in this chapter;

(b) The petitioning parent has the right to legal custody of the child;

(c) Court intervention and supervision are necessary to assist the parent to maintain the care, custody, and control of the child; and

(d) Alternatives to court intervention have been attempted or there is good cause why such alternatives have not been attempted.

The petition shall set forth facts that support the allegations in this subsection and shall generally request relief available under this chapter. The petition need not specify any proposed disposition following adjudication of the petition. The filing of an at-risk youth petition is not dependent upon the court's having obtained any prior jurisdiction over the child or his or her parent and confers upon the court the special jurisdiction to assist the parent in maintaining parental authority and responsibility for the child. An at-risk youth petition may not be filed if the court has approved an alternative residential placement petition regarding the child or if the child is the subject of a proceeding under chapter 13.34 RCW. A petition may be accepted for filing only if alternatives to court intervention have been attempted (~~or if there is good cause why they were not attempted~~). Juvenile court personnel may screen all at-risk youth petitions and may refuse to allow the filing of any petition that lacks merit, fails to comply with the requirements of this section, or fails to allege sufficient facts in support of allegations in the petition.

**NEW SECTION. Sec. 209.** To the extent possible within existing funds, the department of social and health services shall transfer children who are inappropriately housed in crisis residential centers to residential and treatment services designed to meet their specific, unique needs by June 30, 1993.

**\*NEW SECTION. Sec. 210.** *A new section is added to chapter 13.32A RCW to read as follows:*

*The department of social and health services shall not administratively split-code staff responsible for family reconciliation services between separate and distinct functions, except in remote rural offices where to do otherwise proves impractical.*

*\*Sec. 210 was vetoed, see message at end of chapter.*

**\*NEW SECTION.** *Sec. 211. A new section is added to chapter 13.32A RCW to read as follows:*

*All placements into crisis residential centers shall be approved by and coordinated through the family reconciliation services supervisor. The department of social and health services shall establish uniform procedures for the use of crisis residential centers, which shall be adhered to by all family reconciliation services supervisors. The department shall ensure procedures established under this section will facilitate and complement law enforcement officer's existing responsibility to pick up and transport children to crisis residential centers and other places authorized by law under this chapter.*

*\*Sec. 211 was vetoed, see message at end of chapter.*

*\*Sec. 212. RCW 74.13.032 and 1979 c 155 s 78 are each amended to read as follows:*

*(1) The department (~~(shall establish, by contracts with private vendors,))~~ **may operate or contract to operate not less than eight regional crisis residential centers, which shall be structured group care facilities licensed under rules adopted by the department. Each regional center shall have (~~(an average of at least four adult staff members and in no event less than))~~ three adult staff members to every (~~(eight))~~ nine children. The staff shall be trained so that they may effectively counsel juveniles admitted to the centers, provide treatment, supervision, and structure to the juveniles, and carry out the responsibilities outlined in RCW 13.32A.090.***

*(2) The department shall, in addition to the regional facilities established under subsection (1) of this section, establish not less than thirty additional crisis residential centers pursuant to contract with licensed private group care or specialized foster home facilities. The staff at the facilities shall be trained so that they may effectively counsel juveniles admitted to the centers, provide treatment, supervision, and structure to the juveniles, and carry out the responsibilities stated in RCW 13.32A.090. The responsibilities stated in RCW 13.32A.090 may, in any of the centers, be carried out by the department.*

*Crisis residential facilities shall be operated as semi-secure facilities.*

*\*Sec. 212 was vetoed, see message at end of chapter.*

*Sec. 213. RCW 74.13.033 and 1979 c 155 s 79 are each amended to read as follows:*

*(1) If a resident of a center becomes by his or her behavior disruptive to the facility's program, such resident may be immediately removed to a separate area within the facility and counseled on an individual basis until such time as the child regains his or her composure. The department may set rules and regulations establishing additional procedures for dealing with severely disruptive children on the premises, which procedures are consistent with the federal juvenile justice and delinquency prevention act of 1974 and regulations and clarifying instructions promulgated thereunder. Nothing in this section shall*

prohibit a center from referring any child who, as the result of a mental or emotional disorder, or intoxication by alcohol or other drugs, is suicidal, seriously assaultive or seriously destructive toward others, or otherwise similarly evidences an immediate need for emergency medical evaluation and possible care, ~~((to a community mental health center))~~ for evaluation pursuant to chapter 71.34 RCW ((72.23.070)) or to a mental health professional pursuant to chapter 71.05 RCW whenever such action is deemed appropriate and consistent with law.

(2) When the juvenile resides in this facility, all services deemed necessary to the juvenile's reentry to normal family life shall be made available to the juvenile as required by chapter 13.32A RCW. In providing these services, the facility shall:

- (a) Interview the juvenile as soon as possible;
- (b) Contact the juvenile's parents and arrange for a counseling interview with the juvenile and his or her parents as soon as possible;
- (c) Conduct counseling interviews with the juvenile and his or her parents, to the end that resolution of the child/parent conflict is attained and the child is returned home as soon as possible; and
- (d) Provide additional crisis counseling as needed, to the end that placement of the child in the crisis residential center will be required for the shortest time possible, but not to exceed ~~((seventy-two hours))~~ five consecutive days.

(3) A juvenile taking unauthorized leave from this residence may be apprehended and returned to it by law enforcement officers or other persons designated as having this authority as provided in RCW 13.32A.050. If returned to the facility after having taken unauthorized leave for a period of more than twenty-four hours a juvenile may be supervised by such a facility for a period, pursuant to this chapter, which, unless where otherwise provided, may not exceed ~~((seventy-two hours))~~ five consecutive days on the premises. Costs of housing juveniles admitted to crisis residential centers shall be assumed by the department for a period not to exceed ~~((seventy-two hours))~~ five consecutive days.

**Sec. 214.** RCW 74.13.034 and 1991 c 364 s 5 are each amended to read as follows:

(1) A child taken into custody and taken to a crisis residential center established pursuant to RCW 74.13.032(2) may, if the center is unable to provide appropriate treatment, supervision, and structure to the child, be taken at department expense to another crisis residential center or the nearest regional crisis residential center. Placement in both centers shall not exceed ~~((seventy-two hours))~~ five consecutive days from the point of intake as provided in RCW 13.32A.130.

(2) A child taken into custody and taken to a crisis residential center established by this chapter may be placed physically by the department or the department's designee and, at departmental expense and approval, in a secure juvenile detention facility operated by the county in which the center is located for a maximum of forty-eight hours, including Saturdays, Sundays, and holidays,

if the child has taken unauthorized leave from the center and the person in charge of the center determines that the center cannot provide supervision and structure adequate to ensure that the child will not again take unauthorized leave. Juveniles placed in such a facility pursuant to this section may not, to the extent possible, come in contact with alleged or convicted juvenile or adult offenders.

(3) Any child placed in secure detention pursuant to this section shall, during the period of confinement, be provided with appropriate treatment by the department or the department's designee, which shall include the services defined in RCW 74.13.033(2). If the child placed in secure detention is not returned home or if an alternative living arrangement agreeable to the parent and the child is not made within twenty-four hours after the child's admission, the child shall be taken at the department's expense to a crisis residential center. Placement in the crisis residential center or centers plus placement in juvenile detention shall not exceed ~~((seventy-two hours))~~ five consecutive days from the point of intake as provided in RCW 13.32A.130.

(4) Juvenile detention facilities used pursuant to this section shall first be certified by the department to ensure that juveniles placed in the facility pursuant to this section are provided with living conditions suitable to the well-being of the child. Where space is available, juvenile courts, when certified by the department to do so, shall provide secure placement for juveniles pursuant to this section, at department expense.

(5) It is the intent of the legislature that by July 1, 1982, crisis residential centers, supplemented by community mental health programs and mental health professionals, will be able to respond appropriately to children admitted to centers under this chapter and will be able to respond to the needs of such children with appropriate treatment, supervision, and structure.

### **PART III - INVOLUNTARY COMMITMENT AND TREATMENT**

**\*Sec. 301. RCW 74.04.055 and 1991 c 126 s 2 are each amended to read as follows:**

***In furtherance of the policy of this state to cooperate with the federal government in the programs included in this title the secretary shall issue such rules and regulations as may become necessary to entitle this state to participate in federal grants-in-aid, goods, commodities and services unless the same be expressly prohibited by this title. The secretary shall ensure that the department's services and programs are designed and implemented to maximize the allocation of federal funds to the state.***

***Any section or provision of this title which may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to satisfy federal laws entitling this state to receive federal matching or other funds for the various programs of public assistance. If any part of this chapter is found to be in conflict with federal requirements which are a prescribed condition to the receipts of federal funds to the state, the conflicting part of this chapter is hereby inoperative solely to the extent of the conflict***

*with respect to the agencies directly affected, and such finding or determination shall not affect the operation of the remainder of this chapter.*

\*Sec. 301 was vetoed, see message at end of chapter.

**Sec. 302.** RCW 71.34.010 and 1985 c 354 s 1 are each amended to read as follows:

It is the purpose of this ((legislation)) chapter to ensure that minors in need of mental health care and treatment receive an appropriate continuum of culturally relevant care and treatment, ((and to enable treatment decisions to be made in response to clinical needs and in accordance with sound professional judgment while also recognizing parents' rights to participate in treatment decisions for their minor children, and to protect minors against needless hospitalization and deprivations of liberty)) from prevention and early intervention to involuntary treatment. To facilitate the continuum of care and treatment to minors in out-of-home placements, all divisions of the department that provide mental health services to minors shall jointly plan and deliver those services.

It is also the purpose of this chapter to protect the rights of minors against needless hospitalization and deprivations of liberty and to enable treatment decisions to be made in response to clinical needs in accordance with sound professional judgment. The mental health care and treatment providers shall encourage the use of voluntary services and, whenever clinically appropriate, the providers shall offer less restrictive alternatives to inpatient treatment. Additionally, all mental health care and treatment providers shall ensure that minors' parents are given an opportunity to participate in the treatment decisions for their minor children. The mental health care and treatment providers shall, to the extent possible, offer services that involve minors' parents or family.

**NEW SECTION. Sec. 303.** A new section is added to chapter 71.34 RCW to read as follows:

For the purpose of encouraging the expansion of existing evaluation and treatment facilities and the creation of new facilities, the department shall endeavor to redirect federal Title XIX funds which are expended on out-of-state placements to fund placements within the state.

**NEW SECTION. Sec. 304.** A new section is added to chapter 71.34 RCW to read as follows:

The department shall ensure that the provisions of this chapter are applied by the counties in a consistent and uniform manner. The department shall also ensure that, to the extent possible within available funds, the county-designated mental health professionals are specifically trained in adolescent mental health issues, the mental health civil commitment laws, and the criteria for civil commitment.

**\*NEW SECTION.** *Sec. 305. A new section is added to chapter 71.34 RCW to read as follows:*

*Whenever a county-designated mental health professional makes a determination under RCW 71.34.050 that a minor, thirteen years or older, does not meet the criteria for an involuntary detention at an evaluation and treatment facility, the county-designated mental health professional shall:*

*(1) Provide written notice to the minor's parent of the parent's right to file petitions and obtain services available under chapter 13.32A RCW;*

*(2) Provide a written evaluation to the minor's parent detailing the county-designated mental health professional's reasons for not detaining the minor at an evaluation and treatment facility. The evaluation shall include the specific facts investigated, the credibility of the person or persons providing the information, and the criteria for an involuntary detention; and*

*(3) Refer the minor and the parents to other available services.*

*\*Sec. 305 was vetoed, see message at end of chapter.*

**NEW SECTION.** *Sec. 306. A new section is added to chapter 70.96A RCW to read as follows:*

*The department shall ensure that the provisions of this chapter are applied by the counties in a consistent and uniform manner. The department shall also ensure that, to the extent possible within available funds, the county-designated chemical dependency specialists are specifically trained in adolescent chemical dependency issues, the chemical dependency commitment laws, and the criteria for commitment.*

**\*NEW SECTION.** *Sec. 307. A new section is added to chapter 70.96A RCW to read as follows:*

*Whenever a county-designated chemical dependency specialist makes a determination under RCW 70.96A.140 that a minor does not meet the criteria for a commitment to a chemical dependency program, the county-designated chemical dependency specialist shall:*

*(1) Provide written notice to the minor's parent of the parent's right to file petitions and obtain services available under chapter 13.32A RCW;*

*(2) Provide a written evaluation to the minor's parent detailing the county-designated chemical dependency specialist's reasons for not committing the minor in a chemical dependency program. The evaluation shall include the specific facts investigated, the credibility of the person or persons providing the information, and the criteria for a commitment to a chemical dependency treatment program; and*

*(3) Refer the minor and the parents to other available services.*

*\*Sec. 307 was vetoed, see message at end of chapter.*

## PART IV - MISCELLANEOUS

Sec. 401. 1991 c 234 s 1 (uncodified) is amended to read as follows:

A joint select committee on juvenile issues (~~((task force))~~) is created to review the operation of the 1977 Juvenile Justice Act, the Family Reconciliation Act, the 1990 "at-risk" youth legislation, and to study related issues. The (~~((task force))~~) joint select committee is charged with issuing a report and making recommendations to the legislature by December 15, (~~((1994))~~) 1992.

The (~~((task force))~~) joint select committee shall consist of the following members:

(1) (~~((Three))~~) Two co-chairs, one from the state senate appointed by the president of the senate(~~(;)~~) and one from the state house of representatives appointed by the speaker of the house of representatives(~~(; and one appointed by the governor from among the members of the task force named in subsection (3) of this section))~~).

(2) Eight legislators in addition to the two legislative cochairs selected under subsection (1) of this section, two each from the majority and minority caucuses of the senate and two each from the majority and minority caucuses of the house of representatives.

(3) (~~((The governor shall appoint the following members of the task force))~~) Advisory committees shall be composed of the following:

- (a) (~~((Three))~~) Two superior court judges;
- (b) (~~((Two))~~) One prosecuting attorney(~~(s)~~);
- (c) (~~((Two))~~) One juvenile public defender(~~(s)~~);
- (d) The secretary of social and health services or the secretary's designee;
- (e) (~~((Two))~~) One juvenile court administrator(~~(s)~~);
- (f) One police chief or county sheriff;
- (g) (~~((One child psychologist;~~
- (h) ~~One child psychiatrist;~~
- (~~((i))~~) Two directors of (~~((a))~~) youth service organizations;
- (~~((j))~~) (h) One person from the Washington council on crime and delinquency;
- (~~((k))~~) (i) One person from a parents' organization;
- (~~((l))~~) ~~One person from a crisis residential center;~~
- (~~((m))~~) (j) One juvenile court caseworker;
- (~~((n))~~) ~~One representative of the executive branch;~~
- (~~((o))~~) (k) Two members of the mental health treatment community;
- (~~((and~~
- (~~((p))~~) (l) One member from the substance abuse treatment community;
- (m) One member from the education system;
- (n) One member from local government; and
- (o) One member representing the employees of state institutions.

~~((The department of social and health services shall fund the task force in an amount sufficient to meet its mission. The task force shall be staffed, to the extent possible, by staff available from the membership of the task force.~~

~~The governor shall ensure that the racial diversity of the task force membership appointed by the governor reflects the racial diversity of juveniles served under the Family Reconciliation Act, the 1977 Juvenile Justice Act, and the 1990 "at risk" youth legislation.))~~

The joint select committee shall develop a statutory community-based planning, allocation, and service system for children and families, including at-risk youth, runaways, and families in conflict, and submit it to the appropriate legislative committees no later than December 1, 1992. The joint select committee shall: (i) Identify which state agencies, programs, and services should be included in the system; (ii) identify the various youth populations to be served by the system; and (iii) determine how to coordinate this system with existing community-based planning and coordination requirements, including, but not limited to, chapter 326, Laws of 1991, and chapter 13.06 RCW.

**Sec. 402.** 1991 c 234 s 2 (uncodified) is amended to read as follows:

The department of social and health services, in cooperation with the commission on African American affairs, shall contract for an independent study of racial disproportionality in the juvenile justice system. The study shall identify key decision points in the juvenile justice system where race and/or ethnicity-based disproportionality exists in the treatment and incarceration of juvenile offenders. The study shall identify the causes of disproportionality, and propose new policies and procedures to address disproportionality.

~~((The department shall submit the study's preliminary findings and recommendations to the juvenile justice task force established under section 1 of this act by September 13, 1991.))~~ The final report shall be submitted to the appropriate committees of the legislature by December ~~((1, 1991))~~ 15, 1992.

The juvenile justice task force shall utilize the information on disproportionality in developing its report and recommendations to the legislature required under section ~~((1))~~ 401 of this act. ~~((If by June 30, 1991, the omnibus operating budget appropriations act for the 1991-93 biennium does not provide specific funding for this section, referencing this section by bill number and section, this section is null and void.))~~

**\*NEW SECTION.** *Sec. 403. A new section is added to chapter 13.40 RCW to read as follows:*

*The department shall within existing funds collect such data as may be necessary to monitor any disparity in processing or disposing of cases involving juvenile offenders due to economic, gender, geographic, or racial factors that may result from implementation of chapter ..., Laws of 1992 (this act). Beginning December 1, 1993, the department shall report annually to the legislature on economic, gender, geographic, or racial disproportionality in the rates of arrest, detention, trial, treatment, and disposition in the state's juvenile*

*justice system. The report shall cover the preceding calendar year. The annual report shall identify the causes of such disproportionality and shall specifically point out any economic, gender, geographic, or racial disproportionality resulting from implementation of chapter ..., Laws of 1992 (this act).*

\*Sec. 403 was vetoed, see message at end of chapter.

**\*NEW SECTION. Sec. 404.** *Sections 110 through 114 of this act are each added to chapter 13.16 RCW.*

\*Sec. 404 was vetoed, see message at end of chapter.

**NEW SECTION. Sec. 405.** Part headings as used in this act do not constitute any part of the law.

**NEW SECTION. Sec. 406.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**\*NEW SECTION. Sec. 407.** *The purpose of this act is solely to provide authority for the counties and the department of social and health services to provide services within existing funds and current programs and facilities unless otherwise specifically funded by June 30, 1992, by reference to this bill and section number, in the supplemental omnibus appropriations act for the 1992. Nothing in this act shall be construed to require the addition of new facilities nor affect the department of social and health services' nor county authority for the uses of existing programs and funding.*

\*Sec. 407 was vetoed, see message at end of chapter.

**\*NEW SECTION. Sec. 408.** *Sections 102, 104, 106, 206, 207, 212, 214, and 304 through 307 of this act shall take effect July 1, 1993.*

\*Sec. 408 was vetoed, see message at end of chapter.

Passed the House March 11, 1992.

Passed the Senate March 11, 1992.

Approved by the Governor April 2, 1992, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 2, 1992.

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

"I am returning herewith, without my approval as to sections 102, 104, 110, 111, 112, 113, 114, 207, 210, 211, 212, 301, 305, 307, 403, 404, 407, and 408, Engrossed Substitute House Bill No. 2466 entitled:

"AN ACT Relating to recommendations of the juvenile issues task force."

Engrossed Substitute House Bill No. 2466 originated from the deliberations of the Juvenile Issues Task Force. The Task Force was comprised of individuals representing a broad range of interests. It attempted a comprehensive review of the juvenile justice system and the programs provided for troubled youth and their families. The Task Force focused on three substantive areas: juvenile offenders, families at risk, and involuntary commitment and treatment.

These issues are of paramount concern. I applaud the work of the Juvenile Issues Task Force. Its job was not an easy one. Unfortunately, the job was not completed. Many provisions of Engrossed Substitute House Bill No. 2466 were left unfunded, and

the burden of making the tough choices to fund these new programs was left to the next legislature.

I cannot mislead the citizens of the state into believing that Substitute House Bill No. 2466 will make important and needed changes in the lives of youths. My hope is that the newly created Joint Select Committee will address these issues with legislation and appropriate funding in the 1993 legislative session. For that reason, I find it necessary to veto the following sections of Engrossed Substitute House Bill No. 2466:

#### Section 102

This section redefines terms of the state's Juvenile Justice Act. I am concerned that the definition of "community based rehabilitation" could result in placing youths in residential or inpatient substance abuse programs as a condition of their sentence. This would limit their liberty without adequate due process as required by the state's involuntary commitment statutes. Substance abuse treatment during community based rehabilitation should be limited to outpatient programs. For this reason, I have vetoed section 102.

#### Section 104

The sentence range increases contained in this section will result in a significant caseload increase for county detention facilities. While the language would imply that this increase is optional, it is only optional for the court at the time of sentencing. Therefore, the detention facilities will have no real control over the increased sentences and the resulting case load. The fiscal impact of this section is estimated to be \$11 million for the community supervision expansion alone. The fiscal impact for detention increase would be of the same magnitude. Local governments lack the fiscal resources to accommodate this increase at this time. In addition, local governments lack the physical resources (beds) to accommodate this increased case load. Currently, many detention facilities are facing critical overcrowding problems. This section would only add to this crisis. For this reason, I have vetoed section 104.

#### Sections 110 through 114

These sections authorize counties to implement and operate youthful offender discipline programs, popularly known as "boot camps." Section 110 limits the programs to children between the ages of 14 and 18 who have been committed to the Department as serious offenders or as minor or first offenders. I believe section 110 contains a drafting error. Minor or first offenders should not be in confinement. They should instead be placed in community supervision programs. Furthermore, serious offenders are generally placed in total confinement settings separate from minor offenders. Sections 111 through 114 implement section 110. Because of the confusion created by the drafting error in section 110, I have vetoed sections 110 through 114.

#### Section 207

This section addresses alternative residential placements for children following placement in a crisis residential center. This section increases the waiting period for the Department of Social and Health Services prior to filing an alternative residential placement petition from 72 hours to 5 days. Under requirements of this section, the Department's authority to retain a child in a crisis residential center can expire before the petition can be filed. I have vetoed this section in order to maintain the Department's current authority to file a petition before the authority to retain a child expires.

#### Section 210

This section requires that the Department of Social and Health Services not administratively split code staff that provide family reconciliation services. Although the Department is in the process of accomplishing this action, I believe it is inappropriate to place such administrative requirements in statute. I have vetoed this section to allow the Department to handle such matters administratively.

#### Section 211

This section requires that all placements into crisis residential centers be approved and coordinated through the family reconciliation supervisor. This administrative

requirement needs flexibility and, thus, is inappropriate for inclusion in statute. I have vetoed this section to ensure that this level of administrative detail be left to the agency.

Section 212

This section reduces the staffing in regional crisis residential centers from an average of one staff member for every two children to an average of one staff member for every three children. Children housed in crisis residential centers may pose a threat to themselves and others. This change in the staffing ratio creates a dangerous situation for both residents and staff. I have vetoed this section in order to retain a higher ratio of staff to residents and to ensure greater safety and quality of care within the crisis residential centers.

Section 301

This section requires the Department of Social and Health Services to design and implement its services and programs to maximize receipt of federal funds. The Department has federal funding for numerous programs and has contributed toward saving millions of dollars for the state's General Fund. But, in some circumstances maximizing federal funding would result in denying needed services to many of our state's vulnerable persons. I have vetoed this section in order to allow the Department to manage its programs and services in a more flexible manner.

Section 305

This section would require county designated mental health professionals to provide a written notice and evaluation report to parents of a minor who does not meet involuntary detention criteria. This would create an unnecessary and burdensome workload. For this reason, I have vetoed this section.

Section 307

This section requires a county designated chemical dependency specialist to provide a written notice and evaluation report to parents of a minor who does not meet the criteria for a commitment to a chemical dependency program. This requirement will generate an unnecessary and burdensome workload. In addition, it appears this language is in direct violation of federal confidentiality rules. For these reasons, I have vetoed this section.

Section 403

This section requires the Department to produce a study and report by a specified date. The Legislature did not provide funds to accomplish this mandate. The phrase "within existing funds" requires the Department to divert funding from other priorities in order to accomplish this study. In a period of diminishing fiscal resources, this only degrades the Department's ability to complete existing tasks and requirements. For this reason, I have vetoed this section.

Section 404

Section 404 refers to section 111 through 114. I have vetoed this section because, otherwise, it would have no meaning.

Section 407

This section declares that the purposes of this Act are solely to provide counties and the Department of Social and Health Services with authority to provide these new or expanded services within existing funds unless otherwise funded in the 1992 supplemental appropriations act. This section implies that substantive reform can be achieved without expending resources. It is inappropriate to require or force new programs on the Department or the local governments without making the conscious decision to fund them. For this reason, I have vetoed this section.

Section 408

This section establishes a July 1, 1993, implementation date for numerous provisions of the Act. I believe that this precedent is an unwise one. The 1992 legislature should take responsibility for its own actions and not place the burden of funding these new requirements on the next legislature. I have vetoed this section in order to allow those referenced sections that have not been vetoed to take effect earlier.

For the reasons state above, I have vetoed sections 102, 104, 110, 111, 112, 113, 114, 207, 210, 211, 212, 301, 305, 307, 403, 404, 407 and 408 of Engrossed Substitute House Bill No. 2466.

With the exception of sections 102, 104, 110, 111, 112, 113, 114, 207, 210, 211, 212, 301, 305, 307, 403, 404, 407 and 408, Engrossed Substitute House Bill No. 2466 is approved."

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## CHAPTER 206

[Engrossed House Bill 2680 - Corrected Copy]

### TAX ASSESSMENT AND COLLECTION—REVISIONS

**Effective Date:** 7/1/92 - Except Sections 7 & 8 which take effect on 1/1/93; and Sections 9 through 12 which take effect on 6/1/92.

AN ACT Relating to the improvement of the administration of the assessment and collection of taxes; amending RCW 82.04.170, 82.08.050, 82.32.090, 82.32.180, 67.28.183, 82.29A.050, 82.04.300, 82.32.030, 82.03.130, 84.08.130, 84.40.038, 84.48.065, 84.36.385, and 84.36.387; repealing RCW 82.32.040; providing effective dates; and declaring an emergency.

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

**Sec. 1.** RCW 82.04.170 and 1985 c 135 s 1 are each amended to read as follows:

"Tuition fee" includes library, laboratory, health service and other special fees, and amounts charged for room and board by an educational institution when the property or service for which such charges are made is furnished exclusively to the students or faculty of such institution. "Educational institution," as used in this section, means only those institutions created or generally accredited as such by the state, or defined as a degree granting institution under RCW ((~~28B.05.030(10)~~) 28B.85.010(3)) and accredited by an accrediting association recognized by the United States secretary of education, and offering to students an educational program of a general academic nature or those institutions which are not operated for profit and which are privately endowed under a deed of trust to offer instruction in trade, industry, and agriculture, but not including specialty schools, business colleges, other trade schools, or similar institutions.

**Sec. 2.** RCW 82.08.050 and 1986 c 36 s 1 are each amended to read as follows:

The tax hereby imposed shall be paid by the buyer to the seller, and each seller shall collect from the buyer the full amount of the tax payable in respect to each taxable sale in accordance with the schedule of collections adopted by the department pursuant to the provisions of RCW 82.08.060. The tax required by this chapter, to be collected by the seller, shall be deemed to be held in trust by the seller until paid to the department, and any seller who appropriates or converts the tax collected to his or her own use or to any use other than the payment of the tax to the extent that the money required to be collected is not available for payment on the due date as prescribed in this chapter shall be guilty of a gross misdemeanor.

In case any seller fails to collect the tax herein imposed or having collected the tax, fails to pay it to the department in the manner prescribed by this chapter, whether such failure is the result of his or her own acts or the result of acts or conditions beyond his or her control, he or she shall, nevertheless, be personally liable to the state for the amount of the tax.

The amount of tax, until paid by the buyer to the seller or to the department, shall constitute a debt from the buyer to the seller and any seller who fails or refuses to collect the tax as required with intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any buyer who refuses to pay any tax due under this chapter shall be guilty of a misdemeanor. The tax required by this chapter to be collected by the seller shall be stated separately from the selling price in any sales invoice or other instrument of sale. On all retail sales through vending machines, the tax need not be stated separately from the selling price or collected separately from the buyer. For purposes of determining the tax due from the buyer to the seller and from the seller to the department it shall be conclusively presumed that the selling price quoted in any price list, sales document, contract or other agreement between the parties does not include the tax imposed by this chapter, but if the seller advertises the price as including the tax or that the seller is paying the tax, the advertised price shall not be considered the selling price.

Where a buyer has failed to pay to the seller the tax imposed by this chapter and the seller has not paid the amount of the tax to the department, the department may, in its discretion, proceed directly against the buyer for collection of the tax, in which case a penalty of ten percent may be added to the amount of the tax for failure of the buyer to pay the same to the seller, regardless of when the tax may be collected by the department; and all of the provisions of chapter 82.32 RCW, including those relative to interest and penalties, shall apply in addition; and, for the sole purpose of applying the various provisions of chapter 82.32 RCW, the (~~fifteenth~~) twenty-fifth day of the month following the tax period in which the purchase was made shall be considered as the due date of the tax.

**Sec. 3.** RCW 82.32.090 and 1991 c 142 s 11 are each amended to read as follows:

(1) If payment of any tax due on a return to be filed by a taxpayer is not received by the department of revenue by the due date, there shall be assessed a penalty of five percent of the amount of the tax; and if the tax is not received within thirty days after the due date, there shall be assessed a total penalty of ten percent of the amount of the tax; and if the tax is not received within sixty days after the due date, there shall be assessed a total penalty of twenty percent of the amount of the tax. No penalty so added shall be less than five dollars.

(2) If payment of any tax assessed by the department of revenue is not received by the department by the due date specified in the notice, or any extension thereof, the department shall add a penalty of ten percent of the

amount of the additional tax found due. No penalty so added shall be less than five dollars.

(3) If a warrant be issued by the department of revenue for the collection of taxes, increases, and penalties, there shall be added thereto a penalty of five percent of the amount of the tax, but not less than ten dollars.

(4) If the department finds that all or any part of a deficiency resulted from the disregard of specific written instructions as to reporting or tax liabilities, the department shall add a penalty of ten percent of the amount of the additional tax found due because of the failure to follow the instructions. A taxpayer disregards specific written instructions when the department of revenue has informed the taxpayer in writing of the taxpayer's tax obligations and the taxpayer fails to act in accordance with those instructions unless the department has not issued final instructions because the matter is under appeal pursuant to this chapter or departmental regulations. The department shall not assess the penalty under this section upon any taxpayer who has made a good faith effort to comply with the specific written instructions provided by the department to that taxpayer. Specific written instructions may be given as a part of a tax assessment, audit, determination, or closing agreement, provided that such specific written instructions shall apply only to the taxpayer addressed or referenced on such documents. Any specific written instructions by the department of revenue shall be clearly identified as such and shall inform the taxpayer that failure to follow the instructions may subject the taxpayer to the penalties imposed by this subsection.

(5) If the department finds that all or any part of the deficiency resulted from an intent to evade the tax payable hereunder, a further penalty of fifty percent of the additional tax found to be due shall be added.

(6) The aggregate of penalties imposed under this section for failure to pay a tax due on a return by the due date, late payment of any tax, increase, or penalty, or issuance of a warrant shall not exceed thirty-five percent of the tax due, or twenty dollars, whichever is greater.

(7) The department of revenue may not impose both the evasion penalty and the penalty for disregarding specific written instructions on the same tax found to be due.

**Sec. 4.** RCW 82.32.180 and 1989 c 378 s 23 are each amended to read as follows:

Any person, except one who has failed to keep and preserve books, records, and invoices as required in this chapter and chapter 82.24 RCW, having paid any tax as required and feeling aggrieved by the amount of the tax may appeal to the superior court of Thurston county, within the time limitation for a refund provided in chapter 82.32 RCW or, if an application for refund has been made to the department within that time limitation, then within thirty days after rejection of the application, whichever time limitation is later. In the appeal the taxpayer shall set forth the amount of the tax imposed upon the taxpayer which

the taxpayer concedes to be the correct tax and the reason why the tax should be reduced or abated. The appeal shall be perfected by serving a copy of the notice of appeal upon the department within the time herein specified and by filing the original thereof with proof of service with the clerk of the superior court of Thurston county. ~~((Within ten days after filing the notice of appeal, the taxpayer shall file with the clerk of the superior court a good and sufficient surety bond payable to the state in the sum of two hundred dollars, conditioned to diligently prosecute the appeal and pay the state all costs that may be awarded if the appeal of the taxpayer is not sustained.))~~

The trial in the superior court on appeal shall be de novo and without the necessity of any pleadings other than the notice of appeal. The burden shall rest upon the taxpayer to prove that the tax as paid by the taxpayer is incorrect, either in whole or in part, and to establish the correct amount of the tax. In such proceeding the taxpayer shall be deemed the plaintiff, and the state, the defendant; and both parties shall be entitled to subpoena the attendance of witnesses as in other civil actions and to produce evidence that is competent, relevant, and material to determine the correct amount of the tax that should be paid by the taxpayer. Either party may seek appellate review in the same manner as other civil actions are appealed to the appellate courts.

It shall not be necessary for the taxpayer to protest against the payment of any tax or to make any demand to have the same refunded or to petition the director for a hearing in order to appeal to the superior court, but no court action or proceeding of any kind shall be maintained by the taxpayer to recover any tax paid, or any part thereof, except as herein provided.

The provisions of this section shall not apply to any tax payment which has been the subject of an appeal to the board of tax appeals with respect to which appeal a formal hearing has been elected.

**Sec. 5.** RCW 67.28.183 and 1988 c 61 s 2 are each amended to read as follows:

(1) The ~~((tax))~~ taxes levied ~~((by RCW 67.28.180 and 67.28.182))~~ under this chapter shall not apply to emergency lodging provided for homeless persons for a period of less than thirty consecutive days under a shelter voucher program administered by an eligible organization.

(2) For the purposes of this exemption, an eligible organization includes only cities, towns, and counties, or their respective agencies, and groups providing emergency food and shelter services.

**Sec. 6.** RCW 82.29A.050 and 1975-'76 2nd ex.s. c 61 s 5 are each amended to read as follows:

(1) The leasehold excise taxes provided for in RCW 82.29A.030 and 82.29A.040 shall be paid by the lessee to the lessor and the lessor shall collect such tax and remit the same to the department of revenue. The tax shall be payable at the same time as payments are due to the lessor for use of the property from which the leasehold interest arises, and in the case of payment of

contract rent to a person other than the lessor, at the time of payment. The tax payment shall be accompanied by such information as the department of revenue may require. In the case of prepaid contract rent the payment may be prorated in accordance with instructions of the department of revenue and the prorated portion of the tax shall be due, one-half not later than May 31 and the other half not later than November 30 each year.

(2) The lessor receiving taxes payable under the provisions of this chapter shall remit the same together with a return provided by the department, to the department of revenue on or before the ~~((fifteenth))~~ last day of the month following the month in which the tax is collected. The department may relieve any taxpayer or class of taxpayers from the obligation of filing monthly returns and may require the return to cover other reporting periods, but in no event shall returns be filed for a period greater than one year. The lessor shall be fully liable for collection and remittance of the tax. The amount of tax until paid by the lessee to the lessor shall constitute a debt from the lessee to the lessor. The tax required by this chapter shall be stated separately from contract rent, and if not so separately stated for purposes of determining the tax due from the lessee to the lessor and from the lessor to the department, the contract rent does not include the tax imposed by this chapter. Where a lessee has failed to pay to the lessor the tax imposed by this chapter and the lessor has not paid the amount of the tax to the department, the department may, in its discretion, proceed directly against the lessee for collection of the tax: PROVIDED, That taxes due where contract rent has not been paid shall be reported by the lessor to the department and the lessee alone shall be liable for payment of the tax to the department.

(3) Each person having a leasehold interest subject to the tax provided for in this chapter arising out of a lease of federally owned or federal trust lands shall report and remit the tax due directly to the department of revenue in the same manner and at the same time as the lessor would be required to report and remit the tax if such lessor were a state public entity.

**Sec. 7.** RCW 82.04.300 and 1983 c 3 s 213 are each amended to read as follows:

This chapter shall apply to any person engaging in any business activity taxable under RCW 82.04.230, 82.04.240, 82.04.250, 82.04.260, 82.04.270, 82.04.280 and 82.04.290 other than those whose value of products, gross proceeds of sales, or gross income of the business is less than one thousand dollars per month: PROVIDED, That where one person engages in more than one business activity and the combined measures of the tax applicable to such businesses equal or exceed one thousand dollars per month, no exemption or deduction from the amount of tax is allowed by this section.

Any person claiming exemption under the provisions of this section may be required, according to rules adopted by the department, to file returns even though no tax may be due(~~(: PROVIDED, FURTHER, That))~~). The department of revenue may allow exemptions, by general rule or regulation, in those

instances in which quarterly, semiannual, or annual returns are permitted. Exemptions for such periods shall be equivalent in amount to the total of exemptions for each month of a reporting period.

**Sec. 8.** RCW 82.32.030 and 1982 1st ex.s. c 4 s 1 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, if any person engages in any business or performs any act upon which a tax is imposed by the preceding chapters, he or she shall, ((whether taxable or not,)) under such rules ((and regulations)) as the department of revenue shall prescribe, apply for and obtain from the department a registration certificate upon payment of fifteen dollars. Such registration certificate shall be personal and nontransferable and shall be valid as long as the taxpayer continues in business and pays the tax accrued to the state. In case business is transacted at two or more separate places by one taxpayer, a separate registration certificate for each place at which business is transacted with the public shall be required, but, for such additional certificates no additional payment shall be required. Each certificate shall be numbered and shall show the name, residence, and place and character of business of the taxpayer and such other information as the department of revenue deems necessary and shall be posted in a conspicuous place at the place of business for which it is issued. Where a place of business of the taxpayer is changed, the taxpayer must return to the department the existing certificate, and a new certificate will be issued for the new place of business free of charge. No person required to be registered under this section shall engage in any business taxable hereunder without first being so registered ((in compliance with the provisions of this section, except that)). The department, by ((general regulation)) rule, may provide for the issuance of certificates of registration, without requiring payment, to temporary places of business ((without requiring payment)) or to persons who are exempt from tax under RCW 82.04.300.

(2) Registration under this section is not required if the following conditions are met:

(a) A person's value of products, gross proceeds of sales, or gross income of the business is below the tax reporting threshold provided in RCW 82.04.300;

(b) The person is not required to collect or pay to the department of revenue any other tax which the department is authorized to collect; and

(c) The person is not otherwise required to obtain a license subject to the master application procedure provided in chapter 19.02 RCW.

**Sec. 9.** RCW 82.03.130 and 1989 c 378 s 4 are each amended to read as follows:

The board shall have jurisdiction to decide the following types of appeals:

(1) Appeals taken pursuant to RCW 82.03.190.

(2) Appeals from a county board of equalization pursuant to RCW 84.08.130.

(3) Appeals by an assessor or landowner from an order of the director of revenue made pursuant to RCW 84.08.010 and 84.08.060, if filed with the board of tax appeals within thirty days after the mailing of the order, the right to such an appeal being hereby established.

(4) Appeals by an assessor or owner of an intercounty public utility or private car company from determinations by the director of revenue of equalized assessed valuation of property and the apportionment thereof to a county made pursuant to chapter 84.12 RCW and 84.16 RCW, if filed with the board of tax appeals within thirty days after mailing of the determination, the right to such appeal being hereby established.

(5) Appeals by an assessor, landowner, or owner of an intercounty public utility or private car company from a determination of any county indicated ratio for such county compiled by the department of revenue pursuant to RCW 84.48.075: PROVIDED, That

(a) Said appeal be filed after review of the ratio under RCW 84.48.075(3) and not later than fifteen days after the mailing of the certification; and

(b) The hearing before the board shall be expeditiously held in accordance with rules prescribed by the board and shall take precedence over all matters of the same character.

(6) Appeals from the decisions of sale price of second class shorelands on navigable lakes by the department of natural resources pursuant to RCW 79.94.210.

(7) Appeals from urban redevelopment property tax apportionment district proposals established by governmental ordinances pursuant to RCW 39.88.060.

(8) Appeals from interest rates as determined by the department of revenue for use in valuing farmland under current use assessment pursuant to RCW 84.34.065.

(9) Appeals from revisions to stumpage value tables used to determine value by the department of revenue pursuant to RCW 84.33.091.

(10) Appeals from denial of tax exemption application by the department of revenue pursuant to RCW 84.36.850.

(11) Appeals pursuant to RCW 84.40.038(2).

**Sec. 10.** RCW 84.08.130 and 1989 c 378 s 7 are each amended to read as follows:

Any taxpayer or taxing unit feeling aggrieved by the action of any county board of equalization may appeal to the board of tax appeals by filing with the county auditor a notice of appeal in duplicate within thirty days after the mailing of the decision of such board of equalization, which notice shall specify the actions complained of, and said auditor shall forthwith transmit one of said notices to the board of tax appeals; and in like manner any county assessor may appeal to the board of tax appeals from any action of any county board of equalization. There shall be no fee charged for the filing of an appeal. The petitioner shall provide a copy of the notice of appeal to all named parties within

the time period provided in the rules of practice and procedure of the board of tax appeals. Appeals which are not filed as provided in this section shall be continued or dismissed. The board of tax appeals shall require the board appealed from to file a true and correct copy of its decision in such action and all evidence taken in connection therewith, and may receive further evidence, and shall make such order as in its judgment is just and proper. An appeal of an action by a county board of equalization shall be deemed to have been filed within the thirty-day period if it is postmarked on or before the thirtieth day after the mailing of the decision of the board of equalization.

**Sec. 11.** RCW 84.40.038 and 1988 c 222 s 19 are each amended to read as follows:

(1) The owner or person responsible for payment of taxes on any property may petition the county board of equalization for a change in the assessed valuation placed upon such property by the county assessor. Such petition must be made on forms prescribed or approved by the department of revenue and any petition not conforming to those requirements or not properly completed shall not be considered by the board. The petition must be filed with the board on or before July 1st of the year of the assessment or within thirty days after the date an assessment or value change notice has been mailed, whichever is later.

(2) The owner or person responsible for payment of taxes on any property may request that the appeal be heard by the state board of tax appeals without a hearing by the county board of equalization when the assessor, the owner or person responsible for payment of taxes on the property, and a majority of the county board of equalization agree that a direct appeal to the state board of tax appeals is appropriate. The state board of tax appeals may reject the appeal, in which case the county board of equalization shall consider the appeal under RCW 84.48.010. Notice of such a rejection, together with the reason therefor, shall be provided to the affected parties and the county board of equalization within thirty days of receipt of the direct appeal by the state board.

**Sec. 12.** RCW 84.48.065 and 1989 c 378 s 14 are each amended to read as follows:

(1) The county assessor or treasurer may cancel or correct assessments on the assessment or tax rolls which are erroneous due to manifest errors in description, double assessments, clerical errors in extending the rolls, and such manifest errors in the listing of the property which do not involve a revaluation of property, such as the assessment of property exempted by law from taxation or the failure to deduct the exemption allowed by law to the head of a family. When the county assessor cancels or corrects an assessment, the assessor shall send a notice to the taxpayer in accordance with RCW 84.40.045, advising the taxpayer that the action ((of the county assessor is not final and shall be considered by the county board of equalization, and that such notice shall constitute legal notice of such fact)) has been taken and notifying the taxpayer of the right to appeal the cancellation or correction to the county board of

equalization, in accordance with RCW 84.40.038. When the county assessor or treasurer cancels or corrects an assessment, a record of such action shall be prepared ~~((and filed with the county board of equalization))~~, setting forth therein the facts relating to the error. The record shall also set forth by legal description all property belonging exclusively to the state, any county, or any municipal corporation whose property is exempt from taxation, upon which there remains, according to the tax roll, any unpaid taxes. No manifest error cancellation or correction shall be made for any period more than three years preceding the year in which the error is discovered.

~~((The county board of equalization shall consider only such matters as appear in the record filed with it by the county assessor or treasurer and shall correct only such matters as are set forth in the record, but it shall have no power to change or alter the assessment of any person, or change the aggregate value of the taxable property of the county, except insofar as it is necessary to correct the errors mentioned in this section. If the county board of equalization finds that the action of the assessor was not correct, it shall issue a supplementary roll including such corrections as are necessary, and the assessment and levy shall have the same force and effect as if made in the first instance, and the county treasurer shall proceed to collect the taxes due on the supplementary roll. The board shall make findings of the facts upon which it bases its decision on all matters submitted to it, and when so made the assessment and levy shall have the same force as if made in the first instance, and the county treasurer shall proceed to collect the taxes due on the rolls as modified.~~

~~The county board of equalization shall convene on a day fixed by the board for the purpose of considering such matters as appear in the record filed by the county assessor or treasurer.))~~

(2) An assessor shall make corrections that involve a revaluation of property to the assessment roll when:

(a) The assessor and taxpayer have signed an agreement as to the true and fair value of the taxpayer's property setting forth in the agreement the valuation information upon which the agreement is based; and

(b) The following conditions are met:

(i) The assessment roll has previously been certified in accordance with RCW 84.40.320;

(ii) The taxpayer has timely filed a petition with the county board of equalization pursuant to RCW 84.40.038 for the current assessment year;

(iii) The county board of equalization has not yet held a hearing on the merits of the taxpayer's petition.

(3) The assessor shall issue a supplementary roll or rolls including such cancellations and corrections, and the assessment and levy shall have the same force and effect as if made in the first instance, and the county treasurer shall proceed to collect the taxes due on the rolls as modified.

**Sec. 13.** RCW 84.36.385 and 1988 c 222 s 10 are each amended to read as follows:

(1) A claim for exemption under RCW 84.36.381 as now or hereafter amended, shall be made and filed at any time during the year for exemption from taxes payable the following year and thereafter and solely upon forms as prescribed and furnished by the department of revenue. However, an exemption from tax under RCW 84.36.381 shall continue for no more than four years unless a renewal application is filed as provided in subsection (3) of this section. The county assessor may also require, by written notice, a renewal application following an amendment of the income requirements set forth in RCW 84.36.381. Renewal applications shall be on forms prescribed and furnished by the department of revenue.

(2) A person granted an exemption under RCW 84.36.381 shall inform the county assessor of any change in status affecting the person's entitlement to the exemption on forms prescribed and furnished by the department of revenue.

(3) Each person exempt from taxes under RCW 84.36.381 in 1993 and thereafter, shall file with the county assessor a renewal application not later than December 31 of the year the assessor notifies such person of the requirement to file the renewal application.

(4) Beginning in 1992 and in each of the three succeeding years, the county assessor shall notify approximately one-fourth of those persons exempt from taxes under RCW 84.36.381 in the current year who have not filed a renewal application within the previous four years, of the requirement to file a renewal application.

(5) If the assessor finds that the applicant does not meet the qualifications as set forth in RCW 84.36.381, as now or hereafter amended, the claim or exemption shall be denied but such denial shall be subject to appeal under the provisions of RCW 84.48.010(5). If the applicant had received exemption in prior years based on erroneous information, the taxes shall be collected subject to penalties as provided in RCW 84.40.130 for a period of not to exceed three years.

(6) The department and each local assessor is hereby directed to publicize the qualifications and manner of making claims under RCW 84.36.381 through 84.36.389, through communications media, including such paid advertisements or notices as it deems appropriate. Notice of the qualifications, method of making applications, the penalties for not reporting a change in status, and availability of further information shall be included on or with property tax statements and revaluation notices for all residential property including mobile homes, except rental properties.

**Sec. 14.** RCW 84.36.387 and 1980 c 185 s 6 are each amended to read as follows:

(1) All claims for exemption shall be made and signed by the person entitled to the exemption, by his or her attorney in fact or in the event the residence of

such person is under mortgage or purchase contract requiring accumulation of reserves out of which the holder of the mortgage or contract is required to pay real estate taxes, by such holder or by the owner, either before two witnesses or the county assessor or his deputy in the county where the real property is located: PROVIDED, That if a claim for exemption is made by a person living in a cooperative housing association, corporation, or partnership, such claim shall be made and signed by the person entitled to the exemption and by the authorized agent of such cooperative.

(2) If the taxpayer is unable to submit his own claim, the claim shall be submitted by a duly authorized agent or by a guardian or other person charged with the care of the person or property of such taxpayer.

(3) All claims for exemption and renewal applications shall be accompanied by such documented verification of income as shall be prescribed by rule adopted by the department of revenue.

(4) Any person signing a false claim with the intent to defraud or evade the payment of any tax shall be guilty of the offense of perjury.

~~((4))~~ (5) The tax liability of a cooperative housing association, corporation, or partnership shall be reduced by the amount of tax exemption to which a claimant residing therein is entitled and such cooperative shall reduce any amount owed by the claimant to the cooperative by such exact amount of tax exemption or, if no amount be owed, the cooperative shall make payment to the claimant of such exact amount of exemption.

~~((5))~~ (6) A remainderman or other person who would have otherwise paid the tax on real property that is the subject of an exemption granted under RCW 84.36.381 for an estate for life shall reduce the amount which would have been payable by the life tenant to the remainderman or other person to the extent of the exemption. If no amount is owed or separately stated as an obligation between these persons, the remainderman or other person shall make payment to the life tenant in the exact amount of the exemption.

NEW SECTION. Sec. 15. RCW 82.32.040 and 1971 ex.s. c 299 s 15 & 1961 c 15 s 82.32.040 are each repealed.

NEW SECTION. Sec. 16. This act shall take effect July 1, 1992, except sections 7 and 8 of this act which shall take effect January 1, 1993, and sections 9 through 12 of this act which are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect June 1, 1992.

Passed the House March 12, 1992.

Passed the Senate March 12, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

**CHAPTER 207**

[Engrossed Substitute Senate Bill 5727]

**IMPOSITION OF MORATORIUM OR INTERIM ZONING BY  
PERMIT-GRANTING AGENCIES****Effective Date:** 6/11/92

AN ACT Relating to the imposition of moratorium or interim zoning by permit-granting agencies; adding a new section to chapter 35.63 RCW; adding a new section to chapter 35.22 RCW; adding a new section to chapter 35A.63 RCW; adding a new section to chapter 36.70 RCW; adding a new section to chapter 36.32 RCW; adding a new section to chapter 36.70A RCW; and adding a new section to chapter 70.05 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 35.63 RCW to read as follows:

A council or board that adopts a moratorium or interim zoning control, without holding a public hearing on the proposed moratorium or interim zoning control, shall hold a public hearing on the adopted moratorium or interim zoning control within at least sixty days of its adoption, whether or not the council or board received a recommendation on the matter from the commission. If the council or board does not adopt findings of fact justifying its action before this hearing, then the council or board shall do so immediately after this public hearing. A moratorium or interim zoning control adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium or interim zoning control may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal.

**NEW SECTION.** Sec. 2. A new section is added to chapter 35.22 RCW to read as follows:

A first class city that plans under the authority of its charter is subject to the provisions of section 1 of this act.

**NEW SECTION.** Sec. 3. A new section is added to chapter 35A.63 RCW to read as follows:

A legislative body that adopts a moratorium or interim zoning ordinance, without holding a public hearing on the proposed moratorium or interim zoning ordinance, shall hold a public hearing on the adopted moratorium or interim zoning ordinance within at least sixty days of its adoption, whether or not the legislative body received a recommendation on the matter from the planning agency. If the legislative body does not adopt findings of fact justifying its action before this hearing, then the legislative body shall do so immediately after this public hearing. A moratorium or interim zoning ordinance adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium of interim zoning ordinance may be

renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal.

**NEW SECTION.** Sec. 4. A new section is added to chapter 36.70 RCW to read as follows:

A board that adopts a moratorium, interim zoning map, interim zoning ordinance, or interim official control without holding a public hearing on the proposed moratorium, interim zoning map, interim zoning ordinance, or interim official control, shall hold a public hearing on the adopted moratorium, interim zoning map, interim zoning ordinance, or interim official control within at least sixty days of its adoption, whether or not the board received a recommendation on the matter from the commission or department. If the board does not adopt findings of fact justifying its action before this hearing, then the board shall do so immediately after this public hearing. A moratorium, interim zoning map, interim zoning ordinance, or interim official control adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium, interim zoning map, interim zoning ordinance, or interim official control may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal.

**NEW SECTION.** Sec. 5. A new section is added to chapter 36.32 RCW to read as follows:

A charter county that plans under the authority of its charter is subject to the provisions of section 4 of this act.

**NEW SECTION.** Sec. 6. A new section is added to chapter 36.70A RCW to read as follows:

A county or city governing body that adopts a moratorium, interim zoning map, interim zoning ordinance, or interim official control without holding a public hearing on the proposed moratorium, interim zoning map, interim zoning ordinance, or interim official control, shall hold a public hearing on the adopted moratorium, interim zoning map, interim zoning ordinance, or interim official control within at least sixty days of its adoption, whether or not the governing body received a recommendation on the matter from the planning commission or department. If the governing body does not adopt findings of fact justifying its action before this hearing, then the governing body shall do so immediately after this public hearing. A moratorium, interim zoning map, interim zoning ordinance, or interim official control adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium, interim zoning map, interim zoning ordinance, or interim official control may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal.

This section does not apply to the designation of critical areas, agricultural lands, forest lands, and mineral resource lands, under RCW 36.70A.170, and the conservation of these lands and protection of these areas under RCW 36.70A.-060, prior to such actions being taken in a comprehensive plan adopted under RCW 36.70A.070 and implementing development regulations adopted under RCW 36.70A.120, if a public hearing is held on such proposed actions.

**NEW SECTION.** Sec. 7. A new section is added to chapter 70.05 RCW to read as follows:

A local board of health that adopts a moratorium affecting water hookups, sewer hookups, or septic systems without holding a public hearing on the proposed moratorium, shall hold a public hearing on the adopted moratorium within at least sixty days of its adoption. If the board does not adopt findings of fact justifying its action before this hearing, then the board shall do so immediately after this public hearing. A moratorium adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal.

Passed the Senate March 10, 1992.

Passed the House March 3, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

## CHAPTER 208

[Engrossed Substitute Senate Bill 5728]

### STATE ENVIRONMENTAL POLICY ACT—THRESHOLD DETERMINATION TIME LIMITS

Effective Date: 6/11/92 - Except Section 1 which takes effect on 9/1/92.

AN ACT Relating to the state environmental policy act; adding a new section to chapter 43.21C RCW; and providing an effective date.

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

**NEW SECTION.** Sec. 1. There is added to chapter 43.21C RCW a new section to read as follows:

(1) Except as provided in subsection (2) of this section, the responsible official shall make a threshold determination on a completed application within ninety days after the application and supporting documentation are complete. The applicant may request an additional thirty days for the threshold determination. The governmental entity responsible for making the threshold determination shall by rule, resolution, or ordinance adopt standards, consistent with rules adopted by the department to implement this chapter, for determining when an application and supporting documentation are complete.

(2) This section shall not apply to a city, town, or county that by ordinance adopted prior to April 1, 1992, has adopted procedures to integrate permit and land use decisions with the requirements of this chapter.

**NEW SECTION. Sec. 2.** Section 1 of this act shall take effect September 1, 1992.

Passed the Senate March 8, 1992.

Passed the House March 6, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

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## CHAPTER 209

[Substitute House Bill 2720]

### WORKERS' COMPENSATION COVERAGE FOR LONGSHORE AND HARBOR WORKERS

**Effective Date:** 4/2/92

AN ACT Relating to longshore and harbor workers' compensation act insurance; adding new sections to chapter 48.22 RCW; adding a new section to chapter 48.15 RCW; creating a new section; providing an expiration date; and declaring an emergency.

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

**NEW SECTION. Sec. 1.** The legislature finds and declares that the continued existence of a strong and healthy maritime industry in this state is threatened by the unavailability and excessive cost of workers' compensation coverage required by the United States longshoreman's and harbor worker's compensation act. The legislature, therefore, acting under its authority to protect industry and employment in this state hereby establishes a commission to devise and implement both a near and long-term solution to this problem, for the purpose of maintaining employment for Washington workers and a vigorous maritime industry.

**NEW SECTION. Sec. 2.** A new section is added to chapter 48.22 RCW to read as follows:

(1) Before July 1, 1992, the commissioner shall adopt rules establishing a reasonable plan to insure that workers' compensation coverage as required by the United States longshoreman's and harbor worker's compensation act, 33 U.S.C. Secs. 901 through 950, and maritime employer's liability coverage incidental to the workers' compensation coverage is available to those unable to purchase it through the normal insurance market. This plan shall require the participation of all authorized insurers writing primary and excess workers' compensation insurance or reinsurance and the Washington state industrial insurance fund as defined in RCW 51.08.175 which is authorized to participate in the plan and to make payments in support of the plan in accordance with this section. Any underwriting losses incurred by the plan shall be shared by plan participants in accordance with the following ratios: The state industrial insurance fund, fifty percent; authorized insurers writing United States longshoreman's and harbor

workers' compensation insurance, forty-eight percent; and authorized insurers writing excess workers' compensation insurance or reinsurance, two percent.

(2) The Washington state industrial insurance fund shall obtain or provide coverage for the plan created under subsection (1) of this section on an excess of loss basis that would cover plan losses exceeding the net earned and retained premiums written including investment income of the plan as negotiated between the state fund and the plan. If such coverage is not provided by July 1, 1992, or if the commissioner determines that the premium to be charged for such coverage would result in unaffordable rates for coverage provided by the plan, the industrial insurance fund shall be relieved of responsibility for obtaining or providing excess of loss coverage. In considering whether excess of loss coverage premiums would result in unaffordable rates for workers' compensation coverage provided by the plan, the commissioner shall compare the resulting plan rates to those provided under any similar pool or plan of other states in existence prior to July 1, 1992.

(3) An applicant for plan insurance, a person insured under the plan, or an insurer, affected by a ruling or decision of the manager or committee designated to operate the plan may appeal to the commissioner for resolution of a dispute. In adopting rules under this section, the commissioner shall require that the plan use generally accepted actuarial principles for rate making.

**NEW SECTION.** Sec. 3. A new section is added to chapter 48.22 RCW to read as follows:

Before April 15, 1992, the commissioner shall appoint a committee to provide assistance in drafting the rules required by section 2 of this act. After July 1, 1992, the committee shall assist the commissioner in overseeing the operation of the plan. The committee shall consist of at least eight members. The commissioner and the director of the department of labor and industries shall be members. The remaining members shall be selected to insure equal representation of authorized insurers writing primary or excess workers' compensation insurance, insurance producers, organized labor, and maritime employers.

**NEW SECTION.** Sec. 4. A new section is added to chapter 48.22 RCW to read as follows:

The committee appointed pursuant to section 3 of this act shall submit a report to the legislature no later than January 1, 1993, that examines all aspects of the United States longshoreman's and harbor worker's act, 22 U.S.C. Secs. 901 through 950, coverage, and incidental maritime liability coverage, as it applies to Washington workers and employers. This study shall include but not be limited to the ability of private insurers to provide affordable coverage to eligible employers; whether the Washington state industrial insurance fund should participate in the plan adopted pursuant to section 2 of this act; whether there are methods that will satisfy the intent of chapter ..., Laws of 1992 (this act) that will not involve the Washington state industrial insurance fund; and the feasibility of

requiring that this coverage be made directly available through the Washington state industrial insurance fund.

**\*NEW SECTION.** *Sec. 5. A new section is added to chapter 48.15 RCW to read as follows:*

*An unauthorized insurer shall not solicit or provide federally required longshore and harbor workers' insurance on subjects located, resident, or to be performed within the state.*

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

**NEW SECTION.** **Sec. 6.** This act shall expire on July 1, 1993.

**NEW SECTION.** **Sec. 7.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 12, 1992.

Passed the Senate March 12, 1992.

Approved by the Governor April 2, 1992, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 2, 1992.

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

"I am returning herewith, without my approval as to section 5, Substitute House Bill No. 2720 entitled:

"AN ACT Relating to longshore and harbor workers' compensation act insurance."

The purpose of Substitute House Bill No. 2720 is to create a temporary insurance plan so that workers' compensation coverage, as required by the United States Longshoremen's and Harbor Worker's Compensation Act, is available in our state.

Section 5 would close the Washington market to all but certain insurers. If this section were to become law, it would further limit the availability of insurance, and it could limit the availability of reinsurance. Section 5 could also lead to reciprocal actions by other states against Washington insurers and could violate federal statutes preempting state authority in this area. Section 5 would be subject to likely court challenge and could place the temporary plan in jeopardy.

While I am supportive of the need to retain the viability of our longshore and harbor workers' insurance, I believe this legislation is a poor solution to the potential loss of United States Longshoreman's and Harbor Worker's Compensation Act coverage. The involvement of the state workers' compensation fund is inappropriately designed.

However, I must sign the remainder of the bill into law since this is the only solution now certain to provide the necessary workers' compensation coverage to our maritime industry. During the next year, a better solution needs to be found before the temporary plan expires.

For these reasons, I have vetoed section 5 of Substitute House Bill No. 2720.

With the exception of section 5, Substitute House Bill No. 2720 is approved."

**CHAPTER 210**

[Second Substitute Senate Bill 5318]

**MONEY LAUNDERING**

**Effective Date: 6/11/92**

AN ACT Relating to money laundering; amending RCW 9A.82.010; reenacting and amending RCW 69.50.505; adding a new chapter to Title 9A RCW; and prescribing penalties.

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

**NEW SECTION. Sec. 1.** The definitions set forth in this section apply throughout this chapter.

(1) "Conducts a financial transaction" includes initiating, concluding, or participating in a financial transaction.

(2) "Financial institution" means a bank, savings bank, credit union, or savings and loan institution.

(3) "Financial transaction" means a purchase, sale, loan, pledge, gift, transfer, transmission, delivery, trade, deposit, withdrawal, payment, transfer between accounts, exchange of currency, extension of credit, or any other acquisition or disposition of property, by whatever means effected.

(4) "Knows the property is proceeds of specified unlawful activity" means believing based upon the representation of a law enforcement officer or his or her agent, or knowing that the property is proceeds from some form, though not necessarily which form, of specified unlawful activity.

(5) "Proceeds" means any interest in property directly or indirectly acquired through or derived from an act or omission, and any fruits of this interest, in whatever form.

(6) "Property" means anything of value, whether real or personal, tangible or intangible.

(7) "Specified unlawful activity" means an offense committed in this state that is a class A or B felony under Washington law or that is listed in RCW 9A.82.010(14), or an offense committed in any other state that is punishable under the laws of that state by more than one year in prison, or an offense that is punishable under federal law by more than one year in prison.

**NEW SECTION. Sec. 2.** (1) A person is guilty of money laundering when that person conducts or attempts to conduct a financial transaction involving the proceeds of specified unlawful activity and:

(a) Knows the property is proceeds of specified unlawful activity; or

(b) Knows that the transaction is designed in whole or in part to conceal or disguise the nature, location, source, ownership, or control of the proceeds, and acts recklessly as to whether the property is proceeds of specified unlawful activity; or

(c) Knows that the transaction is designed in whole or in part to avoid a transaction reporting requirement under federal law.

(2) In consideration of the constitutional right to counsel afforded by the Fifth and Sixth amendments to the United States Constitution and Article 1,

Section 22 of the Constitution of Washington, an additional proof requirement is imposed when a case involves a licensed attorney who accepts a fee for representing a client in an actual criminal investigation or proceeding. In these situations, the prosecution is required to prove that the attorney accepted proceeds of specified unlawful activity with intent:

(a) To conceal or disguise the nature, location, source, ownership, or control of the proceeds, knowing the property is proceeds of specified unlawful activity; or

(b) To avoid a transaction reporting requirement under federal law.

The proof required by this subsection is in addition to the requirements contained in subsection (1) of this section.

(3) An additional proof requirement is imposed when a case involves a financial institution and one or more of its employees. In these situations, the prosecution is required to prove that proceeds of specified unlawful activity were accepted with intent:

(a) To conceal or disguised the nature, location, source, ownership, or control of the proceeds, knowing the property is proceeds of specified unlawful activity; or

(b) To avoid a transaction reporting requirement under federal law.

The proof required by this subsection is in addition to the requirements contained in subsection (1) of this section.

(4) Money laundering is a class B felony.

(5) A person who violates this section is also liable for a civil penalty of twice the value of the proceeds involved in the financial transaction and for the costs of the suit, including reasonable investigative and attorneys' fees.

(6) Proceedings under this chapter shall be in addition to any other criminal penalties, civil penalties, or forfeitures authorized under state law.

**NEW SECTION.** Sec. 3. (1) Proceeds traceable to or derived from specified unlawful activity or a violation of section 2 of this act are subject to seizure and forfeiture. The attorney general or county prosecuting attorney may file a civil action for the forfeiture of proceeds. Unless otherwise provided for under this section, no property rights exist in these proceeds. All right, title, and interest in the proceeds shall vest in the governmental entity of which the seizing law enforcement agency is a part upon commission of the act or omission giving rise to forfeiture under this section.

(2) Real or personal property subject to forfeiture under this chapter may be seized by any law enforcement officer of this state upon process issued by a superior court that has jurisdiction over the property. Any agency seizing real property shall file a lis pendens concerning the property. Real property seized under this section shall not be transferred or otherwise conveyed until ninety days after seizure or until a judgment of forfeiture is entered, whichever is later. Real property seized under this section may be transferred or conveyed to any person or entity who acquires title by foreclosure or deed in lieu of foreclosure

of a security interest. Seizure of personal property without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant issued pursuant to RCW 69.50.502; or

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter.

(3) A seizure under subsection (2) of this section commences proceedings for forfeiture. The law enforcement agency under whose authority the seizure was made shall cause notice of the seizure and intended forfeiture of the seized proceeds to be served within fifteen days after the seizure on the owner of the property seized and the person in charge thereof and any person who has a known right or interest therein, including a community property interest. Service of notice of seizure of real property shall be made according to the rules of civil procedure. However, the state may not obtain a default judgment with respect to real property against a party who is served by substituted service absent an affidavit stating that a good faith effort has been made to ascertain if the defaulted party is incarcerated within the state, and that there is no present basis to believe that the party is incarcerated within the state. The notice of seizure in other cases may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail is complete upon mailing within the fifteen-day period after the seizure.

(4) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the property within forty-five days of the seizure in the case of personal property and ninety days in the case of real property, the property seized shall be deemed forfeited. The community property interest in real property of a person whose spouse committed a violation giving rise to seizure of the real property may not be forfeited if the person did not participate in the violation.

(5) If a person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of property within forty-five days of the seizure in the case of personal property and ninety days in the case of real property, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The provisions of RCW 69.50.505(e) shall apply to any such hearing. The seizing law enforcement agency shall promptly return property to the claimant upon the direction of the administrative law judge or court.

(6) Disposition of forfeited property shall be made in the manner provided for in RCW 69.50.505(g) through (i) and (m).

**NEW SECTION. Sec. 4.** No liability is imposed by this chapter upon any authorized state, county, or municipal officer engaged in the lawful

performance of his duties, or upon any person who reasonably believes that he is acting at the direction of such officer and that the officer is acting in the lawful performance of his duties.

**Sec. 5.** RCW 69.50.505 and 1990 c 248 s 2 and 1990 c 213 s 12 are each reenacted and amended to read as follows:

(a) The following are subject to seizure and forfeiture and no property right exists in them:

(1) All controlled substances which have been manufactured, distributed, dispensed, acquired, or possessed in violation of this chapter or chapter 69.41 or 69.52 RCW, and all hazardous chemicals, as defined in RCW 64.44.010, used or intended to be used in the manufacture of controlled substances;

(2) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter or chapter 69.41 or 69.52 RCW;

(3) All property which is used, or intended for use, as a container for property described in paragraphs (1) or (2);

(4) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, in any manner to facilitate the sale, delivery, or receipt of property described in paragraphs (1) or (2), except that:

(i) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter or chapter 69.41 or 69.52 RCW;

(ii) No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the owner's knowledge or consent;

(iii) No conveyance is subject to forfeiture under this section if used in the receipt of only an amount of marijuana for which possession constitutes a misdemeanor under RCW 69.50.401(e);

(iv) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission; and

(v) When the owner of a conveyance has been arrested under this chapter or chapter 69.41 or 69.52 RCW the conveyance in which the person is arrested may not be subject to forfeiture unless it is seized or process is issued for its seizure within ten days of the owner's arrest;

(5) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this chapter or chapter 69.41 or 69.52 RCW;

(6) All drug paraphernalia;

(7) All moneys, negotiable instruments, securities, or other tangible or intangible property of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible or intangible personal property, proceeds, or assets acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this chapter or chapter 69.41 or 69.52 RCW: PROVIDED, That a forfeiture of money, negotiable instruments, securities, or other tangible or intangible property encumbered by a bona fide security interest is subject to the interest of the secured party if, at the time the security interest was created, the secured party neither had knowledge of nor consented to the act or omission: PROVIDED FURTHER, That no personal property may be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission which that owner establishes was committed or omitted without the owner's knowledge or consent; and

(8) All real property, including any right, title, and interest in the whole of any lot or tract of land, and any appurtenances or improvements which are being used with the knowledge of the owner for the manufacturing, compounding, processing, delivery, importing, or exporting of any controlled substance, or which have been acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW, if such activity is not less than a class C felony and a substantial nexus exists between the commercial production or sale of the controlled substance and the real property: PROVIDED, That:

(i) No property may be forfeited pursuant to this subsection, to the extent of the interest of an owner, by reason of any act or omission committed or omitted without the owner's knowledge or consent;

(ii) The bona fide gift of a controlled substance, legend drug, or imitation controlled substance shall not result in the forfeiture of real property;

(iii) The possession of marijuana shall not result in the forfeiture of real property unless the marijuana is possessed for commercial purposes, the amount possessed is five or more plants or one pound or more of marijuana, and a substantial nexus exists between the possession of marijuana and the real property. In such a case, the intent of the offender shall be determined by the preponderance of the evidence, including the offender's prior criminal history, the amount of marijuana possessed by the offender, the sophistication of the activity or equipment used by the offender, and other evidence which demonstrates the offender's intent to engage in commercial activity;

(iv) The unlawful sale of marijuana or a legend drug shall not result in the forfeiture of real property unless the sale was forty grams or more in the case of marijuana or one hundred dollars or more in the case of a legend drug, and a substantial nexus exists between the unlawful sale and the real property; and

(v) A forfeiture of real property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party, at the time the security interest was created, neither had knowledge of nor consented to the act or omission.

(b) Real or personal property subject to forfeiture under this chapter may be seized by any board inspector or law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure of real property shall include the filing of a lis pendens by the seizing agency. Real property seized under this section shall not be transferred or otherwise conveyed until ninety days after seizure or until a judgment of forfeiture is entered, whichever is later: PROVIDED, That real property seized under this section may be transferred or conveyed to any person or entity who acquires title by foreclosure or deed in lieu of foreclosure of a security interest. Seizure of personal property without process may be made if:

(1) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(3) A board inspector or law enforcement officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) The board inspector or law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(c) In the event of seizure pursuant to subsection (b), proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and intended forfeiture of the seized property. Service of notice of seizure of real property shall be made according to the rules of civil procedure. However, the state may not obtain a default judgment with respect to real property against a party who is served by substituted service absent an affidavit stating that a good faith effort has been made to ascertain if the defaulted party is incarcerated within the state, and that there is no present basis to believe that the party is incarcerated within the state. The notice of seizure in other cases may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen day period following the seizure.

(d) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (a)(4), (a)(7), or (a)(8) of this section within forty-five days of the seizure in the case of personal property and ninety days in the case of real property, the item seized shall be deemed forfeited. The community property interest in real property of a person whose spouse committed a violation giving rise to seizure of the real property may not be forfeited if the person did not participate in the violation.

(e) If any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7), or (a)(8) of this section within forty-five days of the seizure in the case of personal property and ninety days in the case of real property, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020(4), the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction if the aggregate value of the article or articles involved is more than five hundred dollars. The court to which the matter is to be removed shall be the district court when ~~((such))~~ the aggregate value ~~((is ten thousand dollars or less))~~ of personal property is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In a court hearing between two or more claimants to the article or articles involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorney's fees. In cases involving personal property, the burden of producing evidence shall be upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the property. In cases involving real property, the burden of producing evidence shall be upon the law enforcement agency. The burden of proof that the seized real property is subject to forfeiture shall be upon the law enforcement agency. The seizing law enforcement agency shall promptly return the article or articles to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession thereof of items specified in subsection (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7), or (a)(8) of this section.

(f) When property is forfeited under this chapter the board or seizing law enforcement agency may:

(1) Retain it for official use or upon application by any law enforcement agency of this state release such property to such agency for the exclusive use of enforcing the provisions of this chapter;

(2) ~~((i))~~ Sell that which is not required to be destroyed by law and which is not harmful to the public ~~((--The proceeds and all moneys forfeited under this title shall be used for payment of all proper expenses of the investigation leading to the seizure, including any money delivered to the subject of the investigation by the law enforcement agency, and of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, actual costs of the prosecuting or city attorney, and court costs. Money remaining after the payment of all expenses shall be distributed as follows:~~

~~(A) Twenty five percent of the money derived from the forfeiture of real property and seventy five percent of the money derived from the forfeiture of personal property shall be deposited in the general fund of the state, county, and/or city of the seizing law enforcement agency and shall be used exclusively for the expansion or improvement of law enforcement services. These services may include the creation of reward funds for the purpose of rewarding informants who supply information leading to the arrest, prosecution and conviction of persons who violate laws relating to controlled substances. Such moneys shall not supplant preexisting funding sources;~~

~~(B) Twenty five percent of money derived from the forfeiture of real property and twenty five percent of money derived from the forfeiture of personal property shall be remitted to the state treasurer for deposit in the public safety and education account established in RCW 43.08.250;~~

~~(C) Until July 1, 1995, fifty percent of money derived from the forfeiture of real property shall be remitted to the state treasurer for deposit in the drug enforcement and education account under RCW 69.50.520, on and after July 1, 1995, the fifty percent of the money shall be remitted in the same manner as the twenty five percent of the money remitted under (2)(i)(A) of this subsection; and~~

~~(D) If an investigation involves a seizure of moneys and proceeds having an aggregate value of less than five thousand dollars, the moneys and proceeds may be deposited in total in the general fund of the governmental unit of the seizing law enforcement agency and shall be appropriated exclusively for the expansion of narcotics enforcement services. Such moneys shall not supplant preexisting funding sources.~~

~~(ii) Money deposited according to this section must be deposited within ninety days of the date of final disposition of either the administrative seizure or the judicial seizure));~~

(3) Request the appropriate sheriff or director of public safety to take custody of the property and remove it for disposition in accordance with law; or

(4) Forward it to the drug enforcement administration for disposition.

(g)(1) When property is forfeited, the seizing agency shall keep a record indicating the identity of the prior owner, if known, a description of the property, the disposition of the property, the value of the property at the time of seizure, and the amount of proceeds realized from disposition of the property.

(2) Each seizing agency shall retain records of forfeited property for at least seven years.

(3) Each seizing agency shall file a report including a copy of the records of forfeited property with the state treasurer each calendar quarter.

(4) The quarterly report need not include a record of forfeited property that is still being held for use as evidence during the investigation or prosecution of a case or during the appeal from a conviction.

(h)(1) By January 31st of each year, each seizing agency shall remit to the state treasurer an amount equal to ten percent of the net proceeds of any property forfeited during the preceding calendar year. Money remitted shall be deposited in the drug enforcement and education account under RCW 69.50.520.

(2) The net proceeds of forfeited property is the value of the forfeitable interest in the property after deducting the cost of satisfying any bona fide security interest to which the property is subject at the time of seizure, and in the case of sold property, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents.

(3) The value of sold forfeited property is the sale price. The value of retained forfeited property is the fair market value of the property at the time of seizure, determined when possible by reference to an applicable commonly used index, such as the index used by the department of licensing for valuation of motor vehicles. A seizing agency may use, but need not use, an independent qualified appraiser to determine the value of retained property. If an appraiser is used, the value of the property appraised is net of the cost of the appraisal. The value of destroyed property and retained firearms or illegal property is zero.

(i) Forfeited property and net proceeds not required to be paid to the state treasurer shall be retained by the seizing law enforcement agency exclusively for the expansion and improvement of controlled substances related law enforcement activity. Money retained under this section may not be used to supplant pre-existing funding sources.

(j) Controlled substances listed in Schedule I, II, III, IV, and V that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the state. Controlled substances listed in Schedule I, II, III, IV, and V, which are seized or come into the possession of the board, the owners of which are unknown, are contraband and shall be summarily forfeited to the board.

~~((h))~~ (k) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the board.

~~((i))~~ (l) The failure, upon demand by a board inspector or law enforcement officer, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored to produce an appropriate

registration or proof that he is the holder thereof constitutes authority for the seizure and forfeiture of the plants.

((j)) (m) Upon the entry of an order of forfeiture of real property, the court shall forward a copy of the order to the assessor of the county in which the property is located. Orders for the forfeiture of real property shall be entered by the superior court, subject to court rules. Such an order shall be filed by the seizing agency in the county auditor's records in the county in which the real property is located.

**Sec. 6.** RCW 9A.82.010 and 1989 c 20 s 17 are each amended to read as follows:

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

(1) "Creditor" means a person making an extension of credit or a person claiming by, under, or through a person making an extension of credit.

(2) "Debtor" means a person to whom an extension of credit is made or a person who guarantees the repayment of an extension of credit or in any manner undertakes to indemnify the creditor against loss resulting from the failure of a person to whom an extension is made to repay the same.

(3) "Extortionate extension of credit" means an extension of credit with respect to which it is the understanding of the creditor and the debtor at the time the extension is made that delay in making repayment or failure to make repayment could result in the use of violence or other criminal means to cause harm to the person, reputation, or property of any person.

(4) "Extortionate means" means the use, or an express or implicit threat of use, of violence or other criminal means to cause harm to the person, reputation, or property of any person.

(5) "To collect an extension of credit" means to induce in any way a person to make repayment thereof.

(6) "To extend credit" means to make or renew a loan or to enter into an agreement, tacit or express, whereby the repayment or satisfaction of a debt or claim, whether acknowledged or disputed, valid or invalid, and however arising, may or shall be deferred.

(7) "Repayment of an extension of credit" means the repayment, satisfaction, or discharge in whole or in part of a debt or claim, acknowledged or disputed, valid or invalid, resulting from or in connection with that extension of credit.

(8) "Dealer in property" means a person who buys and sells property as a business.

(9) "Stolen property" means property that has been obtained by theft, robbery, or extortion.

(10) "Traffic" means to sell, transfer, distribute, dispense, or otherwise dispose of stolen property to another person, or to buy, receive, possess, or obtain control of stolen property, with intent to sell, transfer, distribute, dispense, or otherwise dispose of the property to another person.

(11) "Control" means the possession of a sufficient interest to permit substantial direction over the affairs of an enterprise.

(12) "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business trust, or other profit or nonprofit legal entity, and includes any union, association, or group of individuals associated in fact although not a legal entity, and both illicit and licit enterprises and governmental and nongovernmental entities.

(13) "Financial institution" means any bank, trust company, savings and loan association, savings bank, mutual savings bank, credit union, or loan company under the jurisdiction of the state or an agency of the United States.

(14) "Criminal profiteering" means any act, including any anticipatory or completed offense, committed for financial gain, that is chargeable or indictable under the laws of the state in which the act occurred and, if the act occurred in a state other than this state, would be chargeable or indictable under the laws of this state had the act occurred in this state and punishable as a felony and by imprisonment for more than one year, regardless of whether the act is charged or indicted, as any of the following:

- (a) Murder, as defined in RCW 9A.32.030 and 9A.32.050;
- (b) Robbery, as defined in RCW 9A.56.200 and 9A.56.210;
- (c) Kidnapping, as defined in RCW 9A.40.020 and 9A.40.030;
- (d) Forgery, as defined in RCW 9A.60.020 and 9A.60.030;
- (e) Theft, as defined in RCW 9A.56.030, 9A.56.040, 9A.56.060, and 9A.56.080;
- (f) Child selling or child buying, as defined in RCW 9A.64.030;
- (g) Bribery, as defined in RCW 9A.68.010, 9A.68.020, 9A.68.040, and 9A.68.050;
- (h) Gambling, as defined in RCW 9A.46.220 and 9A.46.230;
- (i) Extortion, as defined in RCW 9A.56.120 and 9A.56.130;
- (j) Extortionate extension of credit, as defined in RCW 9A.82.020;
- (k) Advancing money for use in an extortionate extension of credit, as defined in RCW 9A.82.030;
- (l) Collection of an extortionate extension of credit, as defined in RCW 9A.82.040;
- (m) Collection of an unlawful debt, as defined in RCW 9A.82.045;
- (n) Delivery or manufacture of controlled substances or possession with intent to deliver or manufacture controlled substances under chapter 69.50 RCW;
- (o) Trafficking in stolen property, as defined in RCW 9A.82.050;
- (p) Leading organized crime, as defined in RCW 9A.82.060;
- (q) Money laundering, as defined in section 2 of this act;
- (r) Obstructing criminal investigations or prosecutions in violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120, 9A.72.130, 9A.76.070, or 9A.76.180;

~~((#))~~ (s) Fraud in the purchase or sale of securities, as defined in RCW 21.20.010;

~~((#))~~ (t) Promoting pornography, as defined in RCW 9.68.140;

~~((#))~~ (u) Sexual exploitation of children, as defined in RCW 9.68A.040, 9.68A.050, and 9.68A.060;

~~((#))~~ (v) Promoting prostitution, as defined in RCW 9A.88.070 and 9A.88.080;

~~((#))~~ (w) Arson, as defined in RCW 9A.48.020 and 9A.48.030;

~~((#))~~ (x) Assault, as defined in RCW 9A.36.011 and 9A.36.021;

~~((#))~~ (y) A pattern of equity skimming, as defined in RCW 61.34.020; or

~~((#))~~ (z) Commercial telephone solicitation in violation of RCW 19.158.040(1).

(15) "Pattern of criminal profiteering activity" means engaging in at least three acts of criminal profiteering, one of which occurred after July 1, 1985, and the last of which occurred within five years, excluding any period of imprisonment, after the commission of the earliest act of criminal profiteering. In order to constitute a pattern, the three acts must have the same or similar intent, results, accomplices, principals, victims, or methods of commission, or be otherwise interrelated by distinguishing characteristics including a nexus to the same enterprise, and must not be isolated events. However, in any civil proceedings brought pursuant to RCW 9A.82.100 by any person other than the attorney general or county prosecuting attorney in which one or more acts of fraud in the purchase or sale of securities are asserted as acts of criminal profiteering activity, it is a condition to civil liability under RCW 9A.82.100 that the defendant has been convicted in a criminal proceeding of fraud in the purchase or sale of securities under RCW 21.20.400 or under the laws of another state or of the United States requiring the same elements of proof, but such conviction need not relate to any act or acts asserted as acts of criminal profiteering activity in such civil action under RCW 9A.82.100.

(16) "Records" means any book, paper, writing, record, computer program, or other material.

(17) "Documentary material" means any book, paper, document, writing, drawing, graph, chart, photograph, phonograph record, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into usable form, or other tangible item.

(18) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in the state in full or in part because the debt was incurred or contracted:

- (a) In violation of any one of the following:
  - (i) Chapter 67.16 RCW relating to horse racing;
  - (ii) Chapter 9.46 RCW relating to gambling;
- (b) In a gambling activity in violation of federal law; or

(c) In connection with the business of lending money or a thing of value at a rate that is at least twice the permitted rate under the applicable state or federal law relating to usury.

(19)(a) "Beneficial interest" means:

(i) The interest of a person as a beneficiary under a trust established under Title 11 RCW in which the trustee for the trust holds legal or record title to real property;

(ii) The interest of a person as a beneficiary under any other trust arrangement under which a trustee holds legal or record title to real property for the benefit of the beneficiary; or

(iii) The interest of a person under any other form of express fiduciary arrangement under which one person holds legal or record title to real property for the benefit of the other person.

(b) "Beneficial interest" does not include the interest of a stockholder in a corporation or the interest of a partner in a general partnership or limited partnership.

(c) A beneficial interest shall be considered to be located where the real property owned by the trustee is located.

(20) "Real property" means any real property or interest in real property, including but not limited to a land sale contract, lease, or mortgage of real property.

(21)(a) "Trustee" means:

(i) A person acting as a trustee under a trust established under Title 11 RCW in which the trustee holds legal or record title to real property;

(ii) A person who holds legal or record title to real property in which another person has a beneficial interest; or

(iii) A successor trustee to a person who is a trustee under subsection (21)(a) (i) or (ii) of this section.

(b) "Trustee" does not mean a person appointed or acting as:

(i) A personal representative under Title 11 RCW;

(ii) A trustee of any testamentary trust;

(iii) A trustee of any indenture of trust under which a bond is issued; or

(iv) A trustee under a deed of trust.

**NEW SECTION. Sec. 7.** Sections 1 through 4 of this act constitute a new chapter in Title 9A RCW.

Passed the Senate March 8, 1992.

Passed the House March 5, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

## CHAPTER 211

[Substitute House Bill 2501]

## FORFEITED PROPERTY—

## RECORDKEEPING, DISPOSITION, AND LANDLORD'S CLAIM AGAINST

Effective Date: 6/11/92

AN ACT Relating to landlords' claims on tenants' property; reenacting and amending RCW 69.50.505; and repealing 1992 c ... (2SSB 5318) s 5.

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

**Sec. 1.** RCW 69.50.505 and 1990 c 248 s 2 and 1990 c 213 s 12 are each reenacted and amended to read as follows:

(a) The following are subject to seizure and forfeiture and no property right exists in them:

(1) All controlled substances which have been manufactured, distributed, dispensed, acquired, or possessed in violation of this chapter or chapter 69.41 or 69.52 RCW, and all hazardous chemicals, as defined in RCW 64.44.010, used or intended to be used in the manufacture of controlled substances;

(2) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter or chapter 69.41 or 69.52 RCW;

(3) All property which is used, or intended for use, as a container for property described in paragraphs (1) or (2);

(4) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, in any manner to facilitate the sale, delivery, or receipt of property described in paragraphs (1) or (2), except that:

(i) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter or chapter 69.41 or 69.52 RCW;

(ii) No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the owner's knowledge or consent;

(iii) No conveyance is subject to forfeiture under this section if used in the receipt of only an amount of marijuana for which possession constitutes a misdemeanor under RCW 69.50.401(e);

(iv) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission; and

(v) When the owner of a conveyance has been arrested under this chapter or chapter 69.41 or 69.52 RCW the conveyance in which the person is arrested may not be subject to forfeiture unless it is seized or process is issued for its seizure within ten days of the owner's arrest;

(5) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this chapter or chapter 69.41 or 69.52 RCW;

(6) All drug paraphernalia;

(7) All moneys, negotiable instruments, securities, or other tangible or intangible property of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible or intangible personal property, proceeds, or assets acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this chapter or chapter 69.41 or 69.52 RCW: PROVIDED, That a forfeiture of money, negotiable instruments, securities, or other tangible or intangible property encumbered by a bona fide security interest is subject to the interest of the secured party if, at the time the security interest was created, the secured party neither had knowledge of nor consented to the act or omission: PROVIDED FURTHER, That no personal property may be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission which that owner establishes was committed or omitted without the owner's knowledge or consent; and

(8) All real property, including any right, title, and interest in the whole of any lot or tract of land, and any appurtenances or improvements which are being used with the knowledge of the owner for the manufacturing, compounding, processing, delivery, importing, or exporting of any controlled substance, or which have been acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW, if such activity is not less than a class C felony and a substantial nexus exists between the commercial production or sale of the controlled substance and the real property: PROVIDED, That:

(i) No property may be forfeited pursuant to this subsection, to the extent of the interest of an owner, by reason of any act or omission committed or omitted without the owner's knowledge or consent;

(ii) The bona fide gift of a controlled substance, legend drug, or imitation controlled substance shall not result in the forfeiture of real property;

(iii) The possession of marijuana shall not result in the forfeiture of real property unless the marijuana is possessed for commercial purposes, the amount possessed is five or more plants or one pound or more of marijuana, and a substantial nexus exists between the possession of marijuana and the real property. In such a case, the intent of the offender shall be determined by the preponderance of the evidence, including the offender's prior criminal history, the amount of marijuana possessed by the offender, the sophistication of the activity or equipment used by the offender, and other evidence which demonstrates the offender's intent to engage in commercial activity;

(iv) The unlawful sale of marijuana or a legend drug shall not result in the forfeiture of real property unless the sale was forty grams or more in the case of marijuana or one hundred dollars or more in the case of a legend drug, and a substantial nexus exists between the unlawful sale and the real property; and

(v) A forfeiture of real property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party, at the time the security interest was created, neither had knowledge of nor consented to the act or omission.

(b) Real or personal property subject to forfeiture under this chapter may be seized by any board inspector or law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure of real property shall include the filing of a lis pendens by the seizing agency. Real property seized under this section shall not be transferred or otherwise conveyed until ninety days after seizure or until a judgment of forfeiture is entered, whichever is later: PROVIDED, That real property seized under this section may be transferred or conveyed to any person or entity who acquires title by foreclosure or deed in lieu of foreclosure of a security interest. Seizure of personal property without process may be made if:

(1) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(3) A board inspector or law enforcement officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) The board inspector or law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(c) In the event of seizure pursuant to subsection (b), proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and intended forfeiture of the seized property. Service of notice of seizure of real property shall be made according to the rules of civil procedure. However, the state may not obtain a default judgment with respect to real property against a party who is served by substituted service absent an affidavit stating that a good faith effort has been made to ascertain if the defaulted party is incarcerated within the state, and that there is no present basis to believe that the party is incarcerated within the state. The notice of seizure in other cases may be served by any method authorized by law or court rule including but not limited to

service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen day period following the seizure.

(d) If any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (a)(4), (a)(7), or (a)(8) of this section within forty-five days of the seizure in the case of personal property and ninety days in the case of real property, the item seized shall be deemed forfeited. The community property interest in real property of a person whose spouse committed a violation giving rise to seizure of the real property may not be forfeited if the person did not participate in the violation.

(e) If any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7), or (a)(8) of this section within forty-five days of the seizure in the case of personal property and ninety days in the case of real property, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020(4), the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction if the aggregate value of the article or articles involved is more than five hundred dollars. The court to which the matter is to be removed shall be the district court when ~~((such))~~ the aggregate value ((is ten thousand dollars or less)) of personal property is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In a court hearing between two or more claimants to the article or articles involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorney's fees. In cases involving personal property, the burden of producing evidence shall be upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the property. In cases involving real property, the burden of producing evidence shall be upon the law enforcement agency. The burden of proof that the seized real property is subject to forfeiture shall be upon the law enforcement agency. The seizing law enforcement agency shall promptly return the article or articles to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession thereof of items specified in subsection (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7), or (a)(8) of this section.

(f) When property is forfeited under this chapter the board or seizing law enforcement agency may:

(1) Retain it for official use or upon application by any law enforcement agency of this state release such property to such agency for the exclusive use of enforcing the provisions of this chapter;

(2) ~~((h)) Sell that which is not required to be destroyed by law and which is not harmful to the public(~~—The proceeds and all moneys forfeited under this title shall be used for payment of all proper expenses of the investigation leading to the seizure, including any money delivered to the subject of the investigation by the law enforcement agency, and of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, actual costs of the prosecuting or city attorney, and court costs. Money remaining after the payment of all expenses shall be distributed as follows:~~~~

~~(A) Twenty five percent of the money derived from the forfeiture of real property and seventy five percent of the money derived from the forfeiture of personal property shall be deposited in the general fund of the state, county, and/or city of the seizing law enforcement agency and shall be used exclusively for the expansion or improvement of law enforcement services. These services may include the creation of reward funds for the purpose of rewarding informants who supply information leading to the arrest, prosecution and conviction of persons who violate laws relating to controlled substances. Such moneys shall not supplant preexisting funding sources;~~

~~(B) Twenty five percent of money derived from the forfeiture of real property and twenty five percent of money derived from the forfeiture of personal property shall be remitted to the state treasurer for deposit in the public safety and education account established in RCW 43.08.250;~~

~~(C) Until July 1, 1995, fifty percent of money derived from the forfeiture of real property shall be remitted to the state treasurer for deposit in the drug enforcement and education account under RCW 69.50.520, on and after July 1, 1995, the fifty percent of the money shall be remitted in the same manner as the twenty five percent of the money remitted under (2)(i)(A) of this subsection; and~~

~~(D) If an investigation involves a seizure of moneys and proceeds having an aggregate value of less than five thousand dollars, the moneys and proceeds may be deposited in total in the general fund of the governmental unit of the seizing law enforcement agency and shall be appropriated exclusively for the expansion of narcotics enforcement services. Such moneys shall not supplant preexisting funding sources.~~

~~(ii) Money deposited according to this section must be deposited within ninety days of the date of final disposition of either the administrative seizure or the judicial seizure);~~

(3) Request the appropriate sheriff or director of public safety to take custody of the property and remove it for disposition in accordance with law; or

(4) Forward it to the drug enforcement administration for disposition.

(g)(1) When property is forfeited, the seizing agency shall keep a record indicating the identity of the prior owner, if known, a description of the property,

the disposition of the property, the value of the property at the time of seizure, and the amount of proceeds realized from disposition of the property.

(2) Each seizing agency shall retain records of forfeited property for at least seven years.

(3) Each seizing agency shall file a report including a copy of the records of forfeited property with the state treasurer each calendar quarter.

(4) The quarterly report need not include a record of forfeited property that is still being held for use as evidence during the investigation or prosecution of a case or during the appeal from a conviction.

(h)(1) By January 31st of each year, each seizing agency shall remit to the state treasurer an amount equal to ten percent of the net proceeds of any property forfeited during the preceding calendar year. Money remitted shall be deposited in the drug enforcement and education account under RCW 69.50.520.

(2) The net proceeds of forfeited property is the value of the forfeitable interest in the property after deducting the cost of satisfying any bona fide security interest to which the property is subject at the time of seizure; and in the case of sold property, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents, and the cost of any valid landlord's claim for damages under subsection (n) of this section.

(3) The value of sold forfeited property is the sale price. The value of retained forfeited property is the fair market value of the property at the time of seizure, determined when possible by reference to an applicable commonly used index, such as the index used by the department of licensing for valuation of motor vehicles. A seizing agency may use, but need not use, an independent qualified appraiser to determine the value of retained property. If an appraiser is used, the value of the property appraised is net of the cost of the appraisal. The value of destroyed property and retained firearms or illegal property is zero.

(i) Forfeited property and net proceeds not required to be paid to the state treasurer shall be retained by the seizing law enforcement agency exclusively for the expansion and improvement of controlled substances related law enforcement activity. Money retained under this section may not be used to supplant pre-existing funding sources.

(j) Controlled substances listed in Schedule I, II, III, IV, and V that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the state. Controlled substances listed in Schedule I, II, III, IV, and V, which are seized or come into the possession of the board, the owners of which are unknown, are contraband and shall be summarily forfeited to the board.

~~((h))~~ (k) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the board.

~~((f))~~ (l) The failure, upon demand by a board inspector or law enforcement officer, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored to produce an appropriate registration or proof that he is the holder thereof constitutes authority for the seizure and forfeiture of the plants.

~~((g))~~ (m) Upon the entry of an order of forfeiture of real property, the court shall forward a copy of the order to the assessor of the county in which the property is located. Orders for the forfeiture of real property shall be entered by the superior court, subject to court rules. Such an order shall be filed by the seizing agency in the county auditor's records in the county in which the real property is located.

(n) A landlord may assert a claim against proceeds from the sale of assets seized and forfeited under subsection (f)(2) of this section, only if:

(1) A law enforcement officer, while acting in his or her official capacity, directly caused damage to the complaining landlord's property while executing a search of a tenant's residence; and

(2) The landlord has applied any funds remaining in the tenant's deposit, to which the landlord has a right under chapter 59.18 RCW, to cover the damage directly caused by a law enforcement officer prior to asserting a claim under the provisions of this section;

(i) Only if the funds applied under (2) of this subsection are insufficient to satisfy the damage directly caused by a law enforcement officer, may the landlord seek compensation for the damage by filing a claim against the governmental entity under whose authority the law enforcement agency operates within thirty days after the search;

(ii) Only if the governmental entity denies or fails to respond to the landlord's claim within sixty days of the date of filing, may the landlord collect damages under this subsection by filing within thirty days of denial or the expiration of the sixty-day period, whichever occurs first, a claim with the seizing law enforcement agency. The seizing law enforcement agency must notify the landlord of the status of the claim by the end of the thirty-day period. Nothing in this section requires the claim to be paid by the end of the sixty-day or thirty-day period.

(3) For any claim filed under (2) of this subsection, the law enforcement agency shall pay the claim unless the agency provides substantial proof that the landlord either:

(i) Knew or consented to actions of the tenant in violation of this chapter or chapter 69.41 or 69.52 RCW; or

(ii) Failed to respond to a notification of the illegal activity, provided by a law enforcement agency under RCW 59.18.075, within seven days of receipt of notification of the illegal activity.

(o) The landlord's claim for damages under subsection (n) of this section may not include a claim for loss of business and is limited to:

- (1) Damage to tangible property and clean-up costs;  
(2) The lesser of the cost of repair or fair market value of the damage directly caused by a law enforcement officer;  
(3) The proceeds from the sale of the specific tenant's property seized and forfeited under subsection (f)(2) of this section; and  
(4) The proceeds available after the seizing law enforcement agency satisfies any bona fide security interest in the tenant's property and costs related to sale of the tenant's property as provided by subsection (h)(2) of this section.
- (p) Subsections (n) and (o) of this section do not limit any other rights a landlord may have against a tenant to collect for damages. However, if a law enforcement agency satisfies a landlord's claim under subsection (n) of this section, the rights the landlord has against the tenant for damages directly caused by a law enforcement officer under the terms of the landlord and tenant's contract are subrogated to the law enforcement agency.

NEW SECTION. Sec. 2. 1992 c ... (2SSB 5318) s 5 is hereby repealed.

Passed the House March 11, 1992.

Passed the Senate March 10, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

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## CHAPTER 212

[House Bill 2259]

### TEACHERS' AND PUBLIC EMPLOYEES' RETIREMENT SYSTEMS— SIMPLIFICATION OF DESIGNATION OF FUNDS USED BY

Effective Date: 6/11/92

AN ACT Relating to simplification of the designation of funds established for use by the teachers' retirement system and the public employees' retirement system; amending RCW 41.50.200, 41.32.540, 41.32.522, 41.32.523, 41.50.215, 41.32.260, 41.32.042, 41.32.380, 41.50.260, 41.33.020, 41.32.067, 41.32.300, 41.04.445, 41.32.013, 41.32.032, 41.32.345, 41.32.555, 41.32.812, and 41.50.133; reenacting and amending RCW 41.32.010 and 41.32.520; and repealing RCW 41.50.225.

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

**Sec. 1.** RCW 41.32.010 and 1991 c 343 s 3 and 1991 c 35 s 31 are each reenacted and amended to read as follows:

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

(1)(a) "Accumulated contributions" for plan I members, means the sum of all regular annuity contributions with regular interest thereon.

(b) "Accumulated contributions" for plan II members, means the sum of all contributions standing to the credit of a member in the member's individual account together with the regular interest thereon.

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

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

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

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

~~((6))~~(a) "Beneficiary" for plan I members, means any person in receipt of a retirement allowance or other benefit provided by this chapter.

(b) "Beneficiary" for plan II members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

~~((7))~~ (6) "Contract" means any agreement for service and compensation between a member and an employer.

~~((8))~~ (7) "Creditable service" means membership service plus prior service for which credit is allowable. This subsection shall apply only to plan I members.

~~((9))~~ (8) "Dependent" means receiving one-half or more of support from a member.

~~((10))~~ (9) "Disability allowance" means monthly payments during disability. This subsection shall apply only to plan I members.

~~((11))~~ (10)(a) "Earnable compensation" for plan I members, means:

(i) All salaries and wages paid by an employer to an employee member of the retirement system for personal services rendered during a fiscal year. In all cases where compensation includes maintenance the employer shall fix the value of that part of the compensation not paid in money.

(A) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation and the individual shall receive the equivalent service credit.

(B) If a leave of absence, without pay, is taken by a member for the purpose of serving as a member of the state legislature, and such member has served in the legislature five or more years, the salary which would have been received for the position from which the leave of absence was taken shall be considered as compensation earnable if the employee's contribution thereon is paid by the employee. In addition, where a member has been a member of the state legislature for five or more years, earnable compensation for the member's two highest compensated consecutive years of service shall include a sum not to exceed thirty-six hundred dollars for each of such two consecutive years,

regardless of whether or not legislative service was rendered during those two years.

(ii) For members employed less than full time under written contract with a school district, or community college district, in an instructional position, for which the member receives service credit of less than one year in all of the years used to determine the earnable compensation used for computing benefits due under RCW 41.32.497, 41.32.498, and 41.32.520, the member may elect to have earnable compensation defined as provided in RCW ~~((41.32.011))~~ 41.32.345. For the purposes of this subsection, the term "instructional position" means a position in which more than seventy-five percent of the member's time is spent as a classroom instructor (including office hours), a librarian, or a counselor. Earnable compensation shall be so defined only for the purpose of the calculation of retirement benefits and only as necessary to insure that members who receive fractional service credit under RCW 41.32.270 receive benefits proportional to those received by members who have received full-time service credit.

(b) "Earnable compensation" for plan II members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

(i) Reinstatement payments to an individual by an employer on reinstatement of the employee in a position or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation, to the extent provided above, and the individual shall receive the equivalent service credit.

(ii) In any year in which a member serves in the legislature the member shall have the option of having such member's earnable compensation be the greater of:

(A) The earnable compensation the member would have received had such member not served in the legislature; or

(B) Such member's actual earnable compensation received for teaching and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions.

~~((12))~~ (11) "Employer" means the state of Washington, the school district, or any agency of the state of Washington by which the member is paid.

~~((13))~~ (12) "Fiscal year" means a year which begins July 1st and ends June 30th of the following year.

~~((14))~~ (13) "Former state fund" means the state retirement fund in operation for teachers under chapter 187, Laws of 1923, as amended.

~~((15))~~ (14) "Local fund" means any of the local retirement funds for teachers operated in any school district in accordance with the provisions of chapter 163, Laws of 1917 as amended.

~~((16))~~ (15) "Member" means any teacher included in the membership of the retirement system. Also, any other employee of the public schools who, on July 1, 1947, had not elected to be exempt from membership and who, prior to that date, had by an authorized payroll deduction, contributed to the ~~((annuity fund))~~ member reserve.

~~((17))~~ (16) "Membership service" means service rendered subsequent to the first day of eligibility of a person to membership in the retirement system: PROVIDED, That where a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered. The provisions of this subsection shall apply only to plan I members.

~~((18))~~ (17) "Pension" means the moneys payable per year during life from the pension reserve ~~((fund))~~.

~~((19))~~ (18) "Pension reserve ~~((fund))~~" is a fund in which shall be accumulated an actuarial reserve adequate to meet present and future pension liabilities of the system and from which all pension obligations are to be paid.

~~((20))~~ (19) "Prior service" means service rendered prior to the first date of eligibility to membership in the retirement system for which credit is allowable. The provisions of this subsection shall apply only to plan I members.

~~((21))~~ (20) "Prior service contributions" means contributions made by a member to secure credit for prior service. The provisions of this subsection shall apply only to plan I members.

~~((22))~~ (21) "Public school" means any institution or activity operated by the state of Washington or any instrumentality or political subdivision thereof employing teachers, except the University of Washington and Washington State University.

~~((23))~~ (22) "Regular contributions" means the amounts required to be deducted from the compensation of a member and credited to the member's individual account in the ~~((annuity fund))~~ member reserve. This subsection shall apply only to plan I members.

~~((24))~~ (23) "Regular interest" means such rate as the director may determine.

~~((25))~~ (24)(a) "Retirement allowance" for plan I members, means monthly payments based on the sum of annuity and pension, or any optional benefits payable in lieu thereof.

(b) "Retirement allowance" for plan II members, means monthly payments to a retiree or beneficiary as provided in this chapter.

~~((26))~~ (25) "Retirement system" means the Washington state teachers' retirement system.

~~((27))~~ (26)(a) "Service" means the time during which a member has been employed by an employer for compensation: PROVIDED, That where a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered.

(b) "Service" for plan II members, means periods of employment by a member for one or more employers for which earnable compensation is earned subject to the following conditions:

(i) A member employed in an eligible position or as a substitute shall receive one service credit month for each month of September through August of the following year if he or she earns earnable compensation for eight hundred ten or more hours during that period and is employed during nine of those months, except that a member may not receive credit for any period prior to the member's employment in an eligible position except as provided in RCW 41.32.812 and 41.50.132;

(ii) If a member is employed either in an eligible position or as a substitute teacher for nine months of the twelve month period between September through August of the following year but earns earnable compensation for less than eight hundred ten hours but for at least six hundred thirty hours, he or she will receive one-half of a service credit month for each month of the twelve month period;

(iii) All other members in an eligible position or as a substitute teacher shall receive service credit as follows:

(A) A service credit month is earned in those calendar months where earnable compensation is earned for ninety or more hours;

(B) A half-service credit month is earned in those calendar months where earnable compensation is earned for at least seventy hours but less than ninety hours; and

(C) A quarter-service credit month is earned in those calendar months where earnable compensation is earned for less than seventy hours.

Any person who is a member of the teachers' retirement system and who is elected or appointed to a state elective position may continue to be a member of the retirement system and continue to receive a service credit month for each of the months in a state elective position by making the required member contributions.

When an individual is employed by two or more employers the individual shall only receive one month's service credit during any calendar month in which multiple service for ninety or more hours is rendered.

The department shall adopt rules implementing this subsection.

~~((28))~~ (27) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

~~((29))~~ (28) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

~~((30))~~ "Survivors' benefit fund" means the fund from which survivor benefits are paid to dependents of deceased members. This subsection shall apply only to plan I members.

~~((31))~~ (29) "Teacher" means any person qualified to teach who is engaged by a public school in an instructional, administrative, or supervisory capacity. The term includes state, educational service district, and school district superintendents and their assistants and all employees certificated by the superintendent of public instruction; and in addition thereto any full time school doctor who is employed by a public school and renders service of an instructional or educational nature.

~~((32))~~ (30) "Average final compensation" for plan II members, means the member's average earnable compensation of the highest consecutive sixty service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation.

~~((33))~~ (31) "Retiree" means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

~~((34))~~ (32) "Department" means the department of retirement systems created in chapter 41.50 RCW.

~~((35))~~ (33) "Director" means the director of the department.

~~((36))~~ (34) "State elective position" means any position held by any person elected or appointed to state-wide office or elected or appointed as a member of the legislature.

~~((37))~~ (35) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

~~((38))~~ (36) "Substitute teacher" means:

(a) A teacher who is hired by an employer to work as a temporary teacher, except for teachers who are annual contract employees of an employer and are guaranteed a minimum number of hours; or

(b) Teachers who either (i) work in ineligible positions for more than one employer or (ii) work in an ineligible position or positions together with an eligible position.

~~((39))~~ (37)(a) "Eligible position" for plan II members from June 7, 1990, through September 1, 1991, means a position which normally requires two or more uninterrupted months of creditable service during September through August of the following year.

(b) "Eligible position" for plan II on and after September 1, 1991, means a position that, as defined by the employer, normally requires five or more months of at least seventy hours of earnable compensation during September through August of the following year.

(c) For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position.

(d) The elected position of the superintendent of public instruction is an eligible position.

~~((40))~~ (38) "Plan I" means the teachers' retirement system, plan I providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

~~((41))~~ (39) "Plan II" means the teachers' retirement system, plan II providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

**Sec. 2.** RCW 41.50.200 and 1991 c 35 s 32 are each amended to read as follows:

In the records of the teachers' retirement system the teachers' retirement ~~((fund))~~ system plan I fund shall be subdivided into the ~~((annuity fund, the annuity reserve fund, the survivors' benefit fund))~~ member reserve, the pension reserve ~~((fund, the disability reserve fund, the death benefit fund, the income fund, the expense fund))~~, and other funds as may from time to time be created by the director for the purpose of the internal accounting record. The director may adopt rules creating or deleting funds as he or she deems necessary.

**Sec. 3.** RCW 41.32.540 and 1991 c 35 s 61 are each amended to read as follows:

Upon application of a member in service or of his or her employer or of his or her legal guardian or of the legal representative of a deceased member who was eligible to apply for a temporary disability allowance based on the final illness a member shall be granted a temporary disability allowance by the department if the medical director, after a medical examination of the member, certifies that the member is mentally or physically incapacitated for the further performance of duty. Any member receiving a temporary disability allowance on July 1, 1964 or who qualifies for a temporary disability allowance effective on or after July 1, 1964 shall receive a temporary disability allowance of one hundred eighty dollars per month ~~((payable from the disability reserve fund))~~ for a period not to exceed two years, but no payments shall be made for a disability period of less than sixty days: PROVIDED, That a member who is not employed full time in Washington public school service for consecutive fiscal years shall have been employed for at least fifty consecutive days during the fiscal year in which he or she returns to full time Washington public school service before he or she may qualify for temporary disability benefits: PROVIDED FURTHER, That no temporary disability benefits shall be paid on the basis of an application received more than four calendar years after a member became eligible to apply for such benefits.

**Sec. 4.** RCW 41.32.522 and 1991 c 35 s 59 are each amended to read as follows:

(1) The department shall pay a death benefit of six hundred dollars (~~shall be paid from the death benefit fund~~) to a member's estate or to the persons the member nominates by written designation duly executed and filed with the department or to the persons as may otherwise qualify as the beneficiary pursuant to RCW 41.32.520 upon receipt of proper proof of death of the member if he or she:

(a) Was employed on a full time basis (~~and who contributed to the death benefit fund~~) during the fiscal year in which his or her death occurs;

(b) Was under contract for full time employment in a Washington public school (~~for the fiscal year immediately following the year in which such contribution to the death fund was made~~);

(c) Submits an application for a retirement allowance to be approved by the department immediately following termination of his or her full-time Washington public school service and who dies before the first installment of his or her retirement allowance becomes due;

(d) Is receiving or is entitled to receive temporary disability payments; or

(e) Upon becoming eligible for a disability retirement allowance submits an application for an allowance to be approved by the department immediately following the date of his or her eligibility for a disability retirement allowance and dies before the first installment of such allowance becomes due.

(2) In order to receive a death benefit under this section a deceased member:

(a) Must have established at least one year of credit with the retirement system for full time Washington membership service (~~A member's contribution to the death benefit fund for a given fiscal year qualifies the member for the death benefit in the event his or her death occurs before the beginning of the ensuing school year~~);

(b) Who was not employed full time in Washington public school service during the fiscal year immediately preceding the year of his or her death must have been employed full time in Washington public school service for at least fifty consecutive days during the fiscal year of his or her death.

**Sec. 5.** RCW 41.32.523 and 1991 c 35 s 60 are each amended to read as follows:

Upon receipt of proper proof of death of a member who does not qualify for the death benefit of six hundred dollars under RCW 41.32.522, or a former member who was retired for age, service, or disability, a death benefit of four hundred dollars shall be paid (~~from the death benefit fund~~) to the member's estate or to the persons as he or she shall have nominated by written designation duly executed and filed with the department or to the persons as may otherwise qualify as the beneficiary pursuant to RCW 41.32.520: PROVIDED, That the member or the retired former member had established not less than ten years of credit with the retirement system for full time Washington membership service.

**Sec. 6.** RCW 41.50.215 and 1991 c 35 s 36 are each amended to read as follows:

From interest and other earnings on the moneys of the Washington state teachers' retirement system, and except as otherwise provided in RCW ((41.32.405 and)) 41.32.499, at the close of each fiscal year the department shall make an allowance of regular interest on the balance which was on hand at the beginning of the fiscal year in each of the teachers' retirement system funds as they may deem advisable; however, no interest shall be credited to the expense fund ((of the pension fund)).

**Sec. 7.** RCW 41.32.520 and 1991 c 365 s 29 and 1991 c 35 s 58 are each reenacted and amended to read as follows:

(1) Upon receipt of proper proofs of death of any member before retirement or before the first installment of his or her retirement allowance shall become due his or her accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, and/or other benefits payable upon his or her death shall be paid to his or her estate or to such persons as he or she shall have nominated by written designation duly executed and filed with the department. If a member fails to file a new beneficiary designation subsequent to marriage, divorce, or reestablishment of membership following termination by withdrawal, lapsation, or retirement, payment of his or her accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, and/or other benefits upon death before retirement shall be made to the surviving spouse, if any; otherwise, to his or her estate. If a member had established ten or more years of Washington membership service credit or was eligible for retirement, the beneficiary or the surviving spouse if otherwise eligible may elect, in lieu of a cash refund of the member's accumulated contributions, the following survivor benefit plan actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670:

(a) A widow or widower, without a child or children under eighteen years of age, may elect a monthly payment of fifty dollars to become effective at age fifty, provided the member had fifteen or more years of Washington membership service credit. A benefit paid under this subsection (1)(a) shall terminate at the marriage of the beneficiary.

(b) The beneficiary, if a surviving spouse or a dependent (as that term is used in computing the dependent exemption for federal internal revenue purposes) may elect to receive a joint and one hundred percent retirement allowance under RCW 41.32.530.

(i) In the case of a dependent child the allowance shall continue until attainment of majority or so long as the department judges that the circumstances which created his or her dependent status continue to exist. In any case, if at the time dependent status ceases, an amount equal to the amount of accumulated

contributions of the deceased member has not been paid to the beneficiary, the remainder shall then be paid in a lump sum to the beneficiary.

(ii) If at the time of death, the member was not then qualified for a service retirement allowance, the benefit shall be based upon the actuarial equivalent of the sum necessary to pay the accrued regular retirement allowance commencing when the deceased member would have first qualified for a service retirement allowance.

(2) If no qualified beneficiary survives a member, at his or her death his or her accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to his or her estate, or his or her dependents may qualify for survivor benefits under benefit plan (1)(b) in lieu of a cash refund of the members accumulated contributions in the following order: Widow or widower, guardian of a dependent child or children under age eighteen, or dependent parent or parents.

~~((3) Under survivors' benefit plan (1)(a) the department shall transfer to the survivors' benefit fund the accumulated contributions of the deceased member together with an amount from the pension fund determined by actuarial tables to be sufficient to fully fund the liability. Benefits shall be paid from the survivors' benefit fund monthly and terminated at the marriage of the beneficiary.))~~

Sec. 8. RCW 41.32.260 and 1991 c 35 s 40 are each amended to read as follows:

Any member whose public school service is interrupted by active service to the United States as a member of its military, naval or air service, or to the state of Washington, as a member of the legislature, may upon becoming reemployed in the public schools, receive credit for that service upon presenting satisfactory proof, and contributing to the ~~((annuity fund))~~ member reserve, either in a lump sum or installments, amounts determined by the director. Except that no military service credit in excess of five years shall be established or reestablished after July 1, 1961, unless the service was actually rendered during time of war.

Sec. 9. RCW 41.32.042 and 1982 1st ex.s. c 52 s 13 are each amended to read as follows:

The deductions from salaries of members of the retirement system for their contributions to the system are not considered diminution of pay and every member is conclusively presumed to consent thereto as a condition of employment. All contributions to the ~~((annuity fund))~~ member reserve shall be credited to the individual for whose account the deductions from salary were made. Regular interest shall be credited to each member's account at least annually.

Sec. 10. RCW 41.32.380 and 1982 1st ex.s. c 52 s 8 are each amended to read as follows:

There shall be placed in the pension reserve ~~((fund))~~ all appropriations made by the legislature for the purpose of paying pensions and survivors' benefits and of establishing and maintaining an actuarial reserve and all gifts and bequests to

the pension reserve ((fund)), and contributions of persons entering the retirement system who have established prior service credit. Members establishing prior service credit shall contribute to the pension reserve ((fund)) as follows:

- For the first ten years of prior service fifteen dollars per year;
- For the second ten years of prior service thirty dollars per year;
- For the third ten years of prior service forty-five dollars per year.

**Sec. 11.** RCW 41.50.260 and 1991 c 35 s 74 are each amended to read as follows:

For the purpose of the internal accounting record of the public employees' retirement system and not the segregation of moneys on deposit with the state treasurer there are hereby created the employees' savings fund, the benefit account fund, ((the public employees' income fund)) and such other funds as the director may from time to time ((be required)) create.

(1) The employees' savings fund shall be the fund in which shall be accumulated the contributions from the compensation of public employees' retirement system members. The director shall provide for the maintenance of an individual account for each member of the public employees' retirement system showing the amount of the member's contributions together with interest accumulations thereon. The contributions of a member returned to the former employee upon the individual's withdrawal from service, or paid in event of the employee's or former employee's death, as provided in chapter 41.40 RCW, shall be paid from the employees' savings fund. The accumulated contributions of a member, upon the commencement of the individual's retirement, shall be transferred from the employees' savings fund to the benefit account fund.

(2) The benefit account fund shall be the fund in which shall be accumulated the reserves for the payment of all public employees' retirement system retirement allowances and death benefits, if any, in respect of any beneficiary. The amounts contributed by all public employees' retirement system employers to provide pension benefits shall be credited to the benefit account fund. The benefit account fund shall be the fund from which shall be paid all public employees' retirement system retirement allowances, or benefits in lieu thereof because of which reserves have been transferred from the employees' savings fund to the benefit account fund. At the time a recipient of a retirement allowance again becomes a member of the public employees' retirement system, the department shall transfer from the benefit account fund to the employees' savings fund and credit to the individual account of such a member a sum equal to the excess, if any, of the individual's account at the date of the member's retirement over any service retirement allowance received since that date.

~~(((3) A public employees' income fund is hereby created for the purpose of crediting interest on the amounts in the various other public employees' retirement system funds with the exception of the department of retirement systems expense fund, and to provide a contingent fund out of which special requirements of any of the other such funds may be covered. The director shall~~

~~determine when a distribution of interest and other earnings of the public employees' retirement system shall take place. The amounts to be credited and the methods for distribution to each of the funds enumerated in subsections (1) and (2) of this section and for special requirements previously mentioned in this subsection shall be at the director's discretion.~~

~~All accumulated contributions standing to the account of a terminated member of the public employees' retirement system except as provided in RCW 41.40.150(4), 41.40.170, 41.40.710, and 41.40.720 shall be transferred from the employees' savings fund to the public employees' income fund. If the former employee, the former employee's beneficiary, or the former employee's estate at a future date requests the unclaimed contributions or reinstatement of the rights previously provided thereunder, the former employee's contributions shall be transferred from the public employees' income fund to the savings fund and the former employee's account reestablished with all the rights which would have been due the former employee, the former employee's beneficiary, or the former employee's estate as if in fact the transfer to the public employees' income fund had not occurred. All income, interest, and dividends derived from the deposits and investments authorized by chapter 41.40 RCW shall be paid into the public employees' income fund with the exception of interest derived from sums deposited in the department of retirement systems expense fund. The director on behalf of the retirement system is hereby authorized to accept gifts and bequests. Any funds that may come into the possession of the public employees' retirement system in such manner, or any funds which may be transferred from the employees' savings fund by reason of lack of claimant, or because of a surplus in any fund created by chapter 41.40 RCW, or any other moneys the disposition of which is not otherwise provided for, shall be credited to the public employees' income fund.))~~

**Sec. 12.** RCW 41.33.020 and 1973 1st ex.s. c 154 s 77 are each amended to read as follows:

The terms and provisions of the plan are as follows:

(1) Each political subdivision of the state employing members of the teachers' retirement system and the members of the teachers' retirement system, after the approval of this plan by the legislature, and by the eligible employees through a referendum as provided in RCW 41.48.030 (3) and (4), shall be deemed to have accepted and agreed to be bound by the following terms and conditions in consideration of extension of the existing agreement between the secretary of health, education and welfare and the governor to make the protection of the federal old age and survivors insurance program available and applicable to such employees.

(2) As used in this plan the terms quoted below shall have the meanings assigned thereto in this section.

"Political subdivision" means any political subdivision, or instrumentality of one or more subdivisions, or proprietary enterprise acquired, purchased or

originated by one or more such subdivisions after December, 1950, which employs members of the teachers' retirement system. The state, its agencies, instrumentalities and institutions of higher learning shall be grouped and considered as a single political subdivision.

"Employee" means any person who is a member of the teachers' retirement system and is employed by a political subdivision.

"Wages" shall have the meaning given in RCW 41.48.020(1) and section 209 of the social security act (42 U.S.C.A. Sec. 409).

"State" where not otherwise clearly indicated by the context, means the commissioner of employment security or other officer designated by the governor to administer the plan at the state level for all participating political subdivisions.

(3) The terms and conditions of this plan are intended and shall be construed to be in conformity with the requirements of the federal social security act as amended and with the requirements of chapter 41.48 RCW, and particularly RCW 41.48.050, as amended by chapter 4, Laws of 1955 extraordinary session.

(4) The rights and benefits accruing to employees from membership in the teachers' retirement system shall in no way be altered or impaired by this plan or by the additional and supplementary OASI coverage which such employees may receive hereunder, other than the elimination of (1), (2) and (3) of section 52, chapter 80, Laws of 1947 and RCW 41.32.520 as each are amended, with the exception of that part of (1) which permits a widow or widower without a child or children under age eighteen to receive a monthly payment of fifty dollars at age fifty, provided that the member had fifteen or more years of Washington membership service credit at date of death.

(5) There shall be no additional cost to or involvement of the state or a political subdivision with respect to OASI coverage of members of the teachers' retirement system until this plan has been approved by the legislature.

(6) Each employee to whom OASI coverage is made applicable under this plan pursuant to an extension or modification under RCW 41.48.030 of the existing agreement between the secretary of health, education and welfare and the governor shall be required to pay into the OASI contribution fund established by RCW 41.48.060 during the period of such coverage contributions with respect to his wages in an amount equal to the employee tax imposed by the federal insurance contributions act (section 3101, Internal Revenue Code of 1954), in consideration of the employee's retention in service by the political subdivision. The subdivision shall withhold such contributions from the wages paid to the employee; and shall remit the contributions so withheld in each calendar quarter to the state for deposit in the contribution fund not later than the twentieth calendar day of the month following that quarter.

(7) Each political subdivision shall pay into the contribution fund with respect to the wages of its employees during the period of their OASI coverage pursuant to this plan contributions in an amount equal to the employer tax imposed by the federal insurance contributions act (section 3111, Internal

Revenue Code of 1954), from the fund of the subdivision from which such employees' wages are paid. The subdivision shall remit such contributions to the state for deposit in the contribution fund on a quarterly basis, not later than the twentieth calendar day of the month following each calendar quarter.

(8) If any political subdivision other than that comprising the state, its agencies, instrumentalities and institutions of higher learning fails to remit as provided herein employer contributions or employee contributions, or any part of either, such delinquent contributions may be recovered with interest at the rate of six percent per annum by action in a court of competent jurisdiction against the political subdivision; or such delinquent contributions may at the request of the governor be deducted from any moneys payable to such subdivision by the state.

(9) Each political subdivision shall be charged with a share of the cost of administration of this plan by the state, to be computed as that proportion of the overall cost of administration which its total annual contributions bear to the total annual contributions paid by all subdivisions on behalf of employees covered by the plan. The state shall compute the share of cost allocable to each subdivision and bill the subdivision therefor at the end of each fiscal year. The subdivision shall within ninety days thereafter remit its share of the cost to the state for deposit in the general fund of the state.

(10) Each political subdivision shall submit to the state, through the employment security department, P.O. Box 367, Olympia, Washington, or such other officer or agency as the governor may subsequently designate, on forms furnished by the state, not later than the twentieth calendar day of the month following the end of each calendar quarter, the following information:

- A. The social security account number of each employee;
- B. the name of each employee;
- C. the amount of wages subject to contributions as required hereunder paid to each employee during the quarter;
- D. the total amount of wages subject to contributions paid to all employees during the quarter;
- E. the total amount of employee contributions withheld and remitted for the quarter; and
- F. the total amount of employer contributions paid by the subdivision for the quarter.

(11) Each political subdivision shall furnish in the same manner as provided in subsection (10) of this section, upon reasonable notice, such other and further reports or information as the governor may from time to time require. Each subdivision shall comply with such requirements as the secretary of health, education and welfare or the governor may from time to time establish with respect to any or all of the reports or information which are or may be provided for under subsection (10) of this section or this subsection in order to assure the correctness and verification thereof.

(12) The governing body of each political subdivision shall designate an officer of the subdivision to administer such accounting, reporting and other functions as will be required for the effective operation of this plan within the subdivision, as provided herein. The commissioner of employment security or such other officer as the governor may designate, shall perform or supervise those functions with respect to employees of the subdivision comprising the state, its agencies, instrumentalities and institutions of higher learning; and shall serve as the representative of the participating political subdivisions in the administration of this plan with the secretary of health, education and welfare.

(13) The legislature shall designate the first day of any month beginning with January, 1956, as the effective date of OASI coverage for such employees, except that after January 1, 1958, the effective date may not be prior to the first day of the current year.

The employer's contribution for any retroactive coverage shall be transferred by the board of trustees from the teachers' retirement pension reserve ((fund)) to the official designated by the governor to administer the plan at the state level.

Each employee's contributions for any retroactive coverage shall be transferred by the board of trustees from his accumulated contributions in the teachers' retirement fund, to the official designated above. Each employee, if he so desires, may, within one year from the date of transfer, reimburse his accumulated contributions for the amount so transferred.

(14) The governor may terminate the operation of this plan in its entirety with respect to any political subdivision, in his discretion, if he finds that the subdivision has failed to comply substantially with any requirement or provision of this plan. The plan shall not be so terminated until reasonable notice and opportunity for hearing thereon have been given to the subdivision under such conditions, consistent with the provisions of the social security act, as shall have been established in regulations by the governor.

**Sec. 13.** RCW 41.32.067 and 1991 c 278 s 2 are each amended to read as follows:

A member may purchase additional benefits subject to the following:

(1) The member shall pay all reasonable administrative and clerical costs; and

(2) The member shall make ((an annuity fund)) a member reserve contribution to be actuarially converted to a monthly benefit at the time of retirement.

**Sec. 14.** RCW 41.32.300 and 1991 c 35 s 42 are each amended to read as follows:

(1) Henceforth a total of not more than four years of service outside of the state shall be credited to a member who establishes or reestablishes credit for out-of-state public school employment in this state subsequent to July 1, 1961. Foreign public school teaching service shall be creditable as out-of-state service.

(2) No out-of-state service credit shall be established or reestablished subsequent to July 1, 1964, except that a member who has been granted official leave of absence by his or her employer may, upon return to public school service in this state, establish out-of-state membership service credit, within the limitations of this section and conditioned upon satisfactory proof and upon contributions to the ~~((annuity fund))~~ member reserve, for public school service rendered in another state or in another country.

(3) No member who establishes out-of-state service credit after July 1, 1947, shall at retirement for pension payment purposes be allowed credit for out-of-state service in excess of the number of years credit which he or she shall have earned in the public schools of the state of Washington.

**Sec. 15.** RCW 41.04.445 and 1990 c 274 s 6 are each amended to read as follows:

(1) This section applies to all members who are:

(a) Judges under the retirement system established under chapter 2.10, 2.12, or 2.14 RCW;

(b) Employees of the state under the retirement system established by chapter 41.32, 41.40, or 43.43 RCW;

(c) Employees of school districts under the retirement system established by chapter 41.32 or 41.40 RCW, except for substitute teachers as defined by RCW 41.32.010~~((37))~~;

(d) Employees of educational service districts under the retirement system established by chapter 41.32 or 41.40 RCW; or

(e) Employees of community college districts under the retirement system established by chapter 41.32 or 41.40 RCW.

(2) Only for compensation earned after the effective date of the implementation of this section and as provided by section 414(h) of the federal internal revenue code, the employer of all the members specified in subsection (1) of this section shall pick up only those member contributions as required under:

(a) RCW 2.10.090(1);

(b) RCW 2.12.060;

(c) RCW 2.14.090;

(d) RCW ~~((41.32.260(2)))~~ 41.32.263;

(e) RCW 41.32.350;

(f) RCW 41.32.775;

(g) RCW 41.40.330 (1) and (3);

(h) RCW 41.40.650; and

(i) RCW 43.43.300.

(3) Only for the purposes of federal income taxation, the gross income of the member shall be reduced by the amount of the contribution to the respective retirement system picked up by the employer.

(4) All member contributions to the respective retirement system picked up by the employer as provided by this section, plus the accrued interest earned

thereon, shall be paid to the member upon the withdrawal of funds or lump-sum payment of accumulated contributions as provided under the provisions of the retirement systems.

(5) At least forty-five days prior to implementing this section, the employer shall provide:

- (a) A complete explanation of the effects of this section to all members; and
- (b) Notification of such implementation to the director of the department of retirement systems.

**Sec. 16.** RCW 41.32.013 and 1991 c 343 s 4 are each amended to read as follows:

Substitute teachers may apply to the department to receive service credit or credit for earnable compensation or both after the end of the last day of instruction of the school year during which the service was performed.

(1) The application must:

- (a) Include a list of the employers the substitute teacher has worked for;
- (b) Include proof of hours worked and compensation earned; and
- (c) Be made prior to retirement.

(2) If the department accepts the substitute teacher's application for service credit, the substitute teacher may obtain service credit by paying the required contribution to the retirement system. The employer must pay the required employer contribution upon notice from the department that the substitute teacher has made contributions under this section.

(3) The department shall charge interest prospectively on employee contributions that are submitted under this section more than six months after the end of the school year, as defined in RCW 28A.150.040, for which the substitute teacher is seeking service credit. The interest rate charged to the employee shall take into account interest lost on employer contributions delayed for more than six months after the end of the school year.

(4) Each employer shall quarterly notify each substitute teacher it has employed during the school year of the number of hours worked by, and the compensation paid to, the substitute teacher.

(5) The department shall adopt rules implementing this section.

(6) If a substitute teacher as defined in RCW ~~((41.32.010(39)(b)(ii)))~~ 41.32.010(36)(b)(ii) applies to the department under this section for credit for earnable compensation earned from an employer the substitute teacher must make contributions for all periods of service for that employer.

**Sec. 17.** RCW 41.32.032 and 1991 c 35 s 39 are each amended to read as follows:

(1) Any teacher, as defined under RCW 41.32.010~~((29))~~, who is first employed by a public school on or after June 7, 1984, shall become a member of the retirement system as directed under RCW 41.32.780 if otherwise eligible.

(2) Any person who before June 7, 1984, has established service credit under chapter 41.40 RCW while employed in an educational staff associate

position and who is employed in such a position on or after June 7, 1984 has the following options:

(a) To remain a member of the public employees' retirement system notwithstanding the provisions of RCW 41.32.240 or 41.32.780; or

(b) To irrevocably elect to join the retirement system under this chapter and to receive service credit for previous periods of employment in any position included under RCW 41.32.010(~~((29))~~). This service credit and corresponding employee contribution shall be computed as though the person had then been a member of the retirement system under this chapter. All employee contributions credited to a member under chapter 41.40 RCW for service now to be credited to the retirement system under this chapter shall be transferred to the system and the member shall not receive any credit nor enjoy any rights under chapter 41.40 RCW for those periods of service. The member shall pay any difference between the employee contributions made under chapter 41.40 RCW and transferred under this subsection and what would have been required under this chapter, including interest as set by the director. The member shall be given until July 1, 1989, to make the irrevocable election permitted under this section. The election shall be made by submitting written notification as required by the department requesting credit under this section and by remitting any necessary proof of service or payments within the time set by the department.

Any person, not employed as an educational staff associate on June 7, 1984, may, before June 30 of the fifth school year after that person's return to employment as a teacher, request and establish membership and credit under this subsection.

**Sec. 18.** RCW 41.32.345 and 1990 c 33 s 570 are each amended to read as follows:

(1) Subject to the limitations contained in this section, for the purposes of RCW (~~(41.32.010(11)(a)(ii))~~) 41.32.010(10)(a)(ii), earnable compensation means the compensation the member would have received in the same position if employed on a regular full-time basis for the same contract period.

(2) In order to ensure that the benefit provided by this section is not used to unfairly inflate a member's retirement allowance, the department shall adopt rules having the force of law to govern the application of this section.

(3)(a) In adopting rules which apply to a member employed by a school district, the department may consult the district's salary schedule and related workload provisions, if any, adopted pursuant to RCW 28A.405.200. The rules may require that, in order to be eligible for this benefit, a member's position must either be included on the district's schedule, or the position must have duties, responsibilities, and method of pay which are similar to those found on the district's schedule.

(b) In adopting rules which apply to a member employed by a community college district, the department may consult the district's salary schedule and workload provisions contained in an agreement negotiated pursuant to chapter

28B.52 RCW, or similar documents. The rules may require that, in order to be eligible for this benefit, a member's position must either be included on the district's agreement, or the position must have duties, responsibilities, and method of pay which are similar to those found on the district's agreement. The maximum full-time work week used in calculating the benefit for community college employees paid on an hourly rate shall in no case exceed fifteen credit hours, twenty classroom contact hours, or thirty-five assigned hours.

(4) If the legislature amends or revokes the benefit provided by this section, no affected employee who thereafter retires is entitled to receive the benefit as a matter of contractual right.

**Sec. 19.** RCW 41.32.555 and 1991 c 365 s 34 are each amended to read as follows:

Persons who were under an annual half-time contract with an employer anytime during the period of September 1, 1986, through August 31, 1987, shall be eligible for benefits provided by RCW 41.32.550, as amended by chapter 365, Laws of 1991, effective beginning the month following when they left service due to their disability if during that period they were medically determined to be permanently disabled for the performance of their duty.

A member who qualifies for benefits under this section who has not begun receiving benefits prior to the effective date of this act shall be permitted to select a survivor option pursuant to RCW 41.32.530.

**Sec. 20.** RCW 41.32.812 and 1991 c 343 s 12 are each amended to read as follows:

The department of retirement systems shall credit at least one-half service credit month for each month of each school year, as defined by RCW 28A.150.-040, from October 1, 1977, through December 31, 1986, to a member of the teachers' retirement system plan II who was employed by an employer, as defined by RCW 41.32.010(~~((42))~~), under a contract for half-time employment as determined by the department for such school year and from whose compensation contributions were paid by the employee or picked up by the employer. Any withdrawn contributions shall be restored under RCW 41.32.500(1) prior to crediting any service.

**Sec. 21.** RCW 41.50.133 and 1987 c 490 s 2 are each amended to read as follows:

(1) The director of the department of retirement systems shall not recover from surviving beneficiaries of members who died in service any pension overpayment based on the application of section 2, chapter 96, Laws of 1979 ex. sess., nor shall such benefits be reduced.

(2) The director of the department of retirement systems shall not recover from retirees any pension overpayments made between July 1, 1990, and February 1, 1992, based upon the application of RCW 41.40.198, 41.40.1981, 41.40.325, 41.32.485, 41.32.487, or 41.32.575 due to the incorrect calculation of

the "age sixty-five allowance" as this term is defined in RCW 41.32.575(1)(a) and 41.40.325(1)(a).

**NEW SECTION. Sec. 22.** RCW 41.50.225 and 1991 c 35 s 50, 1984 c 236 s 2, 1982 1st ex.s. c 52 s 11, 1973 1st ex.s. c 189 s 8, & 1969 ex.s. c 150 s 12 are each repealed.

Passed the House March 12, 1992.

Passed the Senate March 12, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

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## CHAPTER 213

[Substitute House Bill 2639]

### HOMES FOR THE AGING—PROPERTY TAX EXEMPTION ELIGIBILITY

Effective Date: 6/11/92

AN ACT Relating to property tax exempt eligibility status for nonprofit homes for the aging; amending RCW 84.36.041; and creating new sections.

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

**Sec. 1.** RCW 84.36.041 and 1991 sp.s. c 24 s 1 are each amended to read as follows:

(1) All real and personal property used by a nonprofit home for the aging that is reasonably necessary for the purposes of the home is exempt from taxation if the benefit of the exemption inures to the home and:

(a) At least fifty percent of the occupied dwelling units in the home are occupied by eligible residents; or

(b) The home is subsidized under a federal department of housing and urban development program. The department of revenue shall provide by rule a definition of homes eligible for exemption under this subsection (b), consistent with the purposes of this section.

(2) A home for the aging is eligible for a partial exemption if the home does not meet the requirements of subsection (1) of this section because fewer than fifty percent of the occupied dwelling units are occupied by eligible residents. The amount of exemption shall be calculated by multiplying the assessed value of the property reasonably necessary for the purposes of the home by a fraction. The numerator of the fraction is the number of dwelling units occupied by eligible persons multiplied by two. The denominator of the fraction is the total number of occupied dwelling units. The fraction shall never exceed one.

(3) To be exempt under this section, the property must be used exclusively for the purposes for which the exemption is granted, except as provided in RCW 84.36.805.

(4) A home for the aging is exempt from taxation only if the organization operating the home is exempt from income tax under section 501(c) of the federal internal revenue code as existing on January 1, 1989, or such subsequent

date as the director may provide by rule consistent with the purposes of this section.

(5) Each eligible resident of a home for the aging shall submit the form required under RCW 84.36.385 to the county assessor by July 1st of the assessment year. An eligible resident who has filed a form for a previous year need not file a new form until there is a change in status affecting the person's eligibility.

(6) In determining the true and fair value of a home for the aging for purposes of the partial exemption provided by subsection (2) of this section, the assessor shall apply the computation method provided by RCW 84.34.060 and shall consider only the use to which such property is applied during the years for which such partial exemptions are available and shall not consider potential uses of such property.

(7) A home for the aging that was exempt for taxes levied for collection in 1990 and is not fully exempt under this section is entitled to partial exemptions as follows:

(a) For taxes levied for collection in 1991 and 1992, two-thirds of the assessed value that would otherwise be subject to tax under this section is exempt from taxation.

(b) For taxes levied for collection in 1993, one-third of the assessed value that would otherwise be subject to tax under this section is exempt from taxation.

(8) As used in this section:

(a) "Eligible resident" means a person who would be eligible for an exemption of ~~((regular))~~ property taxes under RCW 84.36.381 (1) through (4) if the person owned a single-family dwelling and has a combined disposable income, as defined in RCW 84.36.383, of twenty-two thousand dollars or less. For the purposes of determining eligibility under this section, a "cotenant" as used in RCW 84.36.383 means a person who resides with an eligible resident and who shares personal financial resources with the eligible resident.

(b) "Home for the aging" means a residential housing facility that (i) provides a housing arrangement chosen voluntarily by the resident, the resident's guardian or conservator, or another responsible person; (ii) has only residents who are at least sixty-two years of age or who have needs for care generally compatible with persons who are at least sixty-two years of age; and (iii) provides varying levels of care and supervision, as agreed to at the time of admission or as determined necessary at subsequent times of reappraisal.

(9) A for-profit home for the aging that converts to nonprofit status after the effective date of this act and would otherwise be eligible for tax exemption under this section may not receive the tax exemption until five years have elapsed since the conversion. The exemption shall then be ratably granted over the next five years.

NEW SECTION. Sec. 2. The department of revenue shall conduct a study of the property tax exemption for nonprofit homes for the aging. The

study shall be conducted with the assistance of a study committee formed by the department of revenue and composed of representatives from management and residents of the nonprofit homes for the aging provider community, recognized senior citizen advocacy organizations not associated with the nonprofit homes of the aging provider community, the county assessors, city officials, and county officials. The department shall submit a report to the house of representatives revenue committee and to the senate ways and means committee by November 30, 1992, that examines the property tax exemption for nonprofit homes for the aging. The study may include issues such as:

- (1) The impact of the 1989 and 1991 changes to the property tax exemption for homes for the aging.
- (2) How the nonprofit charitable aspect of the home for the aging should be factored into the calculation of a property tax exemption.
- (3) What consideration should be given for the traditional role that homes for the aging have played in providing housing, health care, and financial security for the elderly.
- (4) Whether the incomes of the residents should be a factor in determining the level of property tax exemption.
- (5) The proper income threshold for calculating property tax relief for homes for the aging.
- (6) Whether there should be a direct link with the income thresholds in the senior citizen homeowner tax relief program.
- (7) Whether the exemption should be restructured to provide relief "equivalent" to the senior citizen homeowner program.
- (8) Whether the tax relief should be provided directly to the resident or to the nonprofit home for the aging.
- (9) How common areas and personal property should be treated under the property tax.

**NEW SECTION. Sec. 3.** The combined disposable income threshold of twenty-two thousand dollars or less contained in section 1 of this act shall be effective for taxes levied for collection in 1993 and thereafter.

Passed the House February 15, 1992.

Passed the Senate March 5, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

**CHAPTER 214**

[Substitute Senate Bill 6111]

**FAMILY PRESERVATION SERVICES****Effective Date:** 6/11/92

AN ACT Relating to family preservation services; and adding a new chapter to Title 74 RCW. Be it enacted by the Legislature of the State of Washington:

**NEW SECTION. Sec. 1.** (1) It is the intent of the legislature to make available, within available funds, intensive services to children and families that are designed to prevent the unnecessary imminent placement of children in foster care, and designed to facilitate the reunification of the children with their families. These services are known as family preservation services and are characterized by the following values, beliefs, and goals:

(a) Safety of the child is always the first concern;

(b) Children need their families and should be raised by their own families whenever possible;

(c) Interventions should focus on family strengths and be responsive to individual family needs; and

(d) Improvement of family functioning is essential in order to promote the child's health, safety, and welfare and thereby allow the family to remain intact and allow children to remain at home.

(2) Subject to the availability of funds for such purposes, the legislature intends for family preservation services to be made available to all eligible families on a state-wide basis through a phased-in process. Except as otherwise specified by statute, the department of social and health services shall have the authority and discretion to implement and expand family preservation services according to a plan and time frame determined by the department.

(3) Nothing in this chapter shall be construed to create an entitlement to services nor to create judicial authority to order the provision of family preservation services to any person or family where the department has determined that such services are unavailable or unsuitable or that the child or family are not eligible for such services.

**NEW SECTION. Sec. 2.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of social and health services.

(2) "Family preservation services" means services that are delivered primarily in the home, that follow intensive service models with demonstrated effectiveness in reducing or avoiding the need for unnecessary imminent foster care placement, and that have all of the characteristics delineated in section 3 of this act.

(3) "Foster care" means placement of a child by the department or a licensed child placing agency in a home or facility licensed pursuant to chapter 74.15 RCW, or in a home or facility that is not required to be licensed pursuant to chapter 74.15 RCW.

(4) "Imminent" means a decision has been made by the department that, without family preservation services, a petition requesting the removal of a child from the family home will be immediately filed under chapter 13.32A or 13.34 RCW, or that a voluntary placement agreement will be immediately initiated.

**NEW SECTION. Sec. 3.** Family preservation services shall have all of the following characteristics:

(1) Services are provided by specially trained caseworkers who have received at least forty hours of training from recognized family preservation services experts. Caseworkers provide the services in the family's home, and may provide some of the services in other natural environments of the family, such as their neighborhood or schools;

(2) Caseload size averages two families per caseworker;

(3) The services to the family are provided by a single caseworker, with backup caseworkers identified to provide assistance as necessary;

(4) Caseworkers have the authority and discretion to spend funds, up to a maximum amount specified by the department, to help families obtain necessary food, shelter, or clothing, or to purchase other goods or services that will enhance the effectiveness of intervention;

(5) Services are available to the family within twenty-four hours following receipt of a referral to the program;

(6) Services are available to the family twenty-four hours a day and seven days a week;

(7) Duration of service is limited to a maximum of forty days, unless the department authorizes an additional provision of service through an exception to policy;

(8) Services assist the family to improve parental and household management competence and to solve practical problems that contribute to family stress so as to effect improved parental performance and enhanced functioning of the family unit; and

(9) Services help families locate and utilize additional assistance, including, but not limited to, counseling and treatment services, housing, child care, education, job training, emergency cash grants, state and federally funded public assistance, and other basic support services.

**NEW SECTION. Sec. 4.** (1) The department shall be the lead administrative agency for family preservation services and may receive funding from any source for the implementation or expansion of such services. The department shall:

(a) Provide coordination and planning for the implementation and expansion of family preservation services; and

(b) Monitor and evaluate such services to determine whether the programs meet measurable standards specified by this chapter and the department.

(2) In carrying out the requirements of subsection (1)(a) of this section, the department shall consult and coordinate with at least one qualified private,

nonprofit agency that has demonstrated expertise and experience in family preservation services.

(3) The department may provide family preservation services directly and shall, within available funds, contract with private, nonprofit social service agencies to provide services, provided that such agencies meet measurable standards specified by this chapter and by the department.

(4) The department shall not continue direct provision of family preservation services unless it is demonstrated that provision of such services prevents foster care placement in at least seventy percent of the cases served for a period of at least six months following termination of services.

The department shall not renew a contract with a service provider unless the provider can demonstrate that provision of services prevents foster care placement in at least seventy percent of the cases served for a period of at least six months following termination of service.

NEW SECTION. Sec. 5. (1) Family preservation services may be provided to children and their families only when the department has determined that:

(a) The child has been placed in foster care or is at actual, imminent risk of foster care placement due to:

(i) Child abuse or neglect;

(ii) A serious threat of substantial harm to the child's health, safety, or welfare; or

(iii) Family conflict; and

(b) There are no other available services that will prevent foster care placement of the child or make it possible to immediately return the child home.

(2) The department shall refer eligible families to family preservation services on a twenty-four hour intake basis. The department need not refer otherwise eligible families, and family preservation services need not be provided, if:

(a) The services are not available in the community in which the family resides;

(b) The services cannot be provided because the program is filled to capacity and there are no current service openings;

(c) The family refuses the services;

(d) The department, or the agency that is supervising the foster care placement, has developed a case plan that does not include reunification of the child and family; or

(e) The department or the contracted service provider determines that the safety of a child, a family member, or persons providing the service would be unduly threatened.

(3) Nothing in this chapter shall prevent provision of family preservation services to nonfamily members when the department or the service provider deems it necessary or appropriate to do so in order to assist the family or child.

**NEW SECTION. Sec. 6.** (1) The department shall, within available funds, conduct a family preservation services study in at least one region within the state. In developing and conducting the project, the department shall consult and coordinate with at least one qualified private, nonprofit agency that has demonstrated expertise and experience in family preservation services. The purpose of the study is to:

(a) Develop a valid and reliable process for accurately identifying clients who are eligible for family preservation services;

(b) Collect data on which to base projections of service needs, budget requests, and long-range planning;

(c) Develop regional and state-wide projections of service needs;

(d) Develop a cost estimate for implementation and expansion of family preservation services on a state-wide basis;

(e) Develop a long-range plan and time frame for expanding the availability of family preservation services and ultimately making such services available to all eligible families on a state-wide basis; and

(f) Collect data regarding the number of children in foster care, group care, and institutional placements due to medical needs, mental health needs, developmental disabilities, and juvenile offenses, and assess the feasibility of expanding family preservation service eligibility to include all of these children.

(2) The department shall prepare a report to the legislature that addresses the objectives set forth in subsection (1) of this section. The report shall address the feasibility of expanding and implementing family preservation services on a state-wide basis. The report is due January 1, 1993.

**NEW SECTION. Sec. 7.** For the purpose of providing family preservation services to children who would otherwise be removed from their homes, the department may:

(1) Solicit and use any available federal or private resources, which may include funds, in-kind resources, or volunteer services; and

(2) Use any available state resources, which may include in-kind resources or volunteer services.

**NEW SECTION. Sec. 8.** The department's provision of family preservation services under section 4(3) of this act is not intended to replace existing contracts with private nonprofit social service agencies that provide family preservation services.

**NEW SECTION. Sec. 9.** After July 1, 1993, the secretary of social and health services may transfer funds appropriated for foster care services to purchase family preservation services for children at imminent risk of foster care placement. The secretary shall notify the appropriate committees of the senate and house of representatives of any transfers under this section. The secretary shall include caseload, expenditure, cost avoidance, identified improvements to

the foster care system, and outcome data related to the transfer in the notification.

**NEW SECTION. Sec. 10.** The juvenile issues task force established under chapter 234, Laws of 1991, shall review the advisability of transferring appropriated funds from foster care to purchase family preservation services for children at imminent risk of foster care placement and include findings and recommendations on the transfer of funds to the appropriate committees of the senate and house of representatives by December 15, 1992. The task force shall identify ways to improve the foster care system and expand family preservation services with the savings generated by avoiding the placement of children at imminent risk of foster care placement through the provision of family preservation services.

**NEW SECTION. Sec. 11.** Any federal funds made available under section 7 of this act shall be used to supplement and shall not supplant state funds to carry out the purposes of this chapter.

**NEW SECTION. Sec. 12.** Sections 1 through 11 of this act shall constitute a new chapter in Title 74 RCW.

**NEW SECTION. Sec. 13.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate March 9, 1992.

Passed the House March 5, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

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## CHAPTER 215

[Substitute Senate Bill 6354]

### PROSPECTIVE COST-RELATED REIMBURSEMENT SYSTEM— NURSING FACILITIES SEEKING MEDICARE CERTIFICATION

Effective Date: 6/11/92

AN ACT Relating to conditions of participation in the prospective cost-related reimbursement system; and amending RCW 74.46.660.

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

**Sec. 1.** RCW 74.46.660 and 1991 sp.s. c 8 s 13 are each amended to read as follows:

In order to participate in the prospective cost-related reimbursement system established by this chapter, the person or legal organization responsible for operation of a facility shall:

(1) Obtain a state certificate of need and/or federal capital expenditure review (section 1122) approval pursuant to chapter 70.38 RCW and Part 100, Title 42 CFR where required;

- (2) Hold the appropriate current license;
- (3) Hold current Title XIX certification;
- (4) Hold a current contract to provide services under this chapter;
- (5) Comply with all provisions of the contract and all application regulations, including but not limited to the provisions of this chapter; and
- (6) Obtain and maintain medicare certification, under Title XVIII of the social security act, 42 U.S.C. Sec. 1395, as amended, for ~~((no less than fifteen percent))~~ a portion of the facility's licensed beds. Until June 1, 1993, the department may grant exemptions from the medicare certification requirements of this subsection to nursing facilities that are making good faith efforts to obtain medicare certification.

Passed the Senate February 18, 1992.

Passed the House March 6, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

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## CHAPTER 216

[Engrossed Substitute House Bill 2643]

### VEHICLE LICENSING AND REGISTRATION SERVICES—REVISIONS

**Effective Date:** 6/11/92

AN ACT Relating to vehicle licensing and registration activities; amending RCW 46.01.140, 46.01.230, and 46.16.060; adding a new section to chapter 46.01 RCW; and adding a new section to chapter 46.68 RCW.

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

**Sec. 1.** RCW 46.01.140 and 1991 c 339 s 16 are each amended to read as follows:

(1) The county auditor, if appointed by the director of licensing shall carry out the provisions of this title relating to the licensing of vehicles and the issuance of vehicle license number plates under the direction and supervision of the director and may with the approval of the director appoint assistants as special deputies and recommend subagents to accept applications and collect fees for vehicle licenses and transfers and to deliver vehicle license number plates.

(2) A county auditor appointed by the director may request that the director appoint subagencies within the county. Upon authorization of the director, the auditor shall advertise a request for proposals and use the process for soliciting vendors under RCW 39.04.190(2), except that the provision requiring the contract to be awarded to the lowest responsible bidder shall not apply. The auditor shall submit all proposals to the director, and shall recommend the appointment of one or more subagents who have applied through the request for proposal process. The director has final appointment authority.

(3)(a) A county auditor who is appointed as an agent by the department shall enter into a standard contract provided by the director, developed with the advice of the title and registration advisory committee.

(b) A subagent appointed under subsection (2) of this section shall enter into a standard contract with the county auditor, developed with the advice of the title and registration advisory committee. The director shall provide the standard contract to county auditors.

(c) The contracts provided for in (a) and (b) of this subsection must contain at a minimum provisions that:

(i) Describe the responsibilities, and where applicable, the liability, of each party relating to the service expectations and levels, equipment to be supplied by the department, and equipment maintenance;

(ii) Require the specific type of insurance or bonds so that the state is protected against any loss of collected motor vehicle tax revenues or loss of equipment;

(iii) Specify the amount of training that will be provided by the state, the county auditor, or subagents;

(iv) Describe allowable costs that may be charged to motor vehicle licensing activities as provided for in (d) of this subsection;

(v) Describe the causes and procedures for termination of the contract, which may include mediation and binding arbitration.

(d) The department shall develop procedures that will standardize and prescribe allowable costs that may be assigned to motor vehicle licensing activities performed by county auditors.

(e) The contracts may include any provision that the director deems necessary to ensure acceptable service and the full collection of motor vehicle tax revenues.

(f) The director may waive any provisions of the contract deemed necessary in order to ensure that readily accessible service is provided to the citizens of the state.

(4)(a) At any time any application is made to the director, the county auditor, or other agent pursuant to any law dealing with licenses, registration, or the right to operate any vehicle upon the public highways of this state, excluding applicants already paying such fee under RCW 46.16.070 or 46.16.085, the applicant shall pay to the director, county auditor, or other agent a fee of two dollars for each application in addition to any other fees required by law.

(b) Counties that do not cover the expenses of motor vehicle licensing activities may submit to the department a request for cost-coverage moneys. The request must be submitted on a form developed by the department. The department shall develop procedures to verify whether a request is reasonable. Payment shall be made on requests found to be allowable from the licensing services account.

(c) Applicants for certificates of ownership, including applicants paying fees under RCW 46.16.070 or 46.16.085, shall pay to the director, county auditor, or other agent a fee of three dollars in addition to any other fees required by law.

~~((These))~~ (d) The fees under (a) and (c) of this subsection, if paid to the county auditor as agent of the director, or if paid to a subagent of the county auditor, shall be paid to the county treasurer in the same manner as other fees collected by the county auditor and credited to the county current expense fund. If the fee is paid to another agent of the director, the fee shall be used by the agent to defray his or her expenses in handling the application.

~~((3))~~ (5) A subagent ~~((is entitled to an additional service charge of two dollars. However, from July 1, 1991, through June 30, 1992, subagents))~~ shall collect a service fee of (a) five dollars and fifty cents for changes in a certificate of ownership, with or without registration renewal, or verification of record and preparation of an affidavit of lost title other than at the time of the title application or transfer and (b) two dollars and twenty-five cents for registration renewal only, issuing a transit permit, or any other service under this section.

~~((4))~~ (6) If the fee is collected by the state patrol as agent for the director, the fee so collected shall be certified to the state treasurer and deposited to the credit of the state patrol highway account. If the fee is collected by the department of transportation as agent for the director, the fee shall be certified to the state treasurer and deposited to the credit of the motor vehicle fund. All such fees collected by the director or branches of his office shall be certified to the state treasurer and deposited to the credit of the highway safety fund.

(7) Any county revenues that exceed the cost of providing motor vehicle licensing activities in a county, calculated in accordance with the procedures in subsection (3)(d) of this section, shall be expended as determined by the county legislative authority during the process established by law for adoption of county budgets.

(8) The director may adopt rules to implement this section.

**Sec. 2.** RCW 46.01.230 and 1987 c 302 s 2 are each amended to read as follows:

(1) The department of licensing is authorized to accept checks and money orders for payment of drivers' licenses, certificates of ownership and registration, motor vehicle excise taxes, gross weight fees, and other fees and taxes collected by the department, in accordance with regulations adopted by the director. The director's regulations shall duly provide for the public's convenience consistent with sound business practice and shall encourage the annual renewal of vehicle registrations by mail to the department, authorizing checks and money orders for payment. Such regulations shall contain provisions for cancellation of any registrations, licenses, or permits paid for by checks or money orders which are not duly paid and for the necessary accounting procedures in such cases: PROVIDED, That any bona fide purchaser for value of a vehicle shall not be liable or responsible for any prior uncollected taxes and fees paid, pursuant to

this section, by a check which has subsequently been dishonored: AND PROVIDED FURTHER, That no transfer of ownership of a vehicle may be denied to a bona fide purchaser for value of a vehicle if there are outstanding uncollected fees or taxes for which a predecessor paid, pursuant to this section, by check which has subsequently been dishonored nor shall the new owner be required to pay any fee for replacement vehicle license number plates that may be required pursuant to RCW 46.16.270 as now or hereafter amended.

(2) It is a traffic infraction to fail to surrender within ten days to the department or any authorized agent of the department any certificate, license, or permit after being notified by certified mail that such certificate, license, or permit has been canceled pursuant to this section.

(3) Whenever registrations, licenses, or permits have been paid for by checks that have been dishonored by nonacceptance or nonpayment, a reasonable handling fee may be assessed for each such instrument. Notwithstanding provisions of any other laws, county auditors, agents, and subagents, appointed or approved by the director pursuant to RCW 46.01.140, may collect restitution, and where they have collected restitution may retain the reasonable handling fee. The amount of the reasonable handling fee may be set by rule by the director.

(4) In those counties where the county auditor has been appointed an agent of the director under RCW 46.01.140, the auditor shall continue to process mail-in registration renewals until directed otherwise by legislative authority.

NEW SECTION. Sec. 3. A new section is added to chapter 46.01 RCW to read as follows:

The title and registration advisory committee is created within the department. The committee consists of the director or a designee, who shall serve as chair, the assistant director for vehicle services, the administrator of title and registration services, two members from each of the house and senate transportation committees, two county auditors nominated by the Washington association of county officials, and two representatives of subagents nominated by an association of vehicle subagents. The committee shall meet at least twice a year, and may meet as often as is necessary.

The committee's purpose is to foster communication between the legislature, the department, county auditors, and subagents. The committee shall make recommendations when requested by the legislative transportation committee, or on its own initiative, about revisions to fee structures, implications of fee revisions on cost sharing, and the development of standard contracts provided for in RCW 46.01.140(3). The committee shall make recommendations about fee revisions to the legislative transportation committee by January 1, 1996.

Sec. 4. RCW 46.16.060 and 1987 1st ex.s. c 9 s 3 are each amended to read as follows:

(1) Except for vehicles already so taxed in RCW 46.16.070 and 46.16.085 or as otherwise specifically provided by law for the licensing of vehicles, there shall be paid and collected annually for each registration year or fractional part

thereof and upon each vehicle a license fee of twenty-three dollars, but effective with initial motor vehicle registrations that expire in January, 1989, and thereafter, the license fee shall be twenty-seven dollars and seventy-five cents; however, if the vehicle was previously licensed in this state and has not been registered in another jurisdiction in the intervening period, the renewal license fee shall be nineteen dollars, but effective with vehicle license renewals that expire in January, 1989, and thereafter, the renewal license fee shall be twenty-three dollars and seventy-five cents. On all new and renewal license fees, an additional fifty cents shall be collected and remitted to the department for deposit into the department of licensing services account of the motor vehicle fund. The proceeds of such fees shall be distributed in accordance with RCW 46.68.030. The fee for licensing each house-moving dolly which is used exclusively for moving buildings or homes on the highway under special permit as provided for in chapter 46.44 RCW shall be twenty-five dollars, but effective with licenses that expire in January, 1989, and thereafter, the fee shall be twenty-nine dollars and seventy-five cents, and no other fee shall be charged for the load carried thereon.

(2) The department of licensing, county auditors, and other authorized agents shall collect for any registration year any increase in the fees authorized by this section for the months of that registration year in which any such increase is effective in the same manner and at the same time as such fees for that registration year would otherwise be collected as provided by law.

NEW SECTION. Sec. 5. A new section is added to chapter 46.68 RCW to read as follows:

The department of licensing services account is created in the motor vehicle fund. All receipts from service fees received under RCW 46.01.140(4)(b) shall be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for information and service delivery systems for the department, and for reimbursement of county licensing activities.

Passed the House March 7, 1992.

Passed the Senate March 4, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

## CHAPTER 217

[Substitute House Bill 2686]

## CONTRACTOR REGISTRATION AND LICENSING—REVISIONS

Effective Date: 6/11/92

AN ACT Relating to contractor registration and licensing requirements; and amending RCW 18.27.030 and 19.28.120.

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

**Sec. 1.** RCW 18.27.030 and 1988 c 285 s 1 are each amended to read as follows:

(1) An applicant for registration as a contractor shall submit an application under oath upon a form to be prescribed by the director and which shall include the following information pertaining to the applicant:

~~((1))~~ (a) Employer social security number.

~~((2))~~ Industrial insurance number.

~~((3))~~ (b) As applicable: (i) The industrial insurance account number covering employees domiciled in Washington; and (ii) evidence of workers' compensation coverage in the applicant's state of domicile for the applicant's employees working in Washington who are not domiciled in Washington.

(c) Employment security department number.

~~((4))~~ (d) State excise tax registration number.

~~((5))~~ (e) Unified business identifier (UBI) account number may be substituted for the information required by ~~((subsections (2), (3), and (4)))~~ (b), (c), and (d) of this ~~((section))~~ subsection.

~~((6))~~ (f) Type of contracting activity, whether a general or a specialty contractor and if the latter, the type of specialty.

~~((7))~~ (g) The name and address of each partner if the applicant be a firm or partnership, or the name and address of the owner if the applicant be an individual proprietorship, or the name and address of the corporate officers and statutory agent, if any, if the applicant be a corporation. The information contained in such application shall be a matter of public record and open to public inspection.

(2) The department may verify the workers' compensation coverage information provided by the applicant under subsection (1)(b) of this section, including but not limited to information regarding the coverage of an individual employee of the applicant. If coverage is provided under the laws of another state, the department may notify the other state that the applicant is employing employees in Washington.

(3) Registration shall be denied if the applicant has been previously registered as a sole proprietor, partnership or corporation, and was a principal or officer of the corporation, and if the applicant has an unsatisfied final judgment in an action based on RCW 18.27.040 that incurred during a previous registration under this chapter.

**Sec. 2.** RCW 19.28.120 and 1986 c 156 s 5 are each amended to read as follows:

(1) It is unlawful for any person, firm, partnership, corporation, or other entity to engage in, conduct, or carry on the business of installing or maintaining wires or equipment to convey electric current, or installing or maintaining equipment to be operated by electric current as it pertains to the electrical industry, without having an unrevoked, unsuspended, and unexpired electrical contractor license, issued by the department in accordance with this chapter. All electrical contractor licenses expire twenty-four calendar months following the day of their issue. The department may issue an electrical contractors license for a period of less than twenty-four months only for the purpose of equalizing the number of electrical contractor licenses which expire each month. Application for an electrical contractor license shall be made in writing to the department, accompanied by the required fee. The application shall state:

(a) The name and address of the applicant; in case of firms or partnerships, the names of the individuals composing the firm or partnership; in case of corporations, the names of the managing officials thereof;

(b) The location of the place of business of the applicant and the name under which the business is conducted; (~~and~~)

(c) Employer social security number;

(d) As applicable: (i) The industrial insurance account number covering employees domiciled in Washington; and (ii) evidence of workers' compensation coverage in the applicant's state of domicile for the applicant's employees working in Washington who are not domiciled in Washington;

(e) Employment security department number;

(f) State excise tax registration number;

(g) Unified business identifier (UBI) account number may be substituted for the information required by (d), (e), and (f) of this subsection; and

(h) Whether a general or specialty electrical contractor license is sought and, if the latter, the type of specialty. Electrical contractor specialties include, but are not limited to: Residential, domestic appliances, pump and irrigation, limited energy system, signs, nonresidential maintenance, and a combination specialty. A general electrical contractor license shall grant to the holder the right to engage in, conduct, or carry on the business of installing or maintaining wires or equipment to carry electric current, and installing or maintaining equipment, or installing or maintaining material to fasten or insulate such wires or equipment to be operated by electric current, in the state of Washington. A specialty electrical contractor license shall grant to the holder a limited right to engage in, conduct, or carry on the business of installing or maintaining wires or equipment to carry electrical current, and installing or maintaining equipment; or installing or maintaining material to fasten or insulate such wires or equipment to be operated by electric current in the state of Washington as expressly allowed by the license.

(2) The department may verify the workers' compensation coverage information provided by the applicant under subsection (1)(d) of this section, including but not limited to information regarding the coverage of an individual employee of the applicant. If coverage is provided under the laws of another state, the department may notify the other state that the applicant is employing employees in Washington.

(3) The application for a contractor license shall be accompanied by a bond in the sum of four thousand dollars with the state of Washington named as obligee in the bond, with good and sufficient surety, to be approved by the department. The bond shall at all times be kept in full force and effect, and any cancellation or revocation thereof, or withdrawal of the surety therefrom, suspends the license issued to the principal until a new bond has been filed and approved as provided in this section. Upon approval of a bond, the department shall on the next business day deposit the fee accompanying the application in the electrical license fund and shall file the bond in the office. The department shall upon request furnish to any person, firm, partnership, corporation, or other entity a certified copy of the bond upon the payment of a fee that the department shall set by rule. The fee shall cover but not exceed the cost of furnishing the certified copy. The bond shall be conditioned that in any installation or maintenance of wires or equipment to convey electrical current, and equipment to be operated by electrical current, the principal will comply with the provisions of this chapter and with any electrical ordinance, building code, or regulation of a city or town adopted pursuant to RCW 19.28.010(2) that is in effect at the time of entering into a contract. The bond shall be conditioned further that the principal will pay for all labor, including employee benefits, and material furnished or used upon the work, taxes and contributions to the state of Washington, and all damages that may be sustained by any person, firm, partnership, corporation, or other entity due to a failure of the principal to make the installation or maintenance in accordance with this chapter or any applicable ordinance, building code, or regulation of a city or town adopted pursuant to RCW 19.28.010(2). In lieu of the surety bond required by this section the license applicant may file with the department a cash deposit or other negotiable security acceptable to the department. If the license applicant has filed a cash deposit, the department shall deposit the funds in a special trust savings account in a commercial bank, mutual savings bank, or savings and loan association and shall pay annually to the depositor the interest derived from the account.

~~((3))~~ (4) The department shall issue general or specialty electrical contractor licenses to applicants meeting all of the requirements of this chapter. The provisions of this chapter relating to the licensing of any person, firm, partnership, corporation, or other entity including the requirement of a bond with the state of Washington named as obligee therein and the collection of a fee therefor, are exclusive, and no political subdivision of the state of Washington may require or issue any licenses or bonds or charge any fee for the same or a

similar purpose. No person, firm, partnership, corporation, or other entity holding more than one specialty contractor license under this chapter may be required to pay an annual fee for more than one such license or to post more than one four thousand dollar bond, equivalent cash deposit, or other negotiable security.

((4)) (5) To obtain a general or specialty electrical contractor license the applicant must designate an individual who currently possesses an administrator's certificate as a general electrical contractor administrator or as a specialty electrical contractor administrator in the specialty for which application has been made. Administrator certificate specialties include but are not limited to: Residential, domestic, appliance, pump and irrigation, limited energy system, signs, nonresidential maintenance, and combination specialty. To obtain an administrator's certificate an individual must pass an examination as set forth in RCW 19.28.123 unless the applicant was a licensed electrical contractor at any time during 1974. Applicants who were electrical contractors licensed by the state of Washington at any time during 1974 are entitled to receive a general electrical contractor administrator's certificate without examination if the applicants apply prior to January 1, 1984. The board of electrical examiners shall certify to the department the names of all persons who are entitled to either a general or specialty electrical contractor administrator's certificate.

Passed the House March 7, 1992.

Passed the Senate March 5, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

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## CHAPTER 218

[Substitute House Bill 2672]

### CELLULAR COMMUNICATIONS TAXATION STUDY

Effective Date: 4/2/92

AN ACT Relating to the tax status of cellular communications; creating new sections; and declaring an emergency.

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

**NEW SECTION. Sec. 1.** As used in this act "cellular communications" includes radio common carrier communications.

**NEW SECTION. Sec. 2.** (1) The legislature finds that:

(a) Cellular communications is a new, rapidly changing, capital-intensive, and complex industry;

(b) Cellular technology is so new that there are substantial public policy questions regarding valuation, taxation, and other assessments of cellular communication equipment and services;

(c) A thorough study of cellular communications equipment, property, and services is necessary to address the questions of equity, fairness, and consistent tax treatment by state and local government.

(2) The intent of this act is to study and define what cellular communications is, recommend to the legislature how it is to be taxed and assessed, and to clear up any inconsistencies that may exist among different units of government.

**NEW SECTION. Sec. 3.** (1) The department of revenue shall conduct a study of the taxation and assessment of cellular communications property, equipment, and services. The study shall focus on the policy implications involved in developing clear definitions of cellular communications equipment, property, and services that should be taxable, at what rate, and under what definition, as well as what should be exempt. The study shall include an examination of:

(a) Definitions of cellular communications real property, equipment, and services;

(b) Taxation of cellular communication in other states;

(c) Alternatives to the current methods of taxation;

(d) The advantages or disadvantages of change, revision, or alternatives to the present tax treatment of cellular communications;

(e) A complete inventory of all types of state and local taxes paid including, but not limited to, utility taxes, property taxes, sales and use taxes, and per-line charges paid to the state and local governments.

(2) To perform the study, the department shall form an advisory study committee with balanced representation from different segments of government and industry. The advisory committee must include, but need not be limited to, two members from the house of representatives, two members from the senate, persons representing the department, cellular communication companies, tax specialists, representatives from county and city government, large and small businesses that use cellular communication devices.

(3) The department shall provide staff for the purposes of the study.

(4) The department shall present an interim report of the findings of the study to the committees of the legislature that deal with revenue matters no later than December 1, 1992, and shall present a final report to the same committees no later than December 1, 1993.

**NEW SECTION. Sec. 4.** If specific funding for this act, referencing this act by bill number, is not provided by June 30, 1992, in the supplemental biennial operating appropriations act, this act shall be null and void.

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

Passed the House February 17, 1992.  
 Passed the Senate March 5, 1992.  
 Approved by the Governor April 2, 1992.  
 Filed in Office of Secretary of State April 2, 1992.

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## CHAPTER 219

[Engrossed Substitute House Bill 2842]

### SYSTEM IMPROVEMENTS—DUPLICATION OF MITIGATION EXPENSES PROHIBITED

Effective Date: 6/11/92

AN ACT Relating to prohibiting the duplication of mitigation for the same system improvements; adding a new section to chapter 43.21C RCW; and adding a new section to chapter 82.02 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 43.21C RCW to read as follows:

A person required to pay an impact fee for system improvements pursuant to RCW 82.02.050 through 82.02.090 shall not be required to pay a fee pursuant to RCW 43.21C.060 for those same system improvements.

**NEW SECTION.** Sec. 2. A new section is added to chapter 82.02 RCW to read as follows:

A person required to pay a fee pursuant to RCW 43.21C.060 for system improvements shall not be required to pay an impact fee under RCW 82.02.050 through 82.02.090 for those same system improvements.

Passed the House February 18, 1992.  
 Passed the Senate March 5, 1992.  
 Approved by the Governor April 2, 1992.  
 Filed in Office of Secretary of State April 2, 1992.

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## CHAPTER 220

[Substitute Senate Bill 6042]

### CONDOMINIUM ACT AMENDMENTS

Effective Date: 6/11/92

AN ACT Relating to condominiums; amending RCW 64.34.010, 64.34.020, 64.34.040, 64.34.200, 64.34.204, 64.34.216, 64.34.224, 64.34.228, 64.34.232, 64.34.256, 64.34.268, 64.34.300, 64.34.308, 64.34.324, 64.34.340, 64.34.352, 64.34.372, 64.34.400, 64.34.410, 64.34.415, 64.34.425, 64.34.430, 64.34.440, 64.34.445, and 58.17.040; and adding new sections to chapter 64.34 RCW.

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

**Sec. 1.** RCW 64.34.010 and 1989 c 43 s 1-102 are each amended to read as follows:

(1) This chapter applies to all condominiums created within this state after July 1, 1990. RCW 64.34.040 (separate titles and taxation), RCW 64.34.050 (applicability of local ordinances, regulations, and building codes), RCW

64.34.060 (condemnation), RCW 64.34.208 (construction and validity of declaration and bylaws), RCW 64.34.212 (description of units), RCW 64.34.304- (1)(a) through (f) and (k) through (q) (powers of unit owners' association), RCW 64.34.308(1) (board of directors and officers), RCW 64.34.340 (voting—proxies), RCW 64.34.344 (tort and contract liability), RCW 64.34.354 (notification on sale of unit), RCW 64.34.360(3) (common expenses—assessments), RCW 64.34.364 (lien for assessments), RCW 64.34.372 (association records), RCW 64.34.425 (resales of units), RCW 64.34.455 (effect of violation on rights of action; attorney's fees), and RCW 64.34.020 (definitions) to the extent necessary in construing any of those sections, apply to all condominiums created in this state before July 1, 1990; but those sections apply only with respect to events and circumstances occurring after July 1, 1990, and do not invalidate or supersede existing, inconsistent provisions of the declaration, bylaws, or survey maps or plans of those condominiums.

(2) The provisions of chapter 64.32 RCW do not apply to condominiums created after July 1, 1990, and do not invalidate any amendment to the declaration, bylaws, and survey maps and plans of any condominium created before July 1, 1990, if the amendment would be permitted by this chapter. The amendment must be adopted in conformity with the procedures and requirements specified by those instruments and by chapter 64.32 RCW. If the amendment grants to any person any rights, powers, or privileges permitted by this chapter which are not otherwise provided for in the declaration or chapter 64.32 RCW, all correlative obligations, liabilities, and restrictions in this chapter also apply to that person.

(3) This chapter does not apply to condominiums or units located outside this state.

(4) RCW 64.34.400 (applicability—waiver), RCW 64.34.405 (liability for public offering statement requirements), RCW 64.34.410 (public offering statement—general provisions), RCW 64.34.415 (public offering statement—conversion condominiums (~~(containing conversion buildings), 4-105 (public offering statement—condominium securities))~~), RCW 64.34.420 (purchaser's right to cancel), RCW 64.34.430 (escrow of deposits), RCW 64.34.440 (conversion condominiums—notice—tenants), and RCW 64.34.455 (effect of violations on rights of action—attorney's fees) apply with respect to all sales of units pursuant to purchase agreements entered into after July 1, 1990, in condominiums created before July 1, 1990, in which as of July 1, 1990, the declarant or an affiliate of the declarant owns or had the right to create at least ten units constituting at least twenty percent of the units in the condominium.

Sec. 2. RCW 64.34.020 and 1990 c 166 s 1 are each amended to read as follows:

In the declaration and bylaws, unless specifically provided otherwise or the context requires otherwise, and in this chapter:

(1) "Affiliate of a declarant" means any person who controls, is controlled by, or is under common control with a declarant. A person "controls" a declarant if the person: (a) Is a general partner, officer, director, or employer of the declarant; (b) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than twenty percent of the voting interest in the declarant; (c) controls in any manner the election of a majority of the directors of the declarant; or (d) has contributed more than twenty percent of the capital of the declarant. A person "is controlled by" a declarant if the declarant: (i) Is a general partner, officer, director, or employer of the person; (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than twenty percent of the voting interest in the person; (iii) controls in any manner the election of a majority of the directors of the person; or (iv) has contributed more than twenty percent of the capital of the person. Control does not exist if the powers described in this subsection are held solely as security for an obligation and are not exercised.

(2) "Allocated interests" means the undivided interest in the common elements, the common expense liability, and votes in the association allocated to each unit.

(3) "Assessment" means all sums chargeable by the association against a unit including, without limitation: (a) Regular and special assessments for common expenses, charges, and fines imposed by the association; (b) interest and late charges on any delinquent account; and (c) costs of collection, including reasonable attorneys' fees, incurred by the association in connection with the collection of a delinquent owner's account.

(4) "Association" or "unit owners' association" means the unit owners' association organized under RCW 64.34.300.

(5) "Board of directors" means the body, regardless of name, with primary authority to manage the affairs of the association.

(6) "Common elements" means all portions of a condominium other than the units.

(7) "Common expenses" means expenditures made by or financial liabilities of the association, together with any allocations to reserves.

(8) "Common expense liability" means the liability for common expenses allocated to each unit pursuant to RCW 64.34.224.

(9) "Condominium" means real property, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real property is not a condominium unless the undivided interests in the common elements are vested in the unit owners, and unless a declaration and a survey map and plans have been recorded pursuant to this chapter.

(10) "Conversion condominium" means a condominium (a) that at any time before creation of the condominium was lawfully occupied wholly or partially by a tenant or subtenant for residential purposes pursuant to a rental agreement, oral or written, express or implied, for which the tenant or subtenant had not received the notice described in (b) of this subsection; or (b) that, at any time within twelve months before the conveyance of, or acceptance of an agreement to convey, any unit therein other than to a declarant or any affiliate of a declarant, was lawfully occupied wholly or partially by a residential tenant of a declarant or an affiliate of a declarant and such tenant was not notified in writing, prior to lawfully occupying a unit or executing a rental agreement, whichever event first occurs, that the unit was part of a condominium and subject to sale. "Conversion condominium" shall not include a condominium in which, before July 1, 1990, any unit therein had been conveyed or been made subject to an agreement to convey to any transferee other than a declarant or an affiliate of a declarant.

(11) "Conveyance" means any transfer of the ownership of a unit, including a transfer by deed or by real estate contract and, with respect to a unit in a leasehold condominium, a transfer by lease or assignment thereof, but shall not include a transfer solely for security.

(12) "Dealer" means a person who owns or has a right to acquire either six or more units in a condominium or fifty percent or more of the units in a condominium (~~which have not previously been disposed of to any person other than a declarant or a dealer~~) containing more than two units.

(13) "Declarant" means any person or group of persons acting in concert who (a) executes as declarant a declaration as defined in subsection (15) of this section, or (b) reserves or succeeds to any special declarant right under the declaration.

(14) "Declarant control" means the right of the declarant or persons designated by the declarant to appoint and remove officers and members of the board of directors, or to veto or approve a proposed action of the board or association, pursuant to RCW 64.34.308 (4) or (5).

(15) "Declaration" means the document, however denominated, that creates a condominium by setting forth the information required by RCW 64.34.216 and any amendments to that document.

(16) "Development rights" means any right or combination of rights reserved by a declarant in the declaration to: (a) Add real property or improvements to a condominium; (b) create units, common elements, or limited common elements within real property included or added to a condominium; (c) subdivide units or convert units into common elements; ~~((e))~~ (d) withdraw real property from a condominium; or (e) reallocate limited common elements with respect to units that have not been conveyed by the declarant.

(17) "Dispose" or "disposition" means a voluntary transfer or conveyance to a purchaser or lessee of any legal or equitable interest in a unit, but does not include the transfer or release of a security interest.

(18) "Eligible mortgagee" means the holder of a mortgage on a unit that has filed with the secretary of the association a written request that it be given copies of notices of any action by the association that requires the consent of mortgagees.

(19) "Foreclosure" means a forfeiture or judicial or nonjudicial foreclosure of a mortgage or a deed in lieu thereof.

(20) "Identifying number" means ~~((a symbol or address that identifies only one))~~ the designation of each unit in a condominium.

(21) "Leasehold condominium" means a condominium in which all or a portion of the real property is subject to a lease, the expiration or termination of which will terminate the condominium or reduce its size.

(22) "Limited common element" means a portion of the common elements allocated by the declaration or by operation of RCW 64.34.204 (2) or (4) for the exclusive use of one or more but fewer than all of the units.

(23) "Master association" means an organization described in RCW 64.34.276, whether or not it is also an association described in RCW 64.34.300.

(24) "Mortgage" means a mortgage, deed of trust or real estate contract.

(25) "Person" means a natural person, corporation, partnership, limited partnership, trust, governmental subdivision or agency, or other legal entity.

(26) "Purchaser" means any person, other than a declarant or a dealer, who by means of a disposition acquires a legal or equitable interest in a unit other than (a) a leasehold interest, including renewal options, of less than twenty years at the time of creation of the unit, or (b) as security for an obligation.

(27) "Real property" means any fee, leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements thereon and easements, rights and interests appurtenant thereto which by custom, usage, or law pass with a conveyance of land although not described in the contract of sale or instrument of conveyance. "Real property" includes parcels, with or without upper or lower boundaries, and spaces that may be filled with air or water.

(28) "Residential purposes" means use for dwelling or recreational purposes, or both.

(29) "Special declarant rights" means rights reserved for the benefit of a declarant to: (a) Complete improvements indicated on survey maps and plans filed with the declaration under RCW 64.34.232; (b) exercise any development right under RCW 64.34.236; (c) maintain sales offices, management offices, signs advertising the condominium, and models under RCW 64.34.256; (d) use easements through the common elements for the purpose of making improvements within the condominium or within real property which may be added to the condominium under RCW 64.34.260; (e) make the condominium part of a

larger condominium or a development under RCW ~~((64.34.276))~~ 64.34.280; (f) make the condominium subject to a master association under RCW 64.34.276; or (g) appoint or remove any officer of the association or any master association or any member of the board of directors, or to veto or approve a proposed action of the board or association, during any period of declarant control under RCW 64.34.308~~((3))~~ (4).

(30) "Timeshare" shall have the meaning specified in the timeshare act, RCW 64.36.010(11).

(31) "Unit" means a physical portion of the condominium designated for separate ownership, the boundaries of which are described pursuant to RCW 64.34.216(1)(d). "Separate ownership" includes leasing a unit in a leasehold condominium under a lease that expires contemporaneously with any lease, the expiration or termination of which will remove the unit from the condominium.

(32) "Unit owner" means a declarant or other person who owns a unit or leases a unit in a leasehold condominium under a lease that expires simultaneously with any lease, the expiration or termination of which will remove the unit from the condominium, but does not include a person who has an interest in a unit solely as security for an obligation. "Unit owner" means the vendee, not the vendor, of a unit under a real estate contract.

**Sec. 3.** RCW 64.34.040 and 1989 c 43 s 1-105 are each amended to read as follows:

(1) If there is any unit owner other than a declarant, each unit that has been created, together with its interest in the common elements, constitutes for all purposes a separate parcel of real property.

(2) If there is any unit owner other than a declarant, each unit together with its interest in the common elements must be separately taxed and assessed.

(3) ~~((Any))~~ If a development right has an ascertainable market value, the development right shall constitute a separate parcel of real property for property tax purposes and must be separately taxed and assessed to the declarant.

(4) If there is no unit owner other than a declarant, the real property comprising the condominium may be taxed and assessed in any manner provided by law.

**Sec. 4.** RCW 64.34.200 and 1990 c 166 s 2 are each amended to read as follows:

(1) A condominium may be created pursuant to this chapter only by recording a declaration executed by the owner of the interest subject to this chapter in the same manner as a deed and by simultaneously recording a survey map and plans pursuant to RCW 64.34.232. The declaration and survey map and plans must be recorded in every county in which any portion of the condominium is located, and the condominium shall not have the same name as any other existing condominium, whether created under this chapter or under chapter 64.32 RCW, in any county in which the condominium is located.

(2) A declaration or an amendment to a declaration adding units to a condominium may not be recorded unless (a) all structural components and mechanical systems of all buildings containing or comprising any units thereby created are substantially completed as evidenced by a recorded certificate of completion executed by the declarant which certificate may be included in the declaration or the amendment, the survey map and plans to be recorded pursuant to RCW 64.34.232, or a separately recorded written instrument, and (b) all horizontal and vertical boundaries of such units are substantially completed in accordance with the plans required to be recorded by RCW 64.34.232, as evidenced by a recorded certificate of completion executed by a licensed surveyor.

NEW SECTION. Sec. 5. A new section is added to chapter 64.34 RCW to read as follows:

Upon the filing of a written request with the county office in which the declaration is to be recorded, using such form of written request as may be required by the county office and paying such fee as the county office may establish not in excess of fifty dollars, a person may reserve the exclusive right to use a particular name for a condominium to be created in that county. The name being reserved shall not be identical to any other condominium or subdivision plat located in that county, and such name reservation shall automatically lapse unless within three hundred sixty-five days from the date on which the name reservation is filed the person reserving that name either records a declaration using the reserved name or files a new name reservation request.

Sec. 6. RCW 64.34.204 and 1989 c 43 s 2-102 are each amended to read as follows:

Except as provided by the declaration:

(1) ~~((If))~~ The walls, floors, or ceilings are ~~((designated as))~~ the boundaries of a unit, and all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, and any other materials constituting any part of the finished surfaces thereof are a part of the unit, and all other portions of the walls, floors, or ceilings are a part of the common elements.

(2) If any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other fixture lies partially within and partially outside the designated boundaries of a unit, any portion thereof serving only that unit is a limited common element allocated solely to that unit, and any portion thereof serving more than one unit or any portion of the common elements is a part of the common elements.

(3) Subject to the provisions of subsection (2) of this section, all spaces, interior partitions, and other fixtures and improvements within the boundaries of a unit are a part of the unit.

(4) Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios, and all exterior doors and windows or other fixtures designed

to serve a single unit, but which are located outside the unit's boundaries, are limited common elements allocated exclusively to that unit.

Sec. 7. RCW 64.34.216 and 1989 c 43 s 2-105 are each amended to read as follows:

(1) The declaration for a condominium must contain:

(a) The name of the condominium, which must include the word "condominium" or be followed by the words "a condominium," and the name of the association;

(b) A legal description of the real property included in the condominium;

(c) A statement of the number of units which the declarant has created and ~~((reserves the right to create))~~, if the declarant has reserved the right to create additional units, the number of such additional units;

(d) The identifying number of each unit created by the declaration and a description of the boundaries of each unit if and to the extent they are different from the boundaries stated in RCW 64.34.204(1);

(e) With respect to each existing unit:

(i) The approximate square footage;

(ii) The number of bathrooms, whole or partial;

(iii) The number of rooms designated primarily as bedrooms;

(iv) The number of built-in fireplaces; and

(v) The level or levels on which each unit is located(~~(and~~

~~(vi) The type of heat and heat service))~~);

The data described in (ii), (iii), and (iv) of this subsection (1)(e) may be omitted with respect to units restricted to nonresidential use;

(f) The number of parking spaces and whether covered, uncovered, or enclosed;

(g) The number of moorage slips, if any;

(h) A description of any limited common elements, other than those specified in RCW 64.34.204 (2) and (4) (~~and 64.34.228 (2) and (3))~~), as provided in RCW 64.34.232(2)(j);

(i) A description of any real property(~~(except real property subject to development rights;))~~ which may be allocated subsequently by the declarant as limited common elements, other than limited common elements specified in RCW 64.34.204 (2) and (4) (~~and 64.34.228 (2) and (3))~~), together with a statement that they may be so allocated;

(j) A description of any development rights and other special declarant rights under RCW 64.34.020(29) reserved by the declarant, together with a ((legal)) description of the real property to which ((each of those)) the development rights ((applies)) apply, and a time limit within which each of those rights must be exercised;

(k) If any development right may be exercised with respect to different parcels of real property at different times, a statement to that effect together with:

(i) Either a statement fixing the boundaries of those portions and regulating the

order in which those portions may be subjected to the exercise of each development right, or a statement that no assurances are made in those regards; and (ii) a statement as to whether, if any development right is exercised in any portion of the real property subject to that development right, that development right must be exercised in all or in any other portion of the remainder of that real property;

(l) Any other conditions or limitations under which the rights described in (j) of this subsection may be exercised or will lapse;

(m) An allocation to each unit of the allocated interests in the manner described in RCW 64.34.224;

(n) Any restrictions in the declaration on use, occupancy, or alienation of the units;

(o) A cross-reference by recording number to the survey map and plans for the units created by the declaration; and

(p) All matters required or permitted by RCW 64.34.220 through 64.34.232, 64.34.256, 64.34.260, 64.34.276, and 64.34.308(4).

(2) All amendments to the declaration shall contain a cross-reference by recording number to the declaration and to any prior amendments thereto. All amendments to the declaration adding units shall contain a cross-reference by recording number to the survey map and plans relating to the added units and set forth all information required by RCW 64.34.216(1) with respect to the added units.

(3) The declaration may contain any other matters the declarant deems appropriate.

**Sec. 8.** RCW 64.34.224 and 1989 c 43 s 2-107 are each amended to read as follows:

(1) The declaration shall allocate a fraction or percentage of undivided interests in the common elements and in the common expenses of the association, and a portion of the votes in the association, to each unit and state the formulas or methods used to establish those allocations. Those allocations may not discriminate in favor of units owned by the declarant or an affiliate of the declarant.

(2) If units may be added to or withdrawn from the condominium, the declaration shall state the formulas or methods to be used to reallocate the allocated interests among all units included in the condominium after the addition or withdrawal.

(3) The declaration may provide: (a) For cumulative voting only for the purpose of electing members of the board of directors; and (b) for class voting on specified issues affecting the class if necessary to protect valid interests of the class. A declarant may not utilize cumulative or class voting for the purpose of evading any limitation imposed on declarants by this chapter, nor may units constitute a class because they are owned by a declarant.

(4) Except for minor variations due to rounding, the sum of the undivided interests in the common elements and common expense liabilities allocated at any time to all the units must each equal one if stated as fractions or one hundred percent if stated as percentages. In the event of discrepancy between an allocated interest and the result derived from application of the pertinent formula, the allocated interest prevails.

(5) Except where permitted by other sections of this chapter, the common elements are not subject to partition, and any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an undivided interest in the common elements made without the unit to which that interest is allocated is void.

**Sec. 9.** RCW 64.34.228 and 1989 c 43 s 2-108 are each amended to read as follows:

(1) Except for the limited common elements described in RCW 64.34.204 (2) and (4), the declaration shall specify to which unit or units each limited common element is allocated.

(2) Except in the case of a reallocation being made by a declarant pursuant to a development right reserved in the declaration, a limited common element may only be reallocated between units with the approval of the board of directors and by an amendment to the declaration executed by the owners of the units to which the limited common element was and will be allocated. The board of directors shall approve the request of the owner or owners under this subsection within thirty days, or within such other period provided by the declaration, unless the proposed reallocation does not comply with this chapter or the declaration. The failure of the board of directors to act upon a request within such period shall be deemed approval thereof. The amendment shall be recorded in the names of the parties and of the condominium.

(3) Unless otherwise provided in the declaration, ~~((sixty-seven percent of))~~ the ~~((unit))~~ owners of units to which at least sixty-seven percent of the votes are allocated, including the owner of the unit to which the limited common element will be assigned or incorporated, must agree to reallocate a common element as a limited common element or to incorporate a common element or a limited common element into an existing unit. Such reallocation or incorporation shall be reflected in an amendment to the declaration, survey map, or plans.

**Sec. 10.** RCW 64.34.232 and 1989 c 43 s 2-109 are each amended to read as follows:

(1) A survey map and plans executed by the declarant shall be recorded simultaneously with, and contain cross-references by recording number to, the declaration and any amendments. The survey map and plans must be clear and legible and contain a certification by the person making the survey or the plans that all information required by this section is supplied. All plans filed shall be in such style, size, form and quality as shall be prescribed by the recording

authority of the county where filed, and a copy shall be delivered to the county assessor.

(2) Each survey map shall show or state:

(a) The name of the condominium and a legal description and a survey of the land in the condominium and of any land that may be added to the condominium;

(b) The boundaries of all land not subject to development rights, or subject only to the development right to withdraw, and the location and dimensions of all existing buildings containing units on that land;

(c) The boundaries of any land subject to development rights, labeled ((to identify the rights applicable to each parcel)) "SUBJECT TO DEVELOPMENT RIGHTS SET FORTH IN THE DECLARATION"; any land that may be added to the condominium shall also be labeled "MAY BE ADDED TO THE CONDOMINIUM"; any land that may be withdrawn from the condominium shall also be labeled "MAY BE WITHDRAWN FROM THE CONDOMINIUM";

(d) The extent of any encroachments by or upon any portion of the condominium;

(e) To the extent feasible, the location and dimensions of all recorded easements serving or burdening any portion of the condominium and any unrecorded easements of which a surveyor knows or reasonably should have known, based on standard industry practices, while conducting the survey;

(f) Subject to the provisions of subsection (8) of this section, the location and dimensions of any vertical unit boundaries not shown or projected on plans recorded pursuant to subsection (4) of this section and that unit's identifying number;

(g) The location with reference to an established datum of any horizontal unit boundaries not shown or projected on plans recorded pursuant to subsection (4) of this section and that unit's identifying number;

(h) The location and dimensions of any real property in which the unit owners will own only an estate for years, labeled as "leasehold real property";

(i) The distance between any noncontiguous parcels of real property comprising the condominium;

(j) The general location of any existing principal common amenities listed in a public offering statement pursuant to RCW 64.34.410(1)(i) and any limited common elements, including limited common element porches, balconies, patios, parking spaces, and storage facilities, but not including the other limited common elements described in RCW 64.34.204 (2) and (4);

(k) In the case of real property not subject to development rights, all other matters customarily shown on land surveys.

(3) A survey map may also show the intended location and dimensions of any contemplated improvement to be constructed anywhere within the condominium. Any contemplated improvement shown must be labeled either "MUST BE BUILT" or "NEED NOT BE BUILT."

(4) To the extent not shown or projected on the survey map, plans of the existing units must show or project:

(a) Subject to the provisions of subsection (8) of this section, the location and dimensions of the vertical boundaries of each unit, and that unit's identifying number;

(b) Any horizontal unit boundaries, with reference to an established datum, and that unit's identifying number; and

(c) Any units in which the declarant has reserved the right to create additional units or common elements under RCW 64.34.236(3), identified appropriately.

(5) Unless the declaration provides otherwise, the horizontal boundaries of part of a unit located outside of a building have the same elevation as the horizontal boundaries of the inside part and in such case need not be depicted on the survey map and plans.

(6) Upon exercising any development right, the declarant shall record either a new survey map and plans necessary to conform to the requirements of subsections (1), (2), and (3) of this section or new certifications of a survey map and plans previously recorded if the documents otherwise conform to the requirements of those subsections.

(7) Any survey map, plan, or certification required by this section shall be made by a licensed surveyor.

(8) In showing or projecting the location and dimensions of the vertical boundaries of a unit under subsections (2)(f) and (4)(a) of this section, it is not necessary to show the thickness of the walls constituting the vertical boundaries or otherwise show the distance of those vertical boundaries either from the exterior surface of the building containing that unit or from adjacent vertical boundaries of other units if: (a) The walls are designated to be the vertical boundaries of that unit; (b) the unit is located within a building, the location and dimensions of the building having been shown on the survey map under subsection (2)(b) of this section; and (c) the graphic general location of the vertical boundaries are shown in relation to the exterior surfaces of that building and to the vertical boundaries of other units within that building.

**Sec. 11.** RCW 64.34.256 and 1989 c 43 s 2-115 are each amended to read as follows:

A declarant may maintain sales offices, management offices, and models in units or on common elements in the condominium only if the declaration so provides and specifies the rights of a declarant with regard to the number, ((size,)) location, and relocation thereof. Any sales office, management office, or model not designated a unit by the declaration is a common element and, if a declarant ceases to be a unit owner, the declarant ceases to have any rights with regard thereto unless it is removed promptly from the condominium in accordance with a right to remove reserved in the declaration. Subject to any limitations in the declaration, a declarant may maintain signs on the common

elements advertising the condominium. The provisions of this section are subject to the provisions of other state law and to local ordinances.

**Sec. 12.** RCW 64.34.268 and 1989 c 43 s 2-118 are each amended to read as follows:

(1) Except in the case of a taking of all the units by condemnation under RCW 64.34.060, a condominium may be terminated only by agreement of unit owners of units to which at least eighty percent of the votes in the association are allocated, or any larger percentage the declaration specifies: **PROVIDED**, That the declaration may specify a smaller percentage only if all of the units in the condominium are restricted exclusively to nonresidential uses.

(2) An agreement to terminate must be evidenced by the execution of a termination agreement or ratifications thereof, in the same manner as a deed, by the requisite number of unit owners. The termination agreement must specify a date after which the agreement will be void unless it is recorded before that date and shall contain a description of the manner in which the creditors of the association will be paid or provided for. A termination agreement and all ratifications thereof must be recorded in every county in which a portion of the condominium is situated and is effective only upon recording. A termination agreement may be amended by complying with all of the requirements of this section.

(3) A termination agreement may provide that all the common elements and units of the condominium shall be sold following termination. If, pursuant to the agreement, any real property in the condominium is to be sold following termination, the termination agreement must set forth the minimum terms of the sale.

(4) The association, on behalf of the unit owners, may contract for the sale of real property in the condominium, but the contract is not binding on the unit owners until approved pursuant to subsections (1) and (2) of this section. If any real property in the condominium is to be sold following termination, title to that real property, upon termination, vests in the association as trustee for the holders of all interests in the units. Thereafter, the association has all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds thereof distributed, the association continues in existence with all powers it had before termination. Proceeds of the sale must be distributed to unit owners and lien holders as their interests may appear, in proportion to the respective interests of unit owners as provided in subsection (7) of this section. Unless otherwise specified in the termination agreement, as long as the association holds title to the real property, each unit owner and the owner's successors in interest have an exclusive right to occupancy of the portion of the real property that formerly constituted the owner's unit. During the period of that occupancy, each unit owner and the owner's successors in interest remain liable for all assessments and other obligations imposed on unit owners by this chapter or the declaration.

(5) If the real property constituting the condominium is not to be sold following termination, title to all the real property in the condominium vests in the unit owners upon termination as tenants in common in proportion to their respective interests as provided in subsection (7) of this section, and liens on the units shift accordingly. While the tenancy in common exists, each unit owner and the owner's successors in interest have an exclusive right to occupancy of the portion of the real property that formerly constituted the owner's unit.

(6) Following termination of the condominium, the proceeds of any sale of real property, together with the assets of the association, are held by the association as trustee for unit owners and holders of liens on the units and creditors of the association as their interests may appear. No such proceeds or assets may be disbursed to the owners until all of the creditors of the association have been paid or provided for. Following termination, creditors of the association holding liens on the units, which were recorded or perfected under RCW 4.64.020 before termination, may enforce those liens in the same manner as any lien holder.

(7) The respective interests of unit owners referred to in subsections (4), (5), and (6) of this section are as follows:

(a) Except as provided in (b) of this subsection, the respective interests of unit owners are the fair market values of their units, limited common elements, and common element interests immediately before the termination, as determined by one or more independent appraisers selected by the association. The decision of the independent appraisers shall be distributed to the unit owners and becomes final unless disapproved, within thirty days after distribution, by unit owners of units to which twenty-five percent of the votes in the association are allocated. The proportion of any unit owner's interest to that of all unit owners is determined by dividing the fair market value of that unit owner's unit and common element interest by the total fair market values of all the units and common elements.

(b) If any unit or any limited common element is destroyed to the extent that an appraisal of the fair market value thereof before destruction cannot be made, the interests of all unit owners are their respective common element interests immediately before the termination.

(8) Except as provided in subsection (9) of this section, foreclosure or enforcement of a lien or encumbrance against the entire condominium does not of itself terminate the condominium, and foreclosure or enforcement of a lien or encumbrance against a portion of the condominium, other than withdrawable real property, does not withdraw that portion from the condominium. Foreclosure or enforcement of a lien or encumbrance against withdrawable real property does not of itself withdraw that real property from the condominium, but the person taking title thereto has the right to require from the association, upon request, an amendment excluding the real property from the condominium.

(9) If a lien or encumbrance against a portion of the real property that is withdrawable from the condominium has priority over the declaration, and the lien or encumbrance has not been partially released as to a unit, the ~~((parties foreclosing the lien or encumbrance))~~ purchaser at the foreclosure or such purchaser's successors may, upon foreclosure, record an instrument ~~((excluding))~~ exercising the right to withdraw the real property subject to that lien or encumbrance from the condominium. The board of directors shall reallocate interests as if the foreclosed portion were condemned.

(10) The right of partition under chapter 7.52 RCW shall be suspended if an agreement to sell the property is provided for in the termination agreement pursuant to subsection (3) of this section. The suspension of the right to partition shall continue unless and until no binding obligation to sell exists three months after the recording of the termination agreement, the binding sale agreement is terminated, or one year after the termination agreement is recorded, whichever first occurs.

**NEW SECTION.** Sec. 13. A new section is added to chapter 64.34 RCW to read as follows:

(1) If the declaration provides that any of the powers described in RCW 64.34.304 are to be exercised by or may be delegated to a profit or nonprofit corporation that exercises those or other powers on behalf of unit owners owning less than all of the units in a condominium, and where those unit owners share the exclusive use of one or more limited common elements within the condominium or share some property or other interest in the condominium in common that is not shared by the remainder of the unit owners in the condominium, all provisions of this chapter applicable to unit owners' associations apply to any such corporation, except as modified by this section. The delegation of powers to a subassociation shall not be used to discriminate in favor of units owned by the declarant or an affiliate of the declarant.

(2) A subassociation may exercise the powers set forth in RCW 64.34.304(1) only to the extent expressly permitted by the declaration of the condominium of which the units in the subassociation are a part of or expressly described in the delegations of power from that condominium to the subassociation.

(3) If the declaration of any condominium contains a delegation of certain powers to a subassociation, or provides that the board of directors of the condominium may make such a delegation, the members of the board of directors have no liability for the acts or omissions of the subassociation with respect to those powers so exercised by the subassociation following delegation.

(4) The rights and responsibilities of unit owners with respect to the unit owners' association set forth in RCW 64.34.300 through 64.34.376 apply to the conduct of the affairs of a subassociation.

(5) Notwithstanding the provisions of RCW 64.34.308(6) with respect to the election of the board of directors of an association by all unit owners after the period of declarant control ends, the board of directors of the subassociation shall

be elected after the period of declarant control by the unit owners of all of the units in the condominium subject to the subassociation.

(6) The declaration of the condominium creating the subassociation may provide that the authority of the board of directors of the subassociation is exclusive with regard to the powers and responsibilities delegated to it. In the alternative, the declaration may provide as to some or all such powers that the authority of the board of directors of a subassociation is concurrent with and subject to the authority of the board of directors of the unit owners' association, in which case the declaration shall also contain standards and procedures for the review of the decisions of the board of directors of the subassociation and procedures for resolving any dispute between the board of the unit owners' association and the board of the subassociation.

**Sec. 14.** RCW 64.34.300 and 1989 c 43 s 3-101 are each amended to read as follows:

A unit owners' association shall be organized no later than the date the first unit in the condominium is conveyed. The membership of the association at all times shall consist exclusively of all the unit owners. Following termination of the condominium, the membership of the association shall consist of all of the unit owners at the time of termination entitled to distributions of proceeds under RCW 64.34.268 or their heirs, successors, or assigns. The association shall be organized as a profit or nonprofit corporation. In case of any conflict between Title ((23A)) 23B RCW, the business corporation act, chapter 24.03 RCW, the nonprofit corporation act, or chapter 24.06 RCW, the nonprofit miscellaneous and mutual corporations act, and this chapter, this chapter shall control.

**Sec. 15.** RCW 64.34.308 and 1989 c 43 s 3-103 are each amended to read as follows:

(1) Except as provided in the declaration, the bylaws, subsection (2) of this section, or other provisions of this chapter, the board of directors shall act in all instances on behalf of the association. In the performance of their duties, the officers and members of the board of directors are required to exercise: (a) If appointed by the declarant, the care required of fiduciaries of the unit owners; or (b) if elected by the unit owners, ordinary and reasonable care.

(2) The board of directors shall not act on behalf of the association to amend the declaration in any manner that requires the vote or approval of the unit owners pursuant to RCW 64.34.264, to terminate the condominium pursuant to RCW 64.34.268, or to elect members of the board of directors or determine the qualifications, powers, and duties, or terms of office of members of the board of directors pursuant to subsection (6) of this section; but the board of directors may fill vacancies in its membership for the unexpired portion of any term.

(3) Within thirty days after adoption of any proposed budget for the condominium, the board of directors shall provide a summary of the budget to all the unit owners and shall set a date for a meeting of the unit owners to consider ratification of the budget not less than fourteen nor more than sixty days

after mailing of the summary. Unless at that meeting the owners of units to which a majority of the votes in the association are allocated or any larger percentage specified in the declaration reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the unit owners shall be continued until such time as the unit owners ratify a subsequent budget proposed by the board of directors.

(4)(a) Subject to subsection (5) of this section, the declaration may provide for a period of declarant control of the association, during which period a declarant, or persons designated by the declarant, may: (i) Appoint and remove the officers and members of the board of directors; or (ii) veto or approve a proposed action of the board or association. A declarant's failure to veto or approve such proposed action in writing within thirty days after receipt of written notice of the proposed action shall be deemed approval by the declarant.

(b) Regardless of the period provided in the declaration, a period of declarant control terminates no later than the earlier of: ~~((a))~~ (i) Sixty days after conveyance of seventy-five percent of the units which may be created to unit owners other than a declarant; ~~((b))~~ (ii) two years after the last conveyance or transfer of record of a unit except as security for a debt; ~~((c))~~ (iii) two years after any development right to add new units was last exercised; or ~~((d))~~ (iv) the date on which the declarant records an amendment to the declaration pursuant to which the declarant voluntarily surrenders the right to further appoint and remove officers and members of the board of directors. A declarant may voluntarily surrender the right to appoint and remove officers and members of the board of directors before termination of that period pursuant to ~~((a), (b), and (c))~~ (i), (ii), and (iii) of this subsection (4)(b), but in that event the declarant may require, for the duration of the period of declarant control, that specified actions of the association or board of directors, as described in a recorded instrument executed by the declarant, be approved by the declarant before they become effective.

(5) Not later than sixty days after conveyance of twenty-five percent of the units which may be created to unit owners other than a declarant, at least one member and not less than twenty-five percent of the members of the board of directors must be elected by unit owners other than the declarant. Not later than sixty days after conveyance of fifty percent of the units which may be created to unit owners other than a declarant, not less than thirty-three and one-third percent of the members of the board of directors must be elected by unit owners other than the declarant.

(6) Within thirty days after the termination of any period of declarant control, the unit owners shall elect a board of directors of at least three members, at least a majority of whom must be unit owners. The number of directors need not exceed the number of units then in the condominium. The board of directors

shall elect the officers. Such members of the board of directors and officers shall take office upon election.

(7) Notwithstanding any provision of the declaration or bylaws to the contrary, the unit owners, by a two-thirds vote of the voting power in the association present and entitled to vote at any meeting of the unit owners at which a quorum is present, may remove any member of the board of directors with or without cause, other than a member appointed by the declarant. The declarant may not remove any member of the board of directors elected by the unit owners. Prior to the termination of the period of declarant control, the unit owners, other than the declarant, may remove by a two-thirds vote, any director elected by the unit owners.

**Sec. 16.** RCW 64.34.324 and 1989 c 43 s 3-107 are each amended to read as follows:

(1) Unless provided for in the declaration, the bylaws of the association shall provide for:

(a) The number, qualifications, powers and duties, terms of office, and manner of electing and removing the board of directors and officers and filling vacancies;

(b) Election by the board of directors of such officers of the association as the bylaws specify;

(c) Which, if any, of its powers the board of directors or officers may delegate to other persons or to a managing agent;

(d) Which of its officers may prepare, execute, certify, and record amendments to the declaration on behalf of the association; and

(e) The method of amending the bylaws.

(2) Subject to the provisions of the declaration, the bylaws may provide for any other matters the association deems necessary and appropriate.

(3) ~~((If the declaration or bylaws provide that any officers or directors of the association must be unit owners, then))~~ In determining the qualifications of any officer or director of the association, notwithstanding the provision of RCW 64.34.020(32)((-)) the term "unit owner" in such context shall, unless the declaration or bylaws otherwise provide, be deemed to include any director, officer, partner in, or trustee of any person, who is, either alone or in conjunction with another person or persons, a unit owner. Any officer or director of the association who would not be eligible to serve as such if he or she were not a director, officer, partner in, or trustee of such a person shall be disqualified from continuing in office if he or she ceases to have any such affiliation with that person, or if that person would have been disqualified from continuing in such office as a natural person.

**Sec. 17.** RCW 64.34.340 and 1989 c 43 s 3-111 are each amended to read as follows:

(1) If only one of the multiple owners of a unit is present at a meeting of the association or has delivered a written ballot or proxy to the association

secretary, the owner is entitled to cast all the votes allocated to that unit. If more than one of the multiple owners are present or has delivered a written ballot or proxy to the association secretary, the votes allocated to that unit may be cast only in accordance with the agreement of a majority in interest of the multiple owners, unless the declaration expressly provides otherwise. There is majority agreement if any one of the multiple owners casts the votes allocated to that unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the unit.

(2) Votes allocated to a unit may be cast pursuant to a proxy duly executed by a unit owner. If a unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes by the other owners of the unit through a duly executed proxy. A unit owner may not revoke a proxy given pursuant to this section except by actual notice of revocation to the person presiding over a meeting of the association. A proxy is void if it is not dated or purports to be revocable without notice. Unless stated otherwise in the proxy, a proxy terminates eleven months after its date of issuance.

(3) If the declaration requires that votes on specified matters affecting the condominium be cast by lessees rather than unit owners of leased units: (a) The provisions of subsections (1) and (2) of this section apply to lessees as if they were unit owners; (b) unit owners who have leased their units to other persons may not cast votes on those specified matters; and (c) lessees are entitled to notice of meetings, access to records, and other rights respecting those matters as if they were unit owners. Unit owners must also be given notice, in the manner provided in RCW 64.34.332, of all meetings at which lessees may be entitled to vote.

(4) No votes allocated to a unit owned by the association may be cast, and in determining the percentage of votes required to act on any matter, the votes allocated to units owned by the association shall be disregarded.

**Sec. 18.** RCW 64.34.352 and 1990 c 166 s 4 are each amended to read as follows:

(1) Commencing not later than the time of the first conveyance of a unit to a person other than a declarant, the association shall maintain, to the extent reasonably available:

(a) Property insurance on the condominium, which may, but need not, include equipment, improvements, and betterments in a unit installed by the declarant or the unit owners, insuring against all risks of direct physical loss commonly insured against (~~or, in the case of a conversion building, against fire and extended coverage perils~~). The total amount of insurance after application of any deductibles shall be not less than eighty percent, or such greater amount specified in the declaration, of the actual cash value of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property policies; and

(b) Liability insurance, including medical payments insurance, in an amount determined by the board of directors but not less than the amount specified in the declaration, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the common elements.

(2) If the insurance described in subsection (1) of this section is not reasonably available, or is modified, canceled, or not renewed, the association promptly shall cause notice of that fact to be hand-delivered or sent prepaid by first class United States mail to all unit owners, to each eligible mortgagee, and to each mortgagee to whom a certificate or memorandum of insurance has been issued at their respective last known addresses. The declaration may require the association to carry any other insurance, and the association in any event may carry any other insurance it deems appropriate to protect the association or the unit owners.

(3) Insurance policies carried pursuant to subsection (1) of this section shall provide that:

(a) Each unit owner is an insured person under the policy with respect to liability arising out of the owner's interest in the common elements or membership in the association;

(b) The insurer waives its right to subrogation under the policy against any unit owner, member of the owner's household, and lessee of the owner;

(c) No act or omission by any unit owner, unless acting within the scope of the owner's authority on behalf of the association, will void the policy or be a condition to recovery under the policy; and

(d) If, at the time of a loss under the policy, there is other insurance in the name of a unit owner covering the same risk covered by the policy, the association's policy provides primary insurance.

(4) Any loss covered by the property insurance under subsection (1)(a) of this section must be adjusted with the association, but the insurance proceeds for that loss are payable to any insurance trustee designated for that purpose, or otherwise to the association, and not to any holder of a mortgage. The insurance trustee or the association shall hold any insurance proceeds in trust for unit owners and lienholders as their interests may appear. Subject to the provisions of subsection (7) of this section, the proceeds must be disbursed first for the repair or restoration of the damaged property, and unit owners and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored or the condominium is terminated.

(5) An insurance policy issued to the association does not prevent a unit owner from obtaining insurance for the owner's own benefit.

(6) An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the association and, upon written request, to any unit owner or holder of a mortgage. The insurer issuing the

policy may not modify the amount or the extent of the coverage of the policy or cancel or refuse to renew the policy unless the insurer has complied with all applicable provisions of chapter 48.18 RCW pertaining to the cancellation or nonrenewal of contracts of insurance. The insurer shall not modify the amount or the extent of the coverage of the policy, or cancel or refuse to renew the policy without complying with this section.

(7) Any portion of the condominium for which insurance is required under this section which is damaged or destroyed shall be repaired or replaced promptly by the association unless: (a) The condominium is terminated; (b) repair or replacement would be illegal under any state or local health or safety statute or ordinance; or (c) eighty percent of the unit owners, including every owner of a unit or assigned limited common element which will not be rebuilt, vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves is a common expense. If all of the damaged or destroyed portions of the condominium are not repaired or replaced: (i) The insurance proceeds attributable to the damaged common elements shall be used to restore the damaged area to a condition compatible with the remainder of the condominium; (ii) the insurance proceeds attributable to units and limited common elements which are not rebuilt shall be distributed to the owners of those units and the owners of the units to which those limited common elements were allocated, or to lienholders, as their interests may appear; and (iii) the remainder of the proceeds shall be distributed to all the unit owners or lienholders, as their interests may appear, in proportion to the common element interests of all the units. If the unit owners vote not to rebuild any unit, that unit's allocated interests are automatically reallocated upon the vote as if the unit had been condemned under RCW 64.34.060(1), and the association promptly shall prepare, execute, and record an amendment to the declaration reflecting the reallocations. Notwithstanding the provisions of this subsection, RCW 64.34.268 governs the distribution of insurance proceeds if the condominium is terminated.

(8) The provisions of this section may be varied or waived as provided in the declaration if all units of a condominium are restricted to nonresidential use.

**Sec. 19.** RCW 64.34.372 and 1990 c 166 s 7 are each amended to read as follows:

(1) The association shall keep financial records sufficiently detailed to enable the association to comply with RCW 64.34.425. All financial and other records of the association, including but not limited to checks, bank records, and invoices, are the property of the association, but shall be made reasonably available for examination and copying by the manager of the association, any unit owner ~~((and)),~~ or the owner's authorized agents. At least annually, the association shall prepare, or cause to be prepared, a financial statement of the association in accordance with generally accepted accounting principles. The financial statements of condominiums consisting of fifty or more units shall be audited at least annually by a certified public accountant. In the case of a

condominium consisting of fewer than fifty units, an annual audit is also required but may be waived annually by unit owners other than the declarant of units to which sixty percent of the votes are allocated, excluding the votes allocated to units owned by the declarant.

(2) The funds of an association shall be kept in accounts in the name of the association and shall not be commingled with the funds of any other association, nor with the funds of any manager of the association or any other person responsible for the custody of such funds. Any reserve funds of an association shall be kept in a segregated account and any transaction affecting such funds, including the issuance of checks, shall require the signature of at least two persons who are officers or directors of the association.

**Sec. 20.** RCW 64.34.400 and 1990 c 166 s 9 are each amended to read as follows:

(1) This article applies to all units subject to this chapter, except as provided in subsection (2) of this section and unless and to the extent otherwise agreed to in writing by the seller and purchasers of those units that are restricted to nonresidential use in the declaration.

(2) ~~((Neither a public offering statement nor a resale certificate need be prepared or delivered))~~ This article shall not apply in the case of:

- (a) A conveyance by gift, devise, or descent;
- (b) A conveyance pursuant to court order;
- (c) A disposition by a government or governmental agency;
- (d) A conveyance by foreclosure;
- (e) A disposition ~~((to a dealer who intends to offer these units to purchasers))~~ of all of the units in a condominium in a single transaction;
- (f) A disposition to other than a purchaser as defined in RCW 64.34.020-(26); or
- ~~((f))~~ (g) A disposition that may be canceled at any time and for any reason by the purchaser without penalty.

**Sec. 21.** RCW 64.34.410 and 1989 c 43 s 4-103 are each amended to read as follows:

- (1) A public offering statement shall contain the following information:
  - (a) The name and address of the condominium;
  - (b) The name and address of the declarant;
  - (c) The name and address of the management company, if any;
  - (d) The relationship of the management company to the declarant, if any;
  - (e) A list of up to the five most recent condominium projects completed by the declarant or an affiliate of the declarant within the past five years, including the names of the condominiums, their addresses, and the number of existing units in each. For the purpose of this section, a condominium is "completed" when any one unit therein has been rented or sold;
  - (f) The nature of the interest being offered for sale;

(g) A brief description of the permitted uses and use restrictions pertaining to the units and the common elements;

(h) The number of existing units in the condominium and the maximum number of units that may be added to the condominium;

(i) A list of the principal common amenities in the condominium which materially affect the value of the condominium and those that will or may be added to the condominium;

(j) A list of the limited common elements assigned to the units being offered for sale;

(k) The identification of any real property not in the condominium, the owner of which has access to any of the common elements, and a description of the terms of such access;

(l) The identification of any real property not in the condominium to which unit owners have access and a description of the terms of such access;

(m) The status of construction of the units and common elements, including estimated dates of completion if not completed;

(n) The estimated current common expense liability for the units being offered;

(o) An estimate of any payment with respect to the common expense liability for the units being offered which will be due at closing;

(p) The estimated current amount and purpose of any fees not included in the common expenses and charged by the declarant or the association for the use of any of the common elements;

(q) Any assessments which have been agreed to or are known to the declarant and which, if not paid, may constitute a lien against any units or common elements in favor of any governmental agency;

(r) The identification of any parts of the condominium, other than the units, which any individual owner will have the responsibility for maintaining;

(s) If the condominium involves a conversion (~~(building)~~) condominium, the information required by RCW 64.34.415;

(t) Whether timesharing is restricted or prohibited, and if restricted, a general description of such restrictions;

(u) A list of all development rights reserved to the declarant and all special declarant rights reserved to the declarant, together with the dates such rights must terminate, and a copy of or reference by recording number to any recorded transfer of a special declarant right;

(v) ~~(The identification of any model units and)~~ A description of ((the)) any material differences in terms of furnishings, fixtures, finishes, and equipment between ((the)) any model unit available to the purchaser at the time the agreement for sale is executed and the unit being offered;

(w) Any liens on real property to be conveyed to the association required to be disclosed pursuant to RCW 64.34.435(2)(b);

(x) A list of any physical hazards known to the declarant which particularly affect the condominium or the immediate vicinity in which the condominium is located and which are not readily ascertainable by the purchaser;

(y) A brief description of any construction warranties to be provided to the purchaser;

(z) Any building code violation citations received by the declarant in connection with the condominium which have not been corrected;

(aa) A statement of any unsatisfied judgments or pending suits against the association, a statement of the status of any pending suits material to the condominium of which the declarant has actual knowledge, and a statement of any litigation brought by an owners' association, unit owner, or governmental entity in which the declarant or any affiliate of the declarant has been a defendant, arising out of the construction, sale, or administration of any condominium within the previous five years, together with the results thereof, if known;

(bb) Any rights of first refusal to lease or purchase any unit or any of the common elements;

(cc) The extent to which the insurance provided by the association covers furnishings, fixtures, and equipment located in the unit;

(dd) A notice which describes a purchaser's right to cancel the purchase agreement or extend the closing under RCW 64.34.420, including applicable time frames and procedures;

(ee) Any reports or statements required by RCW 64.34.415 or 64.34.440(6)-(a). RCW 64.34.415 shall apply to the public offering statement of a condominium in connection with which a final certificate of occupancy was issued more than sixty calendar months prior to the preparation of the public offering statement whether or not the condominium is a conversion condominium as defined in RCW 64.34.020(10);

~~(ff)~~ (ff) A list of the documents which the prospective purchaser is entitled to receive from the declarant before the rescission period commences;

~~((ff))~~ (gg) A notice which states: A purchaser may not rely on any representation or express warranty unless it is contained in the public offering statement or made in writing signed by the declarant or by any person identified in the public offering statement as the declarant's agent;

~~((gg))~~ (hh) A notice which states: This public offering statement is only a summary of some of the significant aspects of purchasing a unit in this condominium and the condominium documents are complex, contain other important information, and create binding legal obligations. You should consider seeking the assistance of legal counsel; and

~~((hh))~~ (ii) Any other information and cross-references which the declarant believes will be helpful in describing the condominium to the recipients of the public offering statement, all of which may be included or not included at the option of the declarant.

(2) The public offering statement shall include copies of each of the following documents: The declaration, the survey map and plans, the articles of incorporation of the association, bylaws of the association, rules and regulations, if any, current or proposed budget for the association, and the balance sheet of the association current within ninety days if assessments have been collected for ninety days or more.

If any of the foregoing documents listed in this subsection are not available because they have not been executed, adopted, or recorded, drafts of such documents shall be provided with the public offering statement, and, before closing the sale of a unit, the purchaser shall be given copies of any material changes between the draft of the proposed documents and the final documents.

(3) The disclosures required by subsection (1) (g), (j), (r), (t), (u), and (bb) of this section shall also contain a reference to specific sections in the condominium documents which further explain the information disclosed.

(4) The disclosures required by subsection (1) (dd), ~~((ff))~~ (gg), and ~~((gg))~~ (hh) of this section shall be located at the top of the first page of the public offering statement and be typed or printed in ten-point bold face type size.

(5) A declarant shall promptly amend the public offering statement to reflect any material change in the information required by this section.

**Sec. 22.** RCW 64.34.415 and 1990 c 166 s 10 are each amended to read as follows:

(1) The public offering statement of a conversion condominium shall contain, in addition to the information required by RCW 64.34.410:

(a) ~~((A statement by the declarant, based on))~~ Either a copy of a report prepared by an independent, licensed architect or engineer, ~~((describing))~~ or a statement by the declarant based on such report, which report or statement describes, to the extent reasonably ascertainable, the present condition of all structural components and mechanical and electrical installations material to the use and enjoyment of the condominium;

(b) A statement by the declarant of the expected useful life of each item reported on in (a) of this subsection or a statement that no representations are made in that regard; and

(c) A list of any outstanding notices of uncured violations of building code or other municipal regulations, together with the estimated cost of curing those violations. Unless the purchaser waives in writing the curing of specific violations, the extent to which the declarant will cure such violations prior to the closing of the sale of a unit in the condominium shall be included.

(2) This section applies only to condominiums containing units that may be occupied for residential use.

**Sec. 23.** RCW 64.34.425 and 1990 c 166 s 12 are each amended to read as follows:

(1) Except in the case of a sale where delivery of a public offering statement is required, or unless exempt under RCW 64.34.400(2), a unit owner shall

furnish to a purchaser before execution of any contract for sale of a unit, or otherwise before conveyance, ~~((a copy of the declaration, the bylaws, the rules or regulations of the association, and))~~ a resale certificate, signed by an officer or authorized agent of the association and based on the books and records of the association and the actual knowledge of the person signing the certificate, containing:

(a) A statement disclosing ~~((the effect on the proposed conveyance of))~~ any right of first refusal or other restraint on the free alienability of the unit contained in the declaration;

(b) A statement setting forth the amount of the monthly common expense assessment and any unpaid common expense or special assessment currently due and payable from the selling unit owner and a statement of any special assessments that have been levied against the unit which have not been paid even though not yet due;

(c) A statement, which shall be current to within forty-five days, of any common expenses or special assessments against any unit in the condominium that are past due over thirty days;

(d) A statement, which shall be current to within forty-five days, of any obligation of the association which is past due over thirty days;

(e) A statement of any other fees payable by unit owners;

(f) A statement of any anticipated repair or replacement cost in excess of five percent of the annual budget of the association that has been approved by the board of directors;

(g) A statement of the amount of any reserves for repair or replacement and of any portions of those reserves currently designated by the association for any specified projects;

(h) The annual financial statement of the association, including the audit report if it has been prepared, for the year immediately preceding the current year.

(i) A balance sheet and a revenue and expense statement of the association prepared on an accrual basis, which shall be current to within one hundred twenty days;

(j) The current operating budget of the association;

(k) A statement of any unsatisfied judgments against the association and the status of any pending suits in which the association is a defendant;

(l) A statement describing any insurance coverage provided for the benefit of unit owners;

(m) A statement as to whether there are any alterations or improvements to the unit or to the limited common elements assigned thereto that violate any provision of the declaration;

(n) A statement of the number of units, if any, still owned by the declarant, whether the declarant has transferred control of the association to the unit owners, and the date of such transfer;

(o) A statement as to whether there are any violations of the health or building codes with respect to the unit, the limited common elements assigned thereto, or any other portion of the condominium;

(p) A statement of the remaining term of any leasehold estate affecting the condominium and the provisions governing any extension or renewal thereof; and

(q) A copy of the declaration, the bylaws, the rules or regulations of the association, and any other information reasonably requested by mortgagees of prospective purchasers of units. Information requested generally by ((the)) the federal national mortgage association, ((the)) the federal home loan bank board, ((the)) the government national mortgage association, the veterans administration and the department of housing and urban development shall be deemed reasonable, provided such information is reasonably available to the association.

(2) The association, within ten days after a request by a unit owner, and subject to payment of any fee imposed pursuant to RCW 64.34.304(1)(1), shall furnish a resale certificate signed by an officer or authorized agent of the association and containing the information necessary to enable the unit owner to comply with this section. For the purposes of this chapter, a reasonable charge for the preparation of a resale certificate may not exceed one hundred fifty dollars. The association may charge a unit owner a nominal fee for updating a resale certificate within six months of the unit owner's request. The unit owner shall also sign the certificate but the unit owner is not liable to the purchaser for any erroneous information provided by the association and included in the certificate unless and to the extent the unit owner had actual knowledge thereof.

(3) A purchaser is not liable for any unpaid assessment or fee against the unit as of the date of the certificate greater than the amount set forth in the certificate prepared by the association unless and to the extent such purchaser had actual knowledge thereof. A unit owner is not liable to a purchaser for the failure or delay of the association to provide the certificate in a timely manner, but the purchaser's contract is voidable by the purchaser until the certificate has been provided and for five days thereafter or until conveyance, whichever occurs first.

**Sec. 24.** RCW 64.34.430 and 1989 c 43 s 4-108 are each amended to read as follows:

Any deposit made in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement pursuant to RCW 64.34.405(3) shall be placed in escrow and held ((either)) in this state ((or in the state where the unit is located)) in an escrow or trust account designated solely for that purpose by a licensed title insurance company, an attorney, a real estate broker, an independent bonded escrow company, or an institution whose accounts are insured by a governmental agency or instrumentality until: (1) Delivered to the declarant at closing; (2) delivered to the declarant because of purchaser's default under a contract to purchase the unit; (3) refunded to the purchaser; or (4) delivered to a court in connection with the filing of an interpleader action.

**Sec. 25.** RCW 64.34.440 and 1990 c 166 s 13 are each amended to read as follows:

(1) A declarant of a conversion condominium, and any dealer who intends to offer units in such a condominium, shall give each of the residential tenants and any residential subtenant in possession of a portion of a conversion condominium notice of the conversion and provide those persons with the public offering statement no later than ninety days before the tenants and any subtenant in possession are required to vacate. The notice must set forth generally the rights of tenants and subtenants under this section and shall be delivered pursuant to notice requirements set forth in RCW 59.12.040. No tenant or subtenant may be required to vacate upon less than ninety days' notice, except by reason of nonpayment of rent, waste, conduct that disturbs other tenants' peaceful enjoyment of the premises, or act of unlawful detainer as defined in RCW 59.12.030, and the terms of the tenancy may not be altered during that period. Nothing in this subsection shall be deemed to waive or repeal RCW 59.18.200-

(2). Failure to give notice as required by this section is a defense to an action for possession.

(2) For sixty days after delivery or mailing of the notice described in subsection (1) of this section, the person required to give the notice shall offer to convey each unit or proposed unit occupied for residential use to the tenant who leases that unit. If a tenant fails to purchase the unit during that sixty-day period, the offeror may ~~((not))~~ offer to dispose of an interest in that unit during the following one hundred eighty days at a price or on terms more favorable to the offeree than the price or terms offered to the tenant only if: (a) Such offeror, by written notice mailed to the tenant's last known address, offers to sell an interest in that unit at the more favorable price and terms, and (b) such tenant fails to accept such offer in writing within ten days following the mailing of the offer to the tenant. This subsection does not apply to any unit in a conversion condominium if that unit will be restricted exclusively to nonresidential use or the boundaries of the converted unit do not substantially conform to the dimensions of the residential unit before conversion.

(3) If a seller, in violation of subsection (2) of this section, conveys a unit to a purchaser for value who has no knowledge of the violation, recording of the deed conveying the unit extinguishes any right a tenant may have to purchase that unit but does not affect the right of a tenant to recover damages from the seller for a violation of subsection (2) of this section.

(4) If a notice of conversion specifies a date by which a unit or proposed unit must be vacated and otherwise complies with the provisions of this chapter and chapter 59.18 RCW, the notice also constitutes a notice to vacate specified by that statute.

(5) Nothing in this section permits termination of a lease by a declarant in violation of its terms.

(6) Notwithstanding RCW 64.34.050(1), a city or county may by appropriate ordinance require with respect to any conversion condominium within the jurisdiction of such city or county that:

(a) In addition to the statement required by RCW 64.34.415(1)(a), the public offering statement shall contain a copy of the written inspection report prepared by the appropriate department of such city or county, which report shall list any violations of the housing code or other governmental regulation, which code or regulation is applicable regardless of whether the real property is owned as a condominium or in some other form of ownership; said inspection shall be made within forty-five days of the declarant's written request therefor and said report shall be issued within fourteen days of said inspection being made. Such inspection may not be required with respect to any building for which a final certificate of occupancy has been issued by the city or county within the preceding twenty-four months; and any fee imposed for the making of such inspection may not exceed the fee that would be imposed for the making of such an inspection for a purpose other than complying with this subsection (6)(a);

(b) Prior to the conveyance of any residential unit within a conversion condominium, other than a conveyance to a declarant or affiliate of a declarant: (i) All violations disclosed in the inspection report provided for in (a) of this subsection, and not otherwise waived by such city or county, shall be repaired, and (ii) a certification shall be obtained from such city or county that such repairs have been made, which certification shall be based on a reinspection to be made within seven days of the declarant's written request therefor and which certification shall be issued within seven days of said reinspection being made;

(c) The repairs required to be made under (b) of this subsection shall be warranted by the declarant against defects due to workmanship or materials for a period of one year following the completion of such repairs;

(d) Prior to the conveyance of any residential unit within a conversion condominium, other than a conveyance to a declarant or affiliate of a declarant: (i) The declarant shall establish and maintain, during the one-year warranty period provided under (c) of this subsection, an account containing a sum equal to ten percent of the actual cost of making the repairs required under (b) of this subsection; (ii) during the one-year warranty period, the funds in such account shall be used exclusively for paying the actual cost of making repairs required, or for otherwise satisfying claims made, under such warranty; (iii) following the expiration of the one-year warranty period, any funds remaining in such account shall be immediately disbursed to the declarant; and (iv) the declarant shall notify in writing the association and such city or county as to the location of such account and any disbursements therefrom; and

(e) Relocation assistance not to exceed five hundred dollars per unit shall be paid to tenants and subtenants who elect not to purchase a unit and who are in lawful occupancy for residential purposes of a unit and whose monthly household income from all sources, on the date of the notice described in

subsection (1) of this section, was less than an amount equal to eighty percent of (i) the monthly median income for comparably sized households in the standard metropolitan statistical area, as defined and established by the United States department of housing and urban development, in which the condominium is located, or (ii) if the condominium is not within a standard metropolitan statistical area, the monthly median income for comparably sized households in the state of Washington, as defined and determined by said department. The household size of a unit shall be based on the number of persons actually in lawful occupancy of the unit. The tenant or subtenant actually in lawful occupancy of the unit shall be entitled to the relocation assistance. Relocation assistance shall be paid on or before the date the tenant or subtenant vacates and shall be in addition to any damage deposit or other compensation or refund to which the tenant is otherwise entitled. Unpaid rent or other amounts owed by the tenant or subtenant to the landlord may be offset against the relocation assistance.

(7) Violations of any city or county ordinance adopted as authorized by subsection (6) of this section shall give rise to such remedies, penalties, and causes of action which may be lawfully imposed by such city or county. Such violations shall not invalidate the creation of the condominium or the conveyance of any interest therein.

**Sec. 26.** RCW 64.34.445 and 1989 c 43 s 4-112 are each amended to read as follows:

(1) A declarant and any dealer warrants that a unit will be in at least as good condition at the earlier of the time of the conveyance or delivery of possession as it was at the time of contracting, reasonable wear and tear and damage by casualty or condemnation excepted.

(2) A declarant and any dealer impliedly warrants that a unit and the common elements in the condominium are suitable for the ordinary uses of real estate of its type and that any improvements made or contracted for by ~~((the person, or made by any person before the creation of the condominium,))~~ such declarant or dealer will be:

(a) Free from defective materials; and

(b) Constructed in accordance with ~~((applicable law, according to))~~ sound engineering and construction standards, and in a workmanlike manner in compliance with all laws then applicable to such improvements.

(3) A declarant and any dealer warrants to a purchaser of a unit that may be used for residential use that an existing use, continuation of which is contemplated by the parties, does not violate applicable law at the earlier of the time of conveyance or delivery of possession.

(4) Warranties imposed by this section may be excluded or modified as specified in RCW 64.34.450.

(5) For purposes of this section, improvements made or contracted for by an affiliate of a declarant, as defined in RCW 64.34.020(1), are made or contracted for by the declarant.

(6) Any conveyance of a unit transfers to the purchaser all of the declarant's implied warranties of quality.

**Sec. 27.** RCW 58.17.040 and 1989 c 43 s 4-123 are each amended to read as follows:

The provisions of this chapter shall not apply to:

(1) Cemeteries and other burial plots while used for that purpose;

(2) Divisions of land into lots or tracts each of which is one-one hundred twenty-eighth of a section of land or larger, or five acres or larger if the land is not capable of description as a fraction of a section of land, unless the governing authority of the city, town, or county in which the land is situated shall have adopted a subdivision ordinance requiring plat approval of such divisions: PROVIDED, That for purposes of computing the size of any lot under this item which borders on a street or road, the lot size shall be expanded to include that area which would be bounded by the center line of the road or street and the side lot lines of the lot running perpendicular to such center line;

(3) Divisions made by testamentary provisions, or the laws of descent;

(4) Divisions of land into lots or tracts classified for industrial or commercial use when the city, town, or county has approved a binding site plan for the use of the land in accordance with local regulations;

(5) A division for the purpose of lease when no residential structure other than mobile homes or travel trailers are permitted to be placed upon the land when the city, town, or county has approved a binding site plan for the use of the land in accordance with local regulations;

(6) A division made for the purpose of alteration by adjusting boundary lines, between platted or unplatted lots or both, which does not create any additional lot, tract, parcel, site, or division nor create any lot, tract, parcel, site, or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site; and

(7) Divisions of land into lots or tracts if: (a) Such division is the result of subjecting a portion of a parcel or tract of land to either chapter 64.32 or 64.34 RCW subsequent to the recording of a binding site plan for all such land; (b) the improvements constructed or to be constructed thereon ~~((with))~~ are required by the provisions of the binding site plan to be included in one or more condominiums or owned by an association or other legal entity in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest; ~~((b))~~ (c) a city, town, or county has approved ((a)) the binding site plan for all such land; ~~((and (e)))~~ (d) such approved binding site plan is recorded in the county or counties in which such land is located; and (e) the binding site plan contains thereon the following statement: "All development and use of the land described herein shall be in accordance with ~~((the))~~ this binding

site plan, as it may be amended with the approval of the city, town, or county having jurisdiction over the development of such land, and in accordance with such other governmental permits, approvals, regulations, requirements, and restrictions that may be imposed upon such land and the development and use thereof. Upon completion, the improvements on the land shall be included in one or more condominiums or owned by an association or other legal entity in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest.<sup>(=)</sup> This binding site plan shall be binding upon all now or hereafter having any interest in the land described herein. The binding site plan may, but need not, depict or describe the boundaries of the lots or tracts resulting from subjecting a portion of the land to either chapter 64.32 or 64.34 RCW. A site plan shall be deemed to have been approved if the site plan was approved by a city, town, or county: (i) In connection with the final approval of a subdivision plat or planned unit development with respect to all of such land; or (ii) in connection with the issuance of building permits or final certificates of occupancy with respect to all of such land; or (iii) if not approved pursuant to (i) and (ii) of this subsection (7)(e), then pursuant to such other procedures as such city, town, or county may have established for the approval of a binding site plan.<sup>(=)</sup>

Passed the Senate March 7, 1992.

Passed the House March 3, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

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## CHAPTER 221

[Engrossed Senate Bill 6408]

REAL ESTATE EXCISE TAX—

LOCAL TAX PROCEEDS TO FUND CAPITAL IMPROVEMENTS

Effective Date: 6/11/92

AN ACT Relating to the use of locally imposed real estate excise tax proceeds for financing capital projects; amending RCW 82.46.010, 82.46.030, and 82.46.035; and creating a new section.

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

**Sec. 1.** RCW 82.46.010 and 1990 1st ex.s. c 17 s 36 are each amended to read as follows:

(1) The legislative authority of any county or city shall identify in the adopted budget the capital projects funded in whole or in part from the proceeds of the tax authorized in this section, and shall indicate that such tax is intended to be in addition to other funds that may be reasonably available for such capital projects.

(2) The ((governing body)) legislative authority of any county or any city may impose an excise tax on each sale of real property in the unincorporated areas of the county for the county tax and in the corporate limits of the city for

the city tax at a rate not exceeding one-quarter of one percent of the selling price. The revenues from this tax shall be used by the respective jurisdictions for local capital improvements, including those listed in RCW 35.43.040.

After (~~July 1, 1990~~) April 30, 1992, revenues generated from the tax imposed under this subsection in counties over five thousand population and cities over five thousand population that are required or choose to plan under RCW 36.70A.040 shall be used (~~primarily~~) solely for financing capital projects specified in a capital facilities plan element of a comprehensive plan and housing relocation assistance under RCW 59.18.440 and 59.18.450. However, revenues (a) pledged by such counties and cities to debt retirement prior to (~~July 1, 1990~~) April 30, 1992, may continue to be used for that purpose until (~~all outstanding~~) the original debt for which the revenues were pledged is retired, or (b) committed prior to (~~July 1, 1990~~) April 30, 1992, by such counties or cities to a (~~capital~~) project may continue to be used for that purpose until the project is completed.

~~((2))~~ (3) In lieu of imposing the tax authorized in RCW 82.14.030(2), the (~~governing body~~) legislative authority of any county or any city may impose an additional excise tax on each sale of real property in the unincorporated areas of the county for the county tax and in the corporate limits of the city for the city tax at a rate not exceeding one-half of one percent of the selling price.

~~((3))~~ (4) Taxes imposed under this section shall be collected from persons who are taxable by the state under chapter 82.45 RCW upon the occurrence of any taxable event within the unincorporated areas of the county or within the corporate limits of the city, as the case may be.

~~((4))~~ (5) Taxes imposed under this section shall comply with all applicable rules, regulations, laws, and court decisions regarding real estate excise taxes as imposed by the state under chapter 82.45 RCW.

~~((5))~~ (6) As used in this section, "city" means any city or town and "capital project" means those public works projects of a local government for planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of streets; roads; highways; sidewalks; street and road lighting systems; traffic signals; bridges; domestic water systems; storm and sanitary sewer systems; parks; recreational facilities; law enforcement facilities; fire protection facilities; trails; libraries; administrative and/or judicial facilities; river and/or waterway flood control projects by those jurisdictions that, prior to the effective date of this act, have expended funds derived from the tax authorized by this section for such purposes; and, until December 31, 1995, housing projects for those jurisdictions that, prior to the effective date of this act, have expended or committed to expend funds derived from the tax authorized by this section or the tax authorized by RCW 82.46.035 for such purposes.

Sec. 2. RCW 82.46.030 and 1990 1st ex.s. c 17 s 37 are each amended to read as follows:

(1) The county treasurer shall place one percent of the proceeds of the taxes imposed under (~~RCW 82.46.010~~) this chapter in the county current expense fund to defray costs of collection.

(2) The remaining proceeds from the county tax under RCW 82.46.010(1) shall be placed in a county capital improvements fund. The remaining proceeds from city or town taxes under RCW 82.46.010(1) shall be distributed to the respective cities and towns monthly and placed by the city treasurer in a municipal capital improvements fund.

(3) This section does not limit the existing authority of any city, town, or county to impose special assessments on property specially benefited thereby in the manner prescribed by law.

**Sec. 3.** RCW 82.46.035 and 1990 1st ex.s. c 17 s 38 are each amended to read as follows:

(1) The legislative authority of any county or city shall identify in the adopted budget the capital projects funded in whole or in part from the proceeds of the tax authorized in this section, and shall indicate that such tax is intended to be in addition to other funds that may be reasonably available for such capital projects.

(2) The (~~governing body~~) legislative authority of any county or any city that plans under RCW 36.70A.040(1) may impose an additional excise tax on each sale of real property in the unincorporated areas of the county for the county tax and in the corporate limits of the city for the city tax at a rate not exceeding one-quarter of one percent of the selling price. Any county choosing to plan under RCW 36.70A.040(2) and any city within such a county may only adopt an ordinance imposing the excise tax authorized by this section if the ordinance is first authorized by a proposition approved by a majority of the voters of the taxing district voting on the proposition at a general election held within the district or at a special election within the taxing district called by the district for the purpose of submitting such proposition to the voters.

~~((2))~~ (3) Revenues generated from the tax imposed under subsection ~~((1))~~ (2) of this section shall be used by such counties and cities solely for financing capital projects specified in a capital facilities plan element of a comprehensive plan. However, revenues (a) pledged by such counties and cities to debt retirement prior to March 1, 1992, may continue to be used for that purpose until the original debt for which the revenues were pledged is retired, or (b) committed prior to March 1, 1992, by such counties or cities to a project may continue to be used for that purpose until the project is completed.

~~((3))~~ (4) Revenues generated by the tax imposed by this section shall be deposited in a separate account.

~~((4))~~ (5) As used in this section, "city" means any city or town and "capital project" means those public works projects of a local government for planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of streets, roads, highways, sidewalks, street and road lighting

systems, traffic signals, bridges, domestic water systems, storm and sanitary sewer systems, and planning, construction, reconstruction, repair, rehabilitation, or improvement of parks.

**NEW SECTION. Sec. 4.** All expenditures of revenues collected under RCW 82.46.010 made prior to the effective date of this act are deemed to be in compliance with RCW 82.46.010.

Passed the Senate March 12, 1992.

Passed the House March 11, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

## CHAPTER 222

[Substitute House Bill 2660]

### VEHICLE LICENSES—REVISIONS

Effective Date: 6/11/92

AN ACT Relating to vehicle licenses; and amending RCW 46.16.006, 46.70.090, and 82.80.020.

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

**Sec. 1.** RCW 46.16.006 and 1983 c 27 s 1 are each amended to read as follows:

(1) The term "registration year" for the purposes of chapters 46.16, 82.44, and 82.50 RCW means the effective period of a vehicle license issued by the department. Such year commences at 12:01 a.m. on the date of the calendar year designated by the department and ends at 12:01 a.m. on the same date of the next succeeding calendar year. If a vehicle license previously issued in this state has ~~((been))~~ expired ~~((for more than thirty days))~~ and is renewed with a different registered owner, a new registration year is deemed to commence upon the date the expired license is renewed in order that the renewed license be useable for a full twelve-month period.

(2) Each registration year may be divided into twelve registration months. Each registration month commences on the day numerically corresponding to the day of the calendar month on which the registration year begins, and terminates on the numerically corresponding day of the next succeeding calendar month.

(3) Where the term "last day of the month" is used in chapters 46.16, 82.44, and 82.50 RCW in lieu of a specified day of any calendar month it means the last day of such calendar month or months irrespective of the numerical designation of that day.

(4) If the final day of a registration year or month falls on a Saturday, Sunday, or legal holiday, such period extends through the end of the next business day.

**Sec. 2.** RCW 46.70.090 and 1991 c 140 s 1 are each amended to read as follows:

(1) The department shall issue a vehicle dealer license plate which shall be attached to the rear of the vehicle only and which is capable of distinguishing the classification of the dealer, to vehicle dealers properly licensed pursuant to this chapter and shall, upon application, issue manufacturer's license plates to manufacturers properly licensed pursuant to this chapter.

(2) The department shall ~~((not issue a vehicle dealer license plate to any vehicle dealer selling fewer than five vehicles annually))~~ issue to a vehicle dealer up to three vehicle dealer license plates. After the ~~((first))~~ third dealer plate is issued, the department shall limit the number of dealer plates to six percent of the vehicles sold during the preceding license period. For an original license the vehicle dealer license applicant shall estimate the first year's sales. The director or director's designee may waive these dealer plate issuance restrictions for a vehicle dealer if the waiver both serves the purposes of this chapter and is essential to the continuation of the business. The director shall adopt rules to implement this waiver.

(3) Motor vehicle dealer license plates may be used:

(a) To demonstrate motor vehicles held for sale when operated by an individual holding a valid operator's license, if a dated demonstration permit, valid for no more than seventy-two hours, is carried in the vehicle at all times it is operated by any such individual.

(b) On motor vehicles owned, held for sale, and which are in fact available for sale by the firm when operated by an officer of the corporation, partnership, or proprietorship or by their spouses, or by a bona fide full-time employee of the firm, if a card so identifying any such individual is carried in the vehicle at all times it is operated by such individual. Any such vehicle so operated may be used to transport the dealer's own tools, parts, and equipment of a total weight not to exceed five hundred pounds.

(c) On motor vehicles being tested for repair.

(d) On motor vehicles being moved to or from a motor vehicle dealer's place of business for sale.

(e) On motor vehicles being moved to or from motor vehicle service and repair facilities before sale.

(f) On motor vehicles being moved to or from motor vehicle exhibitions within the state of Washington, if any such exhibition does not exceed a period of twenty days.

(4) Mobile home and travel trailer dealer license plates may be used:

(a) On units hauled to or from the place of business of the manufacturer and the place of business of the dealer or to and from places of business of the dealer.

(b) On mobile homes hauled to a customer's location for set-up after sale.

(c) On travel trailers held for sale to demonstrate the towing capability of the vehicle if a dated demonstration permit, valid for not more than seventy-two hours, is carried with the vehicle at all times.

(d) On mobile homes being hauled from a customer's location if the requirements of RCW 46.44.170 and 46.44.175 are met.

(e) On any motor vehicle owned by the dealer which is used only to move vehicles legally bearing mobile home and travel trailer dealer license plates of the dealer so owning any such motor vehicle.

(f) On vehicles being moved to or from vehicle exhibitions within the state of Washington, if any such exhibition does not exceed a period of twenty days.

(5) Miscellaneous vehicle dealer license plates may be used:

(a) To demonstrate any miscellaneous vehicle: PROVIDED, That:

(i) No such vehicle may be demonstrated on a public highway unless the customer has an appropriate endorsement on his driver's license, if such endorsement is required to operate such vehicle; and

(ii) A dated demonstration permit, valid for no more than seventy-two hours, is carried with the vehicle at all times it is operated by any such individual.

(b) On vehicles owned, held for sale, and which are in fact available for sale, by the firm when operated by an officer of the corporation, partnership, or proprietorship or by a bona fide full-time employee of the firm, if a card so identifying such individual is carried in the vehicle at all times it is operated by him.

(c) On vehicles being tested for repair.

(d) On vehicles being transported to or from the place of business of the manufacturer and the place of business of the dealer or to and from places of business of the dealer.

(e) On vehicles on which any other item sold or to be sold by the dealer is transported from the place of business of the manufacturer to the place of business of the dealer or to and from places of business of the dealer if such vehicle and such item are purchased or sold as one package.

(6) Manufacturers properly licensed pursuant to this chapter may apply for and obtain manufacturer license plates and may be used:

(a) On vehicles being moved to or from the place of business of a manufacturer to a vehicle dealer within this state who is properly licensed pursuant to this chapter.

(b) To test vehicles for repair.

(7) Vehicle dealer license plates and manufacturer license plates shall not be used for any purpose other than set forth in this section and specifically shall not be:

(a) Used on any vehicle not within the class for which the vehicle dealer or manufacturer license plates are issued unless specifically provided for in this section.

(b) Loaned to any person for any reason not specifically provided for in this section.

(c) Used on any vehicles for the transportation of any person, produce, freight, or commodities unless specifically provided for in this section, except there shall be permitted the use of such vehicle dealer license plates on a vehicle transporting commodities in the course of a demonstration over a period not to exceed seventy-two consecutive hours from the commencement of such demonstration, if a representative of the dealer is present and accompanies such vehicle during the course of the demonstration.

(d) Used on any vehicle sold to a resident of another state to transport such vehicle to that other state in lieu of a trip permit or in lieu of vehicle license plates obtained from that other state.

(e) Used on any new vehicle unless the vehicle dealer has provided the department a current service agreement with the manufacturer or distributor of that vehicle as provided in RCW 46.70.041(1)(k).

(8) In addition to or in lieu of any sanction imposed by the director pursuant to RCW 46.70.101 for unauthorized use of vehicle dealer license plates or manufacturer license plates, the director may order that any or all vehicle dealer license plates or manufacturer license plates issued pursuant to this chapter be confiscated for such period as he deems appropriate.

*\*Sec. 3. RCW 82.80.020 and 1991 c 318 s 13 are each amended to read as follows:*

*(1) The legislative authority of a county may fix and impose an additional fee, not to exceed fifteen dollars per vehicle, for each vehicle that is subject to license fees under RCW 46.16.060 and is determined by the department of licensing to be registered within the boundaries of the county.*

*(2) The department of licensing shall administer and collect the fee. The department shall deduct a percentage amount, as provided by contract, not to exceed two percent of the taxes collected, for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer for monthly distribution under RCW 82.80.080.*

*(3) The proceeds of this fee shall be used strictly for transportation purposes in accordance with RCW 82.80.070.*

*(4) A county imposing this fee shall delay the effective date at least six months from the date the ordinance is enacted to allow the department of licensing to implement administration and collection of the fee.*

*(5) The legislative authority of a county may develop and initiate ~~((a refund))~~ an exemption process of the fifteen dollar fee ~~((to))~~ for the registered owners of vehicles residing within the boundaries of the county who ~~((are sixty one years old or older at the time of payment of the fee and whose household income for the previous calendar year is eighteen thousand dollars or less or who has a physical disability and who has paid the fifteen dollar~~*

**additional-fee)) meet the standards for the property tax exemption under RCW 84.36.381.**

\*Sec. 3 was vetoed, see message at end of chapter.

Passed the House March 7, 1992.

Passed the Senate March 4, 1992.

Approved by the Governor April 2, 1992, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 2, 1992.

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

"I am returning herewith, without my approval as to section 3, Substitute House Bill No. 2660 entitled:

"AN ACT Relating to vehicle licenses."

In 1990, the legislature authorized counties to fix and impose a vehicle license fee in addition to the fee charged by the state. In 1991, the legislature authorized county legislative authorities to refund this fee to all senior citizens who were at least 61 years old and who had household incomes of \$18,000 or less or who were physically disabled. Section 3 was intended to change this refund mechanism to an outright exemption. The eligibility requirements of this exemption are established by reference to RCW 84.36.381, relating to senior citizen property tax exemptions. Unfortunately, in drafting the section in this manner, only those who own real property would be eligible for the exemption. I urge the Department of Licensing and the affected counties to remedy this oversight and submit the appropriate legislation in the next session.

For this reason, I have vetoed section 3 of Substitute House Bill No. 2660.

With the exception of section 3, Substitute House Bill No. 2660 is approved."

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## CHAPTER 223

[Substitute House Bill 1736]

### PUBLIC WORKS CONTRACTS—REVISED PAYMENT PROCEDURES

Effective Date: 9/1/92

AN ACT Relating to payment for work of improvement on real property; adding a new section to chapter 39.76 RCW; adding new sections to chapter 60.28 RCW; adding a new section to chapter 39.04 RCW; creating new sections; prescribing penalties; and providing an effective date.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 39.76 RCW to read as follows:

(1) Except as provided in RCW 39.76.020, every state agency, county, city, town, school district, board, commission, or any other public body shall pay interest at a rate of one percent per month, but at least one dollar per month, on amounts due on written contracts for public works, personal services, goods and services, equipment, and travel, whenever the public body fails to make timely payment.

(2) For purposes of this section, payment shall be timely if:

(a) Except as provided otherwise in this subsection, a check or warrant is mailed or is available on the date specified for the amount specified in the applicable contract documents but not later than thirty days of receipt of a

properly completed invoice or receipt of goods or services, whichever is later. If a contract is funded by grant or federal money, the public body shall pay the prime contractor for satisfactory performance within thirty calendar days of the date the public body receives a payment request that complies with the contract or within thirty calendar days of the date the public body actually receives the grant or federal money, whichever is later.

(b) On written contracts for public works, when part or all of a payment is going to be withheld for unsatisfactory performance or if the payment request made does not comply with the requirements of the contract, the public body shall notify the prime contractor in writing within eight working days after receipt of the payment request stating specifically why part or all of the payment is being withheld and what remedial actions must be taken by the prime contractor to receive the withheld amount.

(c) If the notification by the public body required by (b) of this subsection does not comply with the notice contents required under (b) of this subsection, the public body shall pay the interest under subsection (1) of this section from the ninth working day after receipt of the initial payment request until the contractor receives notice that does comply with the notice contents required under (b) of this subsection.

(d) If part or all of a payment is withheld under (b) of this subsection, the public body shall pay the withheld amount within thirty calendar days after the prime contractor satisfactorily completes the remedial actions identified in the notice. If the withheld amount is not paid within the thirty calendar days, the public body shall pay interest under subsection (1) of this section from the thirty-first calendar day until the date paid.

(e)(i) If the prime contractor on a public works contract, after making a request for payment to the public body but before paying a subcontractor for the subcontractor's performance covered by the payment request, discovers that part or all of the payment otherwise due to the subcontractor is subject to withholding from the subcontractor under the subcontract for unsatisfactory performance, the prime contractor may withhold the amount as allowed under the subcontract. If the prime contractor withholds an amount under this subsection, the prime contractor shall:

(A) Give the subcontractor notice of the remedial actions that must be taken as soon as practicable after determining the cause for the withholding but before the due date for the subcontractor payment;

(B) Give the contracting officer of the public body a copy of the notice furnished to the subcontractor under (e)(i)(A) of this subsection; and

(C) Pay the subcontractor within eight working days after the subcontractor satisfactorily completes the remedial action identified in the notice.

(ii) If the prime contractor does not comply with the notice and payment requirements of (e)(i) of this subsection, the contractor shall pay the subcontrac-

tor interest on the withheld amount from the eighth working day at an interest rate that is equal to the amount set forth in subsection (1) of this section.

(3) For the purposes of this section:

(a) A payment is considered to be made when mailed or personally delivered to the party being paid.

(b) An invoice is considered to be received when it is date-stamped or otherwise marked as delivered. If the invoice is not date-stamped or otherwise marked as delivered, the date of the invoice is considered to be the date when the invoice is received.

**NEW SECTION. Sec. 2.** (1) Public improvement contracts shall provide, and public bodies shall reserve, a contract retainage not to exceed five percent of the moneys earned by the contractor as a trust fund for the protection and payment of: (a) The claims of any person arising under the contract; and (b) the state with respect to taxes imposed pursuant to Title 82 RCW which may be due from such contractor.

(2) Every person performing labor or furnishing supplies toward the completion of a public improvement contract shall have a lien upon moneys reserved by a public body under the provisions of a public improvement contract: PROVIDED, That the notice of the lien of the claimant shall be given within forty-five days of completion of the contract work, and in the manner provided in RCW 39.08.030.

(3) The contractor at any time may request the contract retainage be reduced to one hundred percent of the value of the work remaining on the project.

(a) After completion of all contract work other than landscaping, the contractor may request that the public body release and pay in full the amounts retained during the performance of the contract, and sixty days thereafter the public body must release and pay in full the amounts retained (other than continuing retention of five percent of the moneys earned for landscaping) subject to the provisions of chapters 39.12 and 60.28 RCW.

(b) Sixty days after completion of all contract work the public body must release and pay in full the amounts retained during the performance of the contract subject to the provisions of chapters 39.12 and 60.28 RCW.

(4) The moneys reserved by a public body under the provisions of a public improvement contract, at the option of the contractor, shall be:

(a) Retained in a fund by the public body;

(b) Deposited by the public body in an interest bearing account in a bank, mutual savings bank, or savings and loan association. Interest on moneys reserved by a public body under the provision of a public improvement contract shall be paid to the contractor;

(c) Placed in escrow with a bank or trust company by the public body. When the moneys reserved are 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. This check shall be converted into bonds

and securities chosen by the contractor and approved by the public body and the bonds and securities shall be held in escrow. Interest on the bonds and securities shall be paid to the contractor as the interest accrues.

(5) The contractor or subcontractor may withhold payment of not more than five percent from the moneys earned by any subcontractor or sub-subcontractor or supplier contracted with by the contractor to provide labor, materials, or equipment to the public project. Whenever the contractor or subcontractor reserves funds earned by a subcontractor or sub-subcontractor or supplier, the contractor or subcontractor shall pay interest to the subcontractor or sub-subcontractor or supplier at a rate equal to that received by the contractor or subcontractor from reserved funds.

(6) With the consent of the public body the contractor may submit a bond for all or any portion of the contract retainage in a form acceptable to the public body. This bond and any proceeds therefrom are subject to all claims and liens and in the same manner and priority as set forth for retained percentages in this chapter. The public body shall release the bonded portion of the retained funds to the contractor within thirty days of accepting the bond from the contractor. Whenever a public body accepts a bond in lieu of retained funds from a contractor, the contractor shall accept like bonds from any subcontractors or suppliers from which the contractor has retained funds. The contractor shall then release the funds retained from the subcontractor or supplier to the subcontractor or supplier within thirty days of accepting the bond from the subcontractor or supplier.

(7) If the public body administering a contract, after a substantial portion of the work has been completed, finds that an unreasonable delay will occur in the completion of the remaining portion of the contract for any reason not the result of a breach thereof, it may, if the contractor agrees, delete from the contract the remaining work and accept as final the improvement at the stage of completion then attained and make payment in proportion to the amount of the work accomplished and in this case any amounts retained and accumulated under this section shall be held for a period of sixty days following the completion. In the event that the work is 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 are exclusive and shall supersede all provisions and regulations in conflict herewith.

(8) Whenever the department of transportation has contracted for the construction of two or more ferry vessels, sixty days after completion of all contract work on each ferry vessel, the department must release and pay in full the amounts retained in connection with the construction of the vessel subject to the provisions of RCW 60.28.020 and chapter 39.12 RCW: PROVIDED, That the department of transportation may at its discretion condition the release of

funds retained in connection with the completed ferry upon the contractor delivering a good and sufficient bond with two or more sureties, or with a surety company, in the amount of the retained funds to be released to the contractor, conditioned that no taxes shall be certified or claims filed for work on the ferry after a period of sixty days following completion of the ferry; and if taxes are certified or claims filed, recovery may be had on the bond by the department of revenue and the materialmen and laborers filing claims.

(9) Except as provided in subsection (1) of this section, reservation by a public body for any purpose from the moneys earned by a contractor by fulfilling its responsibilities under public improvement contracts is prohibited.

(10) Contracts on projects funded in whole or in part by farmers home administration and subject to farmers home administration regulations are not subject to subsections (1) through (9) of this section.

(11) Unless the context clearly requires otherwise, the definitions in this subsection apply throughout this section.

(a) "Contract retainage" means an amount reserved by a public body from the moneys earned by a person under a public improvement contract.

(b) "Person" means a person or persons, mechanic, subcontractor, or materialperson who performs labor or provides materials for a public improvement contract, and any other person who supplies the person with provisions or supplies for the carrying on of a public improvement contract.

(c) "Public body" means the state, or a county, city, town, district, board, or other public body.

(d) "Public improvement contract" means a contract for public improvements or work, other than for professional services.

**NEW SECTION. Sec. 3.** After the expiration of the forty-five day period for giving notice of lien provided in section 2(2) of this act, and after receipt of the department of revenue's certificate, and the public body is satisfied that the taxes certified as due or to become due by the department of revenue are discharged, and the claims of materialmen and laborers who have filed their claims, together with a sum sufficient to defray the cost of foreclosing the liens of such claims, and to pay attorneys' fees, have been paid, the public body may withhold from the remaining retained amounts for claims the public body may have against the contractor and shall pay the balance, if any, to the contractor the fund retained by it or release to the contractor the securities and bonds held in escrow.

If such taxes have not been discharged or the claims, expenses, and fees have not been paid, the public body shall either retain in its fund, or in an interest bearing account, or retain in escrow, at the option of the contractor, an amount equal to such unpaid taxes and unpaid claims together with a sum sufficient to defray the costs and attorney fees incurred in foreclosing the lien of such claims, and shall pay, or release from escrow, the remainder to the contractor.

**NEW SECTION. Sec. 4.** Upon completion of a contract, the state, county or other municipal officer charged with the duty of disbursing or authorizing disbursement or payment of such contracts shall forthwith notify the department of revenue of the completion of contracts over twenty thousand dollars. Such officer shall not make any payment from the retained percentage fund or release any retained percentage escrow account to any person, until he has received from the department of revenue a certificate that all taxes, increases and penalties due from the contractor, and all taxes due and to become due with respect to such contract have been paid in full or that they are, in the department's opinion, readily collectible without recourse to the state's lien on the retained percentage.

**NEW SECTION. Sec. 5.** A new section is added to chapter 39.04 RCW to read as follows:

(1) When payment is received by a contractor or subcontractor for work performed on a public work, the contractor or subcontractor shall pay to any subcontractor not later than ten days after the receipt of the payment, amounts allowed the contractor on account of the work performed by the subcontractor, to the extent of each subcontractor's interest therein.

(2) In the event of a good faith dispute over all or any portion of the amount due on a payment from the state or a municipality to the prime contractor, or from the prime contractor or subcontractor to a subcontractor, then the state or the municipality, or the prime contractor or subcontractor, may withhold no more than one hundred fifty percent of the disputed amount. Those not a party to a dispute are entitled to full and prompt payment of their portion of a draw, progress payment, final payment, or released retainage.

(3) In addition to all other remedies, any person from whom funds have been withheld in violation of this section shall be entitled to receive from the person wrongfully withholding the funds, for every month and portion thereof that payment including retainage is not made, interest at the highest rate allowed under RCW 19.52.025. In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to costs of suit and reasonable attorneys' fees.

**NEW SECTION. Sec. 6.** (1) The rights provided in this act may not be waived by the parties and a contract provision that provides for waiver of the rights provided in this act is void as against public policy.

(2) This act is to be liberally construed to provide security for all parties intended to be protected by its provisions.

**NEW SECTION. Sec. 7.** (1) Sections 1 through 6 of this act are applicable to all public works contracts entered into on or after September 1, 1992, relating to the construction of any work of improvement.

(2) RCW 39.76.010, 60.28.010, 60.28.020, and 60.28.050 are applicable to all public works contracts entered into prior to September 1, 1992, relating to the construction of any work of improvement.

**NEW SECTION. Sec. 8.** Sections 2 through 4 of this act are each added to chapter 60.28 RCW.

**NEW SECTION. Sec. 9.** This act shall take effect September 1, 1992.

Passed the House March 10, 1992.

Passed the Senate March 10, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

## CHAPTER 224

[Engrossed Senate Bill 6008]

DUTIES OF HOLDERS OF FINANCIAL ASSETS—REPEAL OF RCW 11.92.095

Effective Date: 6/11/92

AN ACT Relating to the repeal of RCW 11.92.095; and repealing RCW 11.92.095.

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

**NEW SECTION. Sec. 1.** RCW 11.92.095 and 1990 c 122 s 22 are each repealed.

Passed the Senate March 7, 1992.

Passed the House March 3, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

## CHAPTER 225

[House Bill 2368]

PRACTICE OF LAW BY DEPUTY SHERIFFS

Effective Date: 6/11/92

AN ACT Relating to the practice of law by deputy sheriffs; and amending RCW 2.48.200 and 36.28.110.

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

**Sec. 1.** RCW 2.48.200 and 1975 1st ex.s. c 19 s 3 are each amended to read as follows:

No person shall practice law who holds a commission as judge in any court of record, or as sheriff(,) or coroner(, ~~or deputy sheriff~~); nor shall the clerk of the supreme court, the court of appeals, or of the superior court or any deputy thereof practice in the court of which he or she is clerk or deputy clerk: PROVIDED, It shall be unlawful for a deputy prosecuting attorney, or for the employee, partner, or agent of a prosecuting attorney, or for an attorney occupying offices with a prosecuting attorney, to appear for an adverse interest

in any proceeding in which a prosecuting attorney is appearing, or to appear in any suit, action or proceeding in which a prosecuting attorney is prohibited by law from appearing, but nothing herein shall prohibit a prosecuting attorney or a deputy prosecuting attorney from appearing in any action or proceeding for an interest divergent from that represented in the same action or proceeding by another attorney or special attorney in or for the same office, so long as such appearances are pursuant to the duties of prosecuting attorneys as set out in RCW 36.27.020 and such appearances are consistent with the code of professional responsibility or other code of ethics adopted by the Washington state supreme court, but nothing herein shall preclude a judge or justice of a court of this state from finishing any business ((by him)) undertaken in a court of the United States prior to ((his)) him or her becoming a judge or justice.

**Sec. 2.** RCW 36.28.110 and 1963 c 4 s 36.28.110 are each amended to read as follows:

No sheriff ((or deputy sheriff)) shall appear or practice as attorney in any court, except in their own defense.

Passed the House March 7, 1992.

Passed the Senate March 2, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

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## CHAPTER 226

[Substitute Senate Bill 6193]

### STOP LOSS INSURANCE

Effective Date: 6/11/92

AN ACT Relating to stop loss insurance; amending RCW 48.11.030 and 48.21.010; adding a new section to chapter 48.21 RCW; and creating a new section.

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

**Sec. 1.** RCW 48 .1.030 and 1947 c 79 s .11.03 are each amended to read as follows:

"Disability insurance" is insurance against bodily injury, disablement or death by accident, against disablement resulting from sickness, and every insurance appertaining thereto including stop loss insurance. "Stop loss insurance" is insurance against the risk of economic loss assumed under a self-funded employee disability benefit plan.

**Sec. 2.** RCW 48.21.010 and 1949 c 190 s 27 are each amended to read as follows:

Group disability insurance is that form of disability insurance, including stop loss insurance as defined in RCW 48.11.030, provided by a master policy issued to an employer, to a trustee appointed by an employer or employers, or to an association of employers formed for purposes other than obtaining such insurance, covering, with or without their dependents, the employees, or specified

categories of the employees, of such employers or their subsidiaries or affiliates, or issued to a labor union, or to an association of employees formed for purposes other than obtaining such insurance, covering, with or without their dependents, the members, or specified categories of the members, of the labor union or association, or issued pursuant to RCW 48.21.030. Group disability insurance shall also include such other groups as qualify for group life insurance under the provisions of this code.

**NEW SECTION. Sec. 3.** A new section is added to chapter 48.21 RCW to read as follows:

Group stop loss insurance is exempt from all sections of this chapter, chapter 48.32A RCW, and chapter 48.41 RCW except for RCW 48.21.010 and this section. For purpose of this exemption, group stop loss is further defined as follows:

(1) The policy must be issued to and insure the employer, the trustee or other sponsor of the plan, or the plan itself, but not the employees, members, or participants;

(2) Payment by the insurer must be made to the employer, the trustee, or other sponsor of the plan or the plan itself, but not to the employees, members, participants, or health care providers;

(3) The policy must contain a provision that establishes an aggregate attaching point or retention that is at the minimum one hundred twenty percent of the expected claims; and

(4) The policy may provide for an individual attaching point or retention that is not less than five percent of the expected claims or one hundred thousand dollars, whichever is less.

**NEW SECTION. Sec. 4.** This act applies to policies issued or renewed on or after July 1, 1992.

Passed the Senate February 18, 1992.

Passed the House March 4, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

## CHAPTER 227

[Engrossed Senate Bill 6401]

## OPEN SPACE CORRIDORS—USE AND MANAGEMENT OF LAND WITHIN CORRIDORS

Effective Date: 6/11/92

AN ACT Relating to corridor designations; and amending RCW 36.70A.160.

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

**Sec. 1.** RCW 36.70A.160 and 1990 1st ex.s. c 17 s 16 are each amended to read as follows:

Each county and city that is required or chooses to prepare a comprehensive land use plan under RCW 36.70A.040 shall identify open space corridors within and between urban growth areas. They shall include lands useful for recreation, wildlife habitat, trails, and connection of critical areas as defined in RCW 36.70A.030. Identification of a corridor under this section by a county or city shall not restrict the use or management of lands within the corridor for agricultural or forest purposes. Restrictions on the use or management of such lands for agricultural or forest purposes imposed after identification solely to maintain or enhance the value of such lands as a corridor may occur only if the county or city acquires sufficient interest to prevent development of the lands or to control the resource development of the lands. The requirement for acquisition of sufficient interest does not include those corridors regulated by the interstate commerce commission, under provisions of 16 U.S.C. Sec. 1247(d), 16 U.S.C. Sec. 1248, or 43 U.S.C. Sec. 912. Nothing in this section shall be interpreted to alter the authority of the state, or a county or city, to regulate land use activities.

The city or county may (~~seek to~~) acquire by donation or purchase the fee simple or lesser interests in these open space corridors using funds authorized by RCW 84.34.230 or other sources.

Passed the Senate March 8, 1992.

Passed the House March 5, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

## CHAPTER 228

[Substitute Senate Bill 6494]

## HANFORD RESERVATION LANDS—PROMOTION OF STATE LEASE OF—REVISIONS

Effective Date: 6/11/92

AN ACT Relating to state lease of Hanford reservation land; amending RCW 43.31.205; adding a new section to chapter 43.31 RCW; and creating a new section.

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

NEW SECTION. **Sec. 1.** The legislature finds that the ninety-nine-year lease of one thousand acres of land by the state from the federal government requires that the state use any rent moneys from subleasing the land for the

development of the leased land and nuclear-related industries in the Tri-Cities area. The legislature further finds that the new emphasis on waste cleanup at Hanford and the new technologies needed for environmental restoration warrant a renewed effort to promote development of the leased land and nuclear-related industries in the Tri-Cities area.

**Sec. 2.** RCW 43.31.205 and 1990 c 281 s 2 are each amended to read as follows:

In an effort to enhance the economy of the Tri-Cities area, the department of trade and economic development is directed to promote the existence of the lease between the state of Washington and the federal government executed September 10, 1964, covering one thousand acres of land lying within the Hanford reservation near Richland, Washington, and the opportunity of subleasing the land to entities for nuclear-related industry, in agreement with the terms of the lease. When promoting the existence of the lease, the department shall work in cooperation with any associate development organizations located in or near the Tri-Cities area.

**NEW SECTION.** **Sec. 3.** A new section is added to chapter 43.31 RCW to read as follows:

(1) The Hanford sublease rent account is hereby created in the state treasury. Moneys in the account may be spent only after appropriation and only for the following purposes:

(a) To promote the existence of the lease between the state of Washington and the federal government executed September 10, 1964, covering one thousand acres of land lying within the Hanford reservation near Richland, Washington;

(b) To promote development of the leased land and nuclear-related industry in the Tri-Cities area, in accordance with the terms of the lease; and

(c) To execute any new sublease agreements that meet the terms of the lease.

(2) Sources for this account shall include:

(a) Any rent payments from subleases of the site; and

(b) Other funding from federal, state, and local agencies.

(3) Nothing in this section shall affect any agreements or contracts related to sublease rental payments in effect as of the effective date of this act.

(4) This section expires on June 30, 1999.

Passed the Senate March 11, 1992.

Passed the House March 6, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

## CHAPTER 229

[Substitute House Bill 2784]

## DOMESTIC RELATIONS—TECHNICAL AMENDMENTS

Effective Date: 6/11/92

AN ACT Relating to technical and clarifying amendments to domestic relations provisions; and amending RCW 26.09.006, 26.09.170, 26.09.175, 26.10.015, 26.18.220, 26.19.035, 26.26.065, 26.26.160, and 26.09.060.

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

**Sec. 1.** RCW 26.09.006 and 1990 1st ex.s. c 2 s 26 are each amended to read as follows:

(1) Effective January 1, 1992, a party shall not file any pleading with the clerk of the court in an action commenced under this chapter unless on forms approved by the administrator for the courts.

(2) The parties shall comply with requirements for submission to the court of forms as provided in RCW 26.18.220.

**Sec. 2.** RCW 26.09.170 and 1991 sp.s. c 28 s 2 are each amended to read as follows:

(1) Except as otherwise provided in subsection (7) of RCW 26.09.070, the provisions of any decree respecting maintenance or support may be modified: (a) Only as to installments accruing subsequent to the ~~(motion)~~ petition for modification or motion for adjustment except motions to compel court-ordered adjustments, which shall be effective as of the first date specified in the decree for implementing the adjustment; and, (b) except as otherwise provided in subsections (4), (5), (8), and (9) of this section, only upon a showing of a substantial change of circumstances. The provisions as to property disposition may not be revoked or modified, unless the court finds the existence of conditions that justify the reopening of a judgment under the laws of this state.

(2) Unless otherwise agreed in writing or expressly provided in the decree the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.

(3) Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child are terminated by emancipation of the child or by the death of the parent obligated to support the child.

(4) An order of child support may be modified one year or more after it has been entered without showing a substantial change of circumstances:

(a) If the order in practice works a severe economic hardship on either party or the child;

(b) If a party requests an adjustment in an order for child support which was based on guidelines which determined the amount of support according to the child's age, and the child is no longer in the age category on which the current support amount was based;

(c) If a child is still in high school, upon a finding that there is a need to extend support beyond the eighteenth birthday to complete high school; or

(d) To add an automatic adjustment of support provision consistent with RCW 26.09.100.

(5) An order or decree entered prior to June 7, 1984, may be modified without showing a substantial change of circumstances if the requested modification is to:

- (a) Require health insurance coverage for a child named therein; or
- (b) Modify an existing order for health insurance coverage.

(6) An obligor's voluntary unemployment or voluntary underemployment, by itself, is not a substantial change of circumstances.

(7) The department of social and health services may file an action to modify an order of child support if public assistance money is being paid to or for the benefit of the child and the child support order is twenty-five percent or more below the appropriate child support amount set forth in the standard calculation as defined in RCW 26.19.011 and reasons for the deviation are not set forth in the findings of fact or order. The determination of twenty-five percent or more shall be based on the current income of the parties and the department shall not be required to show a substantial change of circumstances if the reasons for the deviations were not set forth in the findings of fact or order.

(8)(a) ~~((Except as provided in (b) and (c) of this subsection,))~~ All child support decrees may be adjusted once every twenty-four months based upon changes in the income of the parents without a showing of substantially changed circumstances. Either party may initiate the ((modification pursuant to procedures of RCW 26.09.175)) adjustment by filing a motion and child support worksheets.

~~(b) ((Parents whose decrees are entered before July 1, 1990, may petition the court for a modification after twelve months has expired from the entry of the decree or the most recent modification setting child support, whichever is later. However, if a party is granted relief under this provision, twenty four months must pass before another petition for modification may be filed pursuant to (a) of this subsection.~~

~~(e))~~ A party may petition for modification in cases of substantially changed circumstances~~((,))~~ under subsection (1) of this section~~((,))~~ at any time. However, if relief is granted under subsection (1) of this section, twenty-four months must pass before a ~~((petition))~~ motion for ~~((modification))~~ an adjustment under (a) of this subsection may be filed.

~~((d))~~ (c) If, pursuant to (a) of this subsection or subsection (9) of this section, the court adjusts or modifies a child support obligation by more than thirty percent and the change would cause significant hardship, the court may implement the change in two equal increments, one at the time of the entry of the order and the second six months from the entry of the order. Twenty-four months must pass following the second change before a ~~((petition))~~ motion for ~~((modification))~~ an adjustment under (a) of this subsection may be filed.

~~((e))~~ (d) A parent who is receiving transfer payments who receives a wage or salary increase may not bring a modification action pursuant to ~~((a))~~ subsection (1) of this ~~(subsection)~~ section alleging that increase constitutes a substantial change of circumstances ~~(under subsection (1) of this section)~~.

(9) An order of child support may be ~~(modified)~~ adjusted twenty-four months from the date of the entry of the decree or the last adjustment or modification, whichever is later, based upon changes in the economic table or standards in chapter 26.19 RCW.

**Sec. 3.** RCW 26.09.175 and 1991 c 367 s 6 are each amended to read as follows:

(1) A proceeding for the modification of an order of child support shall commence with the filing of a petition and worksheets. The petition shall be in ~~((substantially))~~ the form prescribed by the administrator for the courts. There shall be a fee of twenty dollars for the filing of a petition for modification of dissolution.

(2) The petitioner shall serve upon the other party the summons, a copy of the petition, and the worksheets in the form prescribed by the administrator for the courts. If the modification proceeding is the first action filed in this state, service shall be made by personal service. If the decree to be modified was entered in this state, service shall be by personal service or by any form of mail requiring a return receipt. If the support obligation has been assigned to the state pursuant to RCW 74.20.330 or the state has a subrogated interest under RCW 74.20A.030, the summons, petition, and worksheets shall also be served on the attorney general. Proof of service shall be filed with the court.

(3) The responding party's answer and worksheets shall be served and the answer filed within twenty days after service of the petition or sixty days if served out of state. The responding party's failure to file an answer within the time required shall result in entry of a default judgment for the petitioner.

(4) At any time after responsive pleadings are filed, either party may schedule the matter for hearing.

(5) Unless both parties stipulate to arbitration or the presiding judge authorizes oral testimony pursuant to subsection (6) of this section, a petition for modification of an order of child support shall be heard by the court on affidavits, the petition, answer, and worksheets only.

(6) A party seeking authority to present oral testimony on the petition to modify a support order shall file an appropriate motion not later than ten days after the time of notice of hearing. Affidavits and exhibits setting forth the reasons oral testimony is necessary to a just adjudication of the issues shall accompany the petition. The affidavits and exhibits must demonstrate the extraordinary features of the case. Factors which may be considered include, but are not limited to: (a) Substantial questions of credibility on a major issue; (b) insufficient or inconsistent discovery materials not correctable by further discovery; or (c) particularly complex circumstances requiring expert testimony.

~~((7) The administrator for the courts shall develop and prepare, in consultation with interested persons, model forms or notices for the use of the procedure provided by this section, including a notice advising of the right of a party to proceed with or without benefit of counsel.))~~

Sec. 4. RCW 26.10.015 and 1990 1st ex.s. c 2 s 27 are each amended to read as follows:

(1) Effective January 1, 1992, a party shall not file any pleading with the clerk of the court in an action commenced under this chapter unless on forms approved by the administrator for the courts.

(2) The parties shall comply with requirements for submission to the court of forms as provided in RCW 26.18.220.

Sec. 5. RCW 26.18.220 and 1990 1st ex.s. c 2 s 25 are each amended to read as follows:

(1) The administrator for the courts shall develop not later than July 1, 1991, standard court forms and format rules for mandatory use by litigants in all actions commenced under chapters 26.09, 26.10, and 26.26 RCW effective January 1, 1992. The administrator for the courts shall develop mandatory forms for financial affidavits for integration into the worksheets. The forms shall be developed and approved not later than September 1, 1992. The parties shall use the mandatory form for financial affidavits for actions commenced on or after September 1, 1992. The administrator for the courts has continuing responsibility to develop and revise mandatory forms and format rules as appropriate.

(2) A party may delete unnecessary portions of the forms according to the rules established by the administrator for the courts. A party may supplement the mandatory forms with additional material.

(3) A party's failure to use the mandatory forms or follow the format rules shall not be a reason to dismiss a case, refuse a filing, or strike a pleading. However, the court may require the party to submit a corrected pleading and may impose terms payable to the opposing party or payable to the court, or both.

(4) The administrator for the courts shall distribute a master copy of the forms to all county court clerks. The administrator for the courts and county clerks shall distribute the mandatory forms to the public upon request and may charge for the cost of production and distribution of the forms. Private vendors may distribute the mandatory forms. Distribution may be in printed or electronic form.

Sec. 6. RCW 26.19.035 and 1991 c 367 s 27 are each amended to read as follows:

(1) **Application of the child support schedule.** The child support schedule shall be applied:

(a) In each county of the state;

(b) In judicial and administrative proceedings under this title or Title 13 or 74 RCW;

(c) In all proceedings in which child support is determined or modified;

(d) In setting temporary and permanent support;

(e) In automatic modification provisions or decrees entered pursuant to RCW 26.09.100; and

(f) In addition to proceedings in which child support is determined for minors, to adult children who are dependent on their parents and for whom support is ordered pursuant to RCW 26.09.100.

The provisions of this chapter for determining child support and reasons for deviation from the standard calculation shall be applied in the same manner by the court, presiding officers, and reviewing officers.

(2) **Written findings of fact supported by the evidence.** An order for child support shall be supported by written findings of fact upon which the support determination is based and shall include reasons for any deviation from the standard calculation and reasons for denial of a party's request for deviation from the standard calculation. The court shall enter written findings of fact in all cases whether or not the court: (a) Sets the support at the presumptive amount, for combined monthly net incomes below five thousand dollars; (b) sets the support at an advisory amount, for combined monthly net incomes between five thousand and seven thousand dollars; or (c) deviates from the presumptive or advisory amounts.

(3) **Completion of worksheets.** Worksheets in the form developed by the office of the administrator for the courts shall be completed under penalty of perjury and filed in every proceeding in which child support is determined. The court shall not accept incomplete worksheets or worksheets that vary from the worksheets developed by the office of the administrator for the courts.

(4) **Court review of the worksheets and order.** The court shall review the worksheets and the order setting support for the adequacy of the reasons set forth for any deviation or denial of any request for deviation and for the adequacy of the amount of support ordered. Each order shall state the amount of child support calculated using the standard calculation and the amount of child support actually ordered. Worksheets shall be attached to the decree or order or if filed separately shall be initialed or signed by the judge and filed with the order.

**Sec. 7.** RCW 26.26.065 and 1990 1st ex.s. c 2 s 28 are each amended to read as follows:

(1) Effective January 1, 1992, a party shall not file any pleading with the clerk of the court in an action commenced under this chapter unless on forms approved by the administrator for the courts.

(2) The parties shall comply with requirements for submission to the court of forms as provided in RCW 26.18.220.

**Sec. 8.** RCW 26.26.160 and 1989 c 360 s 36 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section the court has continuing jurisdiction to prospectively modify a judgment and order for future education and future support, and with respect to matters listed in RCW

26.26.130 (3) and (4), and RCW 26.26.150(2) upon showing a substantial change of circumstances. The procedures set forth in RCW 26.09.175 shall be used in modification proceedings under this section.

(2) A judgment or order entered under this chapter may be modified without a showing of substantial change of circumstances upon the same grounds as RCW 26.09.170 permits support orders to be modified without a showing of a substantial change of circumstance.

(3) The court may modify a parenting plan or residential provisions adopted pursuant to RCW 26.26.130(6) in accordance with the provisions of chapter 26.09 RCW.

Sec. 9. RCW 26.09.060 and 1989 c 360 s 37 are each amended to read as follows:

(1) In a proceeding for:

(a) Dissolution of marriage, legal separation, or a declaration of invalidity; or

(b) Disposition of property or liabilities, maintenance, or support following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse; either party may move for temporary maintenance or for temporary support of children entitled to support. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.

(2) As a part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit, either party may request the court to issue a temporary restraining order or preliminary injunction, providing relief proper in the circumstances, and restraining or enjoining any person from:

(a) Transferring, removing, encumbering, concealing, or in any way disposing of any property except in the usual course of business or for the necessities of life, and, if so restrained or enjoined, requiring him to notify the moving party of any proposed extraordinary expenditures made after the order is issued;

(b) Molesting or disturbing the peace of the other party or of any child and, upon a showing by clear and convincing evidence that the party so restrained or enjoined has used or displayed or threatened to use a deadly weapon as defined in RCW 9A.04.110 in an act of violence or has previously committed acts of domestic violence and is likely to use or display or threaten to use a deadly weapon in an act of domestic violence, requiring the party to surrender any deadly weapon in his immediate possession or control or subject to his immediate possession or control to the sheriff of the county having jurisdiction of the proceeding or to the restrained or enjoined party's counsel or to any person designated by the court. The court may order temporary surrender of deadly weapons without notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for response has elapsed;

(c) Entering the family home or the home of the other party upon a showing of the necessity therefor;

(d) Removing a child from the jurisdiction of the court.

(3) The court may issue a temporary restraining order without requiring notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for responding has elapsed.

(4) The court may issue a temporary restraining order or preliminary injunction and an order for temporary maintenance or support in such amounts and on such terms as are just and proper in the circumstances. The court may in its discretion waive the filing of the bond or the posting of security.

(5) Restraining orders issued under this section restraining the person from molesting or disturbing another party or from entering a party's home shall bear the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.09 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

(6) The court may order that any temporary restraining order granted under this section be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall forthwith enter the order for one year into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

(7) A temporary order, temporary restraining order, or preliminary injunction:

(a) Does not prejudice the rights of a party or any child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified;

(c) Terminates when the final decree is entered, except as provided under subsection (8) of this section, or when the petition for dissolution, legal separation, or declaration of invalidity is dismissed;

(d) May be entered in a proceeding for the modification of an existing decree.

(8) Delinquent support payments accrued under an order for temporary support remain collectible and are not extinguished when a final decree is entered unless the decree contains specific language to the contrary. A support debt under a temporary order owed to the state for public assistance expenditures shall not be extinguished by the final decree if:

(a) The obligor was given notice of the state's interest under chapter 74.20A RCW; or

(b) The temporary order directs the obligor to make support payments to the office of support enforcement or the Washington state support registry.

Passed the House March 11, 1992.

Passed the Senate March 3, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

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## CHAPTER 230

[Engrossed Senate Bill 6319]

### PLACEMENT OF MENTALLY DISORDERED PERSONS—REVISIONS

**Effective Date:** 6/11/92 - Except Sections 1 & 2 which take effect on 4/2/92; and Section 5 which takes effect on 7/1/95.

AN ACT Relating to the placement of people with disabilities; amending RCW 72.23.025; reenacting and amending RCW 71.24.035, 71.24.045, and 71.24.300; adding a new section to chapter 72.23 RCW; creating a new section; repealing RCW 72.06.010, 72.06.050, 72.06.060, and 72.06.070; providing an effective date; and declaring an emergency.

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

**Sec. 1.** RCW 72.23.025 and 1989 c 205 s 21 are each amended to read as follows:

(1) It is the intent of the legislature to improve the quality of service at state hospitals, eliminate overcrowding, and more specifically define the role of the state hospitals. The legislature intends that eastern and western state hospitals shall become clinical centers for handling the most complicated long-term care needs of patients with a primary diagnosis of mental disorder. Over the next six years, their involvement in providing short-term ((and)), acute care, and less complicated long-term care shall be diminished in accordance with the revised responsibilities for mental health care under chapter 71.24 RCW. To this end, the legislature intends that funds appropriated for mental health programs, including funds for regional support networks and the state hospitals be used for persons with primary diagnosis of mental disorder. The legislature finds that establishment of the eastern state hospital board, the western state hospital board, and institutes for the study and treatment of mental disorders at both eastern state hospital and western state hospital will be instrumental in implementing the legislative intent.

(2)(a) The eastern state hospital board and the western state hospital board are each established. Members of the boards shall be appointed by the governor with the consent of the senate. Each board shall include:

(i) The director of the institute for the study and treatment of mental disorders established at the hospital;

(ii) One family member of a current or recent hospital resident;

(iii) One consumer of services;

(iv) One community mental health service provider;

(v) Two citizens with no financial or professional interest in mental health services;

(vi) One representative of the regional support network in which the hospital is located;

(vii) One representative from the staff who is a physician;

(viii) One representative from the nursing staff;

(ix) One representative from the other professional staff;

(x) One representative from the nonprofessional staff; and

(xi) One representative of a minority community.

(b) At least one representative listed in (a) (viii), (ix), or (x) of this subsection shall be a union member.

(c) Members shall serve four-year terms. Members of the board shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 and shall receive compensation as provided in RCW 43.03.240.

(3) The boards established under this section shall:

(a) Monitor the operation and activities of the hospital;

(b) Review and advise on the hospital budget;

(c) Make recommendations to the governor and the legislature for improving the quality of service provided by the hospital;

(d) Monitor and review the activities of the hospital in implementing the intent of the legislature set forth in this section;

(e) Report periodically to the governor and the legislature on the implementation of the legislative intent set forth in this section; and

(f) Consult with the secretary regarding persons the secretary may select as the superintendent of the hospital whenever a vacancy occurs.

(4)(a) There is established at eastern state hospital and western state hospital, institutes for the study and treatment of mental disorders. The institutes shall be operated by joint operating agreements between state colleges and universities and the department of social and health services. The institutes are intended to conduct training, research, and clinical program development activities that will directly benefit mentally ill persons receiving treatment in Washington state by performing the following activities:

(i) Promote recruitment and retention of highly qualified professionals at the state hospitals and community mental health programs;

(ii) Improve clinical care by exploring new, innovative, and scientifically based treatment models for persons presenting particularly difficult and complicated clinical syndromes;

(iii) Provide expanded training opportunities for existing staff at the state hospitals and community mental health programs;

(iv) Promote bilateral understanding of treatment orientation, possibilities, and challenges between state hospital professionals and community mental health professionals.

(b) To accomplish these purposes the institutes may, within funds appropriated for this purpose:

(i) Enter joint operating agreements with state universities or other institutions of higher education to accomplish the placement and training of students and faculty in psychiatry, psychology, social work, occupational therapy, nursing, and other relevant professions at the state hospitals and community mental health programs;

(ii) Design and implement clinical research projects to improve the quality and effectiveness of state hospital services and operations;

(iii) Enter into agreements with community mental health service providers to accomplish the exchange of professional staff between the state hospitals and community mental health service providers;

(iv) Establish a student loan forgiveness and conditional scholarship program to retain qualified professionals at the state hospitals and community mental health providers when the ~~((superintendent))~~ secretary has determined a shortage of such professionals exists.

(c) Notwithstanding any other provisions of law to the contrary, the institutes may enter into agreements with the department or the state hospitals which may involve changes in staffing necessary to implement improved patient care programs contemplated by this section.

(d) The institutes are authorized to seek and accept public or private gifts, grants, contracts, or donations to accomplish their purposes under this section.

~~((5) The department shall review the diagnoses and treatment history of hospital patients and create a plan to locate inappropriately placed persons into medicaid reimbursable nursing homes or other nonhospital settings. The plan shall be submitted to the legislature by June 30, 1990.))~~

**NEW SECTION.** Sec. 2. A new section is added to chapter 72.23 RCW to read as follows:

The secretary shall develop a system of more integrated service delivery, including incentives to discourage the inappropriate placement of persons with developmental disabilities, head injury, and substance abuse, at state mental hospitals and encourage their care in community settings. By December 1, 1992, the department shall submit an implementation strategy, including budget proposals, to the appropriate committees of the legislature for this system.

Under the system, state, local, or community agencies may be given financial or other incentives to develop appropriate crisis intervention and community care arrangements.

The secretary may establish specialized care programs for persons described in this section on the grounds of the state hospitals. Such programs may operate according to professional standards that do not conform to existing federal or private hospital accreditation standards.

**NEW SECTION.** Sec. 3. It is the intent of this act to:

(1) Focus, restate, and emphasize the legislature's commitment to the mental health reform embodied in chapter 111, Laws of 1989 (SB 5400);

(2) Eliminate, or schedule for repeal, statutes that are no longer relevant to the regulation of the state's mental health program; and

(3) Reaffirm the state's commitment to provide incentives that reduce reliance on inappropriate state hospital or other inpatient care.

**\*Sec. 4. RCW 71.24.035 and 1991 c 306 s 3, 1991 c 262 s 1, and 1991 c 29 s 1 are each reenacted and amended to read as follows:**

**(1) The department is designated as the state mental health authority.**

**(2) The secretary may provide for public, client, and licensed service provider participation in developing the state mental health program.**

**(3) The secretary shall provide for participation in developing the state mental health program for children and other underserved populations, by including representatives on any committee established to provide oversight to the state mental health program.**

**(4) The secretary shall be designated as the county authority if a county fails to meet state minimum standards or refuses to exercise responsibilities under RCW 71.24.045.**

**(5) The secretary shall:**

~~**(a) ((Develop a biennial state mental health program that incorporates county biennial needs assessments and county mental health service plans and state services for mentally ill adults and children. The secretary may also develop a six year state mental health plan;**~~

**(b)) Assure that any county community mental health program provides access to treatment for the county's residents in the following order of priority: (i) The acutely mentally ill; (ii) chronically mentally ill adults and severely emotionally disturbed children; and (iii) the seriously disturbed. Such programs shall provide:**

**(A) Outpatient services;**

**(B) Emergency care services for twenty-four hours per day;**

**(C) Day treatment for mentally ill persons which includes training in basic living and social skills, supported work, vocational rehabilitation, and day activities. Such services may include therapeutic treatment. In the case of a child, day treatment includes age-appropriate basic living and social skills, educational and prevocational services, day activities, and therapeutic treatment;**

**(D) Screening for patients being considered for admission to state mental health facilities to determine the appropriateness of admission;**

**(E) Employment services, which may include supported employment, transitional work, placement in competitive employment, and other work-related services, that result in mentally ill persons becoming engaged in meaningful and gainful full or part-time work. Other sources of funding such as the**

division of vocational rehabilitation may be utilized by the secretary to maximize federal funding and provide for integration of services;

(F) Consultation and education services; and

(G) Community support services;

((~~(F)~~)) (b) Develop and promulgate rules establishing state minimum standards for the delivery of mental health services including, but not limited to:

(i) Licensed service providers;

(ii) Regional support networks; and

(iii) Residential and inpatient services, evaluation and treatment services and facilities under chapter 71.05 RCW, resource management services, and community support services;

((~~(F)~~)) (c) Assure that the special needs of minorities, the elderly, disabled, children, and low-income persons are met within the priorities established in this section;

((~~(F)~~)) (d) Establish a standard contract or contracts, consistent with state minimum standards, which shall be used by the counties;

((~~(F)~~)) (e) Establish, to the extent possible, a standardized auditing procedure which minimizes paperwork requirements of county authorities and licensed service providers;

((~~(F)~~)) (f) Develop and maintain an information system to be used by the state, counties, and regional support networks when they are established which shall include a tracking method which allows the department and regional support networks to identify mental health clients' participation in any mental health service or public program on an immediate basis. The information system shall not include individual patient's case history files. Confidentiality of client information and records shall be maintained as provided in this chapter and in RCW 71.05.390, 71.05.400, 71.05.410, 71.05.420, 71.05.430, and 71.05.440. The state-operated system shall be fully operational no later than January 1, 1993~~((+ PROVIDED, HOWEVER, That when a regional support network is established, the department shall have an operational interim tracking system for that network that will be adequate for the regional support network to perform its required duties under this chapter))~~ and a regional support network system shall be fully operational by June 30, 1993;

((~~(F)~~)) (g) License service providers who meet state minimum standards;

((~~(F)~~)) (h) Certify regional support networks that meet state minimum standards;

((~~(F)~~)) (i) Periodically inspect certified regional support networks and licensed service providers at reasonable times and in a reasonable manner; and

((~~(F)~~)) (j) Fix fees to be paid by evaluation and treatment centers to the secretary for the required inspections;

~~((4))~~ (k) Monitor and audit counties, regional support networks, and licensed service providers as needed to assure compliance with contractual agreements authorized by this chapter;

~~((m) Prior to September 1, 1989,)~~ (l) Adopt such rules as are necessary to implement the department's responsibilities under this chapter pursuant to chapter 34.05 RCW ~~((+ PROVIDED, That such rules shall be submitted to the appropriate committees of the legislature for review and comment prior to adoption, and~~

~~(n) Beginning July 1, 1989, and continuing through July 1, 1993,);~~

(m) Track by region and county, diagnosis, and to the extent information is available, eligibility for state funded nonmental health services, the use and cost of state hospital and local evaluation and treatment facilities for seventy-two hour detention, fourteen, ninety, and one hundred eighty day commitments pursuant to chapter 71.05 RCW, voluntary care in state hospitals, and voluntary community inpatient care covered by the medical assistance program. Service use and cost reports shall be provided to regions and appropriate operating divisions of the department in a timely fashion at six-month intervals; and

(n) Administer a fund that may be appropriated by the legislature from state hospital and regional support network funds to enhance contracts with regional support networks that agree to provide periods of stable community living according to RCW 71.24.300(5).

(6) The secretary shall use available resources appropriated specifically for community mental health programs only for ~~((programs under RCW 71.24.045. After July 1, 1995, or when regional support networks are established, available resources may be used only for))~~ regional support networks.

(7) Each certified regional support network and licensed service provider shall file with the secretary, on request, such data, statistics, schedules, and information as the secretary reasonably requires. A certified regional support network or licensed service provider which, without good cause, fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent reports thereof, may have its certification or license revoked or suspended.

(8) The secretary may suspend, revoke, limit, or restrict a certification or license, or refuse to grant a certification or license for failure to conform to the law, applicable rules and regulations, or applicable standards, or failure to meet the minimum standards established pursuant to this section.

(9) The superior court may restrain any regional support network or service provider from operating without certification or a license or any other violation of this section. The court may also review, pursuant to procedures contained in chapter 34.05 RCW, any denial, suspension, limitation, restriction, or revocation of certification or license, and grant other relief required to enforce the provisions of this chapter.

(10) Upon petition by the secretary, and after hearing held upon reasonable notice to the facility, the superior court may issue a warrant to an officer or employee of the secretary authorizing him or her to enter at reasonable times, and examine the records, books, and accounts of any regional support network or service provider refusing to consent to inspection or examination by the authority.

(11) The secretary shall adopt such rules as may be necessary to effectuate the intent and purposes of this chapter, which shall include but not be limited to certification and licensing and other action relevant to certifying regional support networks and licensing service providers.

(12) Notwithstanding the existence or pursuit of any other remedy, the secretary may, in the manner provided by law, upon the advice of the attorney general who shall represent the secretary in the proceedings, maintain an action in the name of the state for an injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, or operation of a regional support network or service provider without certification or a license under this chapter.

(13) The standards for certification of evaluation and treatment facilities shall include standards relating to maintenance of good physical and mental health and other services to be afforded persons pursuant to this chapter and chapter 71.05 RCW, and shall otherwise assure the effectuation of the purposes and intent of this chapter and chapter 71.05 RCW.

(14)((a)) The department, in consultation with affected parties, shall establish a distribution formula that reflects county needs assessments based on the number of persons who are acutely mentally ill, chronically mentally ill, severely emotionally disturbed, and seriously disturbed as defined in chapter 71.24 RCW. The formula shall take into consideration the impact on counties of demographic factors in counties which result in concentrations of priority populations as defined in subsection (15) of this section. These factors shall include the population concentrations resulting from commitments under the involuntary treatment act, chapter 71.05 RCW, to state psychiatric hospitals, as well as concentration in urban areas, at border crossings at state boundaries, and other significant demographic and workload factors. Beginning with the contracting period July 1, 1993, the funding formula for participating regional support networks may include a factor related to use of state hospitals.

~~((b) The department shall submit a proposed distribution formula in accordance with this section to the ways and means and health and long-term care committees of the senate and to the ways and means and human services committees of the house of representatives by October 1, 1991. The formula shall also include a projection of the funding allocations that will result for each county, which specifies allocations according to priority populations, including the allocation for services to children and other underserved populations.))~~

**(15) To (~~(supersede duties assigned under subsection (5) (a) and (b) of this section, and to~~) assure a county-based, integrated system of care for acutely mentally ill adults and children, chronically mentally ill adults, severely emotionally disturbed children, and seriously disturbed adults and children who are determined by regional support networks at their sole discretion to be at risk of becoming acutely or chronically mentally ill, or severely emotionally disturbed, the secretary shall encourage the development of regional support networks as follows:**

**(~~By December 1, 1989,~~) The secretary shall recognize regional support networks requested by counties or groups of counties.**

**(~~All counties wishing to be recognized as a regional support network on December 1, 1989, shall submit their intentions regarding participation in the regional support networks by October 30, 1989, along with preliminary plans.~~) Counties wishing to be recognized as a regional support network by January 1 of any year (~~thereafter~~) shall submit their intentions by October 30 of the previous year along with preliminary plans. The secretary shall assume all duties assigned to the nonparticipating counties under chapters 71.05 and 71.24 RCW on July 1, 1995, or sooner if requested by the county. Such responsibilities shall include those which would have been assigned to the nonparticipating counties under regional support networks.**

**The implementation of regional support networks, or the secretary's assumption of all responsibilities under chapters 71.05 and 71.24 RCW, shall be included in all state and federal plans, contracts, or agreements affecting the state mental health program including at least those required by this chapter, the medicaid program, and P.L. 99-660. Nothing in these plans, contracts, or agreements shall be inconsistent with the intent and requirements of this chapter.**

**(16) (~~By January 1, 1992,~~) The secretary shall provide available resources to regional support networks to operate freestanding evaluation and treatment facilities or for regional support networks to contract with local hospitals to assure access for regional support network patients. Any savings achieved through reduction in the use of state or local hospital bed days, or free standing evaluation and treatment facility bed days, shall be retained by the regional support network, and may not be diverted to other state programs or purposes.**

**(17) The secretary shall:**

**(a) Disburse the first funds for the regional support networks (~~that are ready to begin implementation by January 1, 1990, or~~) within sixty days of approval of the biennial contract. The department must either approve or reject the biennial contract within sixty days of receipt.**

**(b) Enter into biennial contracts with regional support networks to (~~begin implementation between January 1, 1990, and March 1, 1990, and~~) complete implementation by June 1995. The contracts shall be consistent with available**

resources. No contract shall be approved that does not include progress toward meeting the goals of this chapter by taking responsibility for: (i) Short-term commitments; (ii) residential care; ~~((and))~~ (iii) ~~((emergency))~~ crisis response systems; and (iv) the return to the community of long-term state hospital patients who no longer need state hospital level care.

(c) By July 1, 1993, allocate one hundred percent of available resources to regional support networks created by January 1, 1990, in a single grant. Regional support networks created by January 1, 1991, shall receive a single block grant by July 1, 1993; regional support networks created by January 1, 1992, shall receive a single block grant by July 1, 1994; and regional support networks created by January 1, 1993, shall receive a single block grant by July 1, 1995. The grants shall include funds currently provided for all residential services, all services pursuant to chapter 71.05 RCW, and all community support services and shall be distributed in accordance with a formula submitted to the legislature by January 1, 1993, in accordance with subsection (14) of this section.

~~(d) ((By January 1, 1990, allocate available resources to regional support networks for community support services, resource management services, and residential services excluding evaluation and treatment facilities provided pursuant to chapter 71.05 RCW in a single grant using the distribution formula established in subsection (14) of this section.~~

~~(e) By March 1, 1990, or))~~ By August 1, 1992, report to the senate committees on health and long-term care and ways and means and the house committees on human services and appropriations options and recommendations for using allowable medicaid payment systems and other methods to support regionally managed mental health care.

(e) Within sixty days of approval of the contract continuing through July 1, 1993, provide grants as specifically appropriated by the legislature to regional support networks for evaluation and treatment facilities for persons detained or committed for periods up to seventeen days according to chapter 71.05 RCW. For regional support networks created by January 1, 1993, provide grants as specifically appropriated by the legislature to regional support networks for evaluation and treatment facilities for persons detained or committed for periods up to seventeen days according to chapter 71.05 RCW through July 1, 1995.

(f) Notify regional support networks of their allocation of available resources at least sixty days prior to the start of a new biennial contract period.

(g) Deny funding allocations to regional support networks based solely upon formal findings of noncompliance with the terms of the regional support network's contract with the department. Written notice and at least thirty days for corrective action must precede any such action. In such cases, regional support networks shall have full rights to appeal under chapter 34.05 RCW.

*(h) Identify in its departmental biennial operating and capital budget requests the funds requested by regional support networks to implement their responsibilities under this chapter.*

*(i) Contract to provide or, if requested, make grants to counties to provide technical assistance to county authorities or groups of county authorities to develop regional support networks.*

*(18) The department of social and health services, in cooperation with the state congressional delegation, shall actively seek waivers of federal requirements and such modifications of federal regulations as are necessary to allow (a) federal medicaid reimbursement for services provided by free-standing evaluation and treatment facilities certified under chapter 71.05 RCW and (b) regional support networks to retain savings that accrue from their ability to avoid the use of medicaid or state general fund reimbursed local hospital or state hospital bed days. The department shall ~~((periodically))~~ report its efforts to the health and long-term care ~~((and corrections))~~ committee of the senate and the human services committee of the house of representatives by January 1993.*

*~~(19) ((The secretary shall establish a task force to examine the recruitment, training, and compensation of qualified mental health professionals in the community, which shall include the advantages and disadvantages of establishing a training academy, loan forgiveness program, or educational stipends offered in exchange for commitments of employment in mental health. The task force shall report back to the appropriate committees of the legislature by January 1, 1990))~~ The department shall cooperate with other departments of state government and its political subdivisions in the following manner:*

*(a) By disseminating educational information relating to the prevention, diagnosis, early intervention, and treatment of mental illness.*

*(b) Upon request therefor, by advising public officers, organizations and agencies interested in the mental health of the people of the state.*

*(20) The department and the several state hospitals for the mentally ill shall cooperate with local mental health programs by providing necessary information, recommendations relating to proper after care for patients paroled or discharged from such institutions and shall also supply the services of psychiatrists, psychologists and other persons specialized in mental illness as they are available.*

\*Sec. 4 was vetoed, see message at end of chapter.

Sec. 5. RCW 71.24.045 and 1991 c 363 s 147 and 1991 c 306 s 5 are each reenacted and amended to read as follows:

The county authority shall:

*(1) ~~((Submit biennial needs assessments beginning January 1, 1983, and mental health service plans which incorporate all services provided for by the county authority consistent with state minimum standards and which provide~~*

~~access to treatment for the county's residents including children and other underserved populations who are acutely mentally ill, chronically mentally ill, severely emotionally disturbed, or seriously disturbed. The county program shall provide:~~

- ~~(a) Outpatient services;~~
- ~~(b) Emergency care services for twenty-four hours per day;~~
- ~~(c) Day treatment for mentally ill persons which includes training in basic living and social skills, supported work, vocational rehabilitation, and day activities. Such services may include therapeutic treatment. In the case of a child, day treatment includes age appropriate basic living and social skills, educational and prevocational services, day activities, and therapeutic treatment;~~
- ~~(d) Screening for patients being considered for admission to state mental health facilities to determine appropriateness of admission;~~
- ~~(e) Employment services, which may include supported employment, transitional work, placement in competitive employment, and other work-related services, that result in mentally ill persons becoming engaged in meaningful and gainful full or part-time work;~~
- ~~(f) Consultation and education services;~~
- ~~(g) Residential and inpatient services, if the county chooses to provide such optional services; and~~
- ~~(h) Community support services.~~

~~The county shall develop the biennial needs assessment based on clients to be served, services to be provided, and the cost of those services, and may include input from the public, clients, and licensed service providers. Each county authority may appoint a county mental health advisory board which shall review and provide comments on plans and policies developed by the county authority under this chapter. The composition of the board shall be broadly representative of the demographic character of the county and the mentally ill persons served therein. Length of terms of board members shall be determined by the county authority;~~

~~(2)) Contract as needed with licensed service providers. The county authority may, in the absence of a licensed service provider entity, become a licensed service provider entity pursuant to minimum standards required for licensing by the department for the purpose of providing services not available from licensed service providers;~~

~~((3)) (2) Operate as a licensed service provider if it deems that doing so is more efficient and cost effective than contracting for services. When doing so, the county authority shall comply with rules promulgated by the secretary that shall provide measurements to determine when a county provided service is more efficient and cost effective;~~

~~((4)) (3) Monitor and perform biennial fiscal audits of licensed service providers who have contracted with the county to provide services required by this chapter. The monitoring and audits shall be performed by means of a formal~~

process which insures that the licensed service providers and professionals designated in this subsection meet the terms of their contracts, including the minimum standards of service delivery as established by the department;

~~((5))~~ (4) Assure that the special needs of minorities, the elderly, disabled, children, and low-income persons are met within the priorities established in this chapter;

~~((6))~~ (5) Maintain patient tracking information in a central location as required for resource management services;

~~((7))~~ (6) Use not more than two percent of state-appropriated community mental health funds, which shall not include federal funds, to administer community mental health programs under RCW 71.24.155: PROVIDED, That county authorities serving a county or combination of counties whose population is one hundred twenty-five thousand or more may be entitled to sufficient state-appropriated community mental health funds to employ up to one full-time employee or the equivalent thereof in addition to the two percent limit established in this subsection when such employee is providing staff services to a county mental health advisory board;

~~((8))~~ (7) Coordinate services for individuals who have received services through the community mental health system and who become patients at a state mental hospital.

**Sec. 6.** RCW 71.24.300 and 1991 c 295 s 3, 1991 c 262 s 2, and 1991 c 29 s 3 are each reenacted and amended to read as follows:

A county authority or a group of county authorities whose combined population is no less than forty thousand may enter into a joint operating agreement to form a regional support network. The roles and responsibilities of county authorities shall be determined by the terms of that agreement and the provisions of law. The state mental health authority may not determine the roles and responsibilities of county authorities as to each other under regional support networks by rule, except to assure that all duties required of regional support networks are assigned and that a single authority has final responsibility for all available resources and performance under the regional support network's contract with the secretary.

(1) Regional support networks shall within three months of recognition submit an overall six-year operating and capital plan, timeline, and budget and submit progress reports and an updated two-year plan biennially thereafter, to assume within available resources all of the following duties by July 1, 1995, instead of those presently assigned to counties under RCW 71.24.045(1):

(a) Administer and provide for the availability of all resource management services, residential services, and community support services.

(b) Administer and provide for the availability of all investigation, transportation, court-related, and other services provided by the state or counties pursuant to chapter 71.05 RCW.

(c) By July 1, 1993, provide within the boundaries of each regional support network evaluation and treatment services for at least eighty-five percent of persons detained or committed for periods up to seventeen days according to chapter 71.05 RCW. Regional support networks with populations of less than one hundred fifty thousand may contract to purchase evaluation and treatment services from other networks. Insofar as the original intent of serving persons in the community is maintained, the secretary is authorized to approve exceptions on a case-by-case basis to the requirement to provide evaluation and treatment services within the boundaries of each regional support network. Such exceptions are limited to contracts with neighboring or contiguous regions. For regional support networks that are created after June 30, 1991, the requirements of (c) of this subsection must be met by July 1, 1995.

(d) By July 1, 1993, administer a portion of funds appropriated by the legislature to house mentally ill persons in state institutions from counties within the boundaries of any regional support network, with the exception of mentally ill offenders, and provide for the care of all persons needing evaluation and treatment services for periods up to seventeen days according to chapter 71.05 RCW in appropriate residential services, which may include state institutions. The regional support networks shall reimburse the state for use of state institutions at a rate equal to that assumed by the legislature when appropriating funds for such care at state institutions during the biennium when reimbursement occurs. The duty of a state hospital to accept persons for evaluation and treatment under chapter 71.05 RCW is limited by the responsibilities assigned to regional support networks under this section. For regional support networks that are created after June 30, 1991, the requirements of (d) of this subsection must be met by July 1, 1995.

(e) Administer and provide for the availability of all other mental health services, which shall include patient counseling, day treatment, consultation, education services, employment services as defined in RCW 71.24.035, and mental health services to children as provided in this chapter.

(f) Establish standards and procedures for reviewing individual service plans and determining when that person may be discharged from resource management services.

(2) Regional support networks shall assume all duties assigned to county authorities by this chapter and chapter 71.05 RCW.

(3) A regional support network may request that any state-owned land, building, facility, or other capital asset which was ever purchased, deeded, given, or placed in trust for the care of the mentally ill and which is within the boundaries of a regional support network be made available to support the operations of the regional support network. State agencies managing such capital assets shall give first priority to requests for their use pursuant to this chapter.

(4) Each regional support network shall appoint a mental health advisory board which shall review and provide comments on plans and policies developed

under this chapter. The composition of the board shall be broadly representative of the demographic character of the region and the mentally ill persons served therein. Length of terms of board members shall be determined by the regional support network.

(5) Regional support networks shall assume all duties specified in their plans and joint operating agreements through biennial contractual agreements with the secretary. Such contracts may include agreements to provide periods of stable community living and work or other day activities for specific chronically mentally ill persons who have completed commitments at state hospitals on ninety-day or one hundred eighty-day civil commitments or who have been residents at state hospitals for no less than one hundred eighty days within the previous year. Periods of stable community living may involve acute care in local evaluation and treatment facilities but may not involve use of state hospitals.

(6) Counties or groups of counties participating in a regional support network are not subject to RCW 71.24.045(7). The office of financial management shall consider information gathered in studies required in this chapter and information about the experience of other states to propose a mental health services administrative cost lid to the ((1994)) 1993 legislature which shall include administrative costs of licensed service providers, the state psychiatric hospitals and the department.

~~(7) ((The first regional support network contract may include a pilot project to: Establish standards and procedures for (a) making referrals for comprehensive medical examinations and treatment programs for those whose mental illness is caused or exacerbated by organic disease, and (b) training staff in recognizing the relationship between mental illness and organic disease.~~

((8))) By November 1, 1991, and as part of each biennial plan thereafter, each regional support network shall establish and submit to the state, procedures and agreements to assure access to sufficient additional local evaluation and treatment facilities to meet the requirements of this chapter while reducing short-term admissions to state hospitals. These shall be commitments to construct and operate, or contract for the operation of, freestanding evaluation and treatment facilities or agreements with local evaluation and treatment facilities which shall include (a) required admission and treatment for short-term inpatient care for any person enrolled in community support or residential services, (b) discharge planning procedures, (c) limitations on admissions or transfers to state hospitals, (d) adequate psychiatric supervision, (e) prospective payment methods, and (f) contractual assurances regarding referrals to local evaluation and treatment facilities from regional support networks.

~~((9)))~~ (8) Regional support networks may receive technical assistance from the housing trust fund and may identify and submit projects for housing and housing support services to the housing trust fund established under chapter 43.185 RCW. Projects identified or submitted under this subsection must be

fully integrated with the regional support network six-year operating and capital plan, timeline, and budget required by subsection (1) of this section.

**\*NEW SECTION. Sec. 7.** *The following acts or parts of acts are each repealed:*

- (1) RCW 72.06.010 and 1970 ex.s. c 18 s 59 & 1959 c 28 s 72.06.010;
- (2) RCW 72.06.050 and 1977 ex.s. c 80 s 46 & 1959 c 28 s 72.06.050;
- (3) RCW 72.06.060 and 1979 c 141 s 185, 1977 ex.s. c 80 s 47, & 1959 c 28 s 72.06.060; and
- (4) RCW 72.06.070 and 1959 c 28 s 72.06.070.

\*Sec. 7 was vetoed, see message at end of chapter.

**NEW SECTION. Sec. 8.** Section 5 of this act shall take effect July 1, 1995.

**NEW SECTION. Sec. 9.** Sections 1 and 2 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 12, 1992.

Passed the House March 11, 1992.

Approved by the Governor April 2, 1992, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 2, 1992.

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

"I am returning herewith, without my approval as to sections 4 and 7, Engrossed Senate Bill No. 6319 entitled:

"AN ACT Relating to the placement of people with disabilities."

Existing law mandates that regional support networks receive a portion of state mental hospital funds when they assume new responsibilities for short-term involuntary commitments. The Department of Social and Health Services and the regional support networks have been working for months to establish a formula to implement this funding change.

The language in section 4 creates a right to "any savings" achieved through reduction in use of hospital beds. This is not feasible to administer since it would require constant readjustment according to bed day use or some other factor. Neither regional support networks nor the state would retain any certainty as to their budgets. Unfair allocations between regions would be created. The effect would be a potential for ongoing litigation and tension between mental health regional support networks and the Department of Social and Health Services.

I am pleased with the remarkable achievements of the regional support networks and the Department of Social and Health Services in implementing mental health reform. The type of mandate contained in section 4 of this bill could interfere with that collaborative effort.

Section 7 of the bill would repeal statutes intended to be addressed in section 4.

For these reasons, I have vetoed sections 4 and 7 of Engrossed Senate Bill No. 6319.

With the exception of sections 4 and 7, Engrossed Senate Bill No. 6319 is approved."

## CHAPTER 231

[Engrossed Senate Bill 6285]

## HIGHER EDUCATION TUITION WAIVERS MADE PERMISSIVE

Effective Date: 7/1/92

AN ACT Relating to higher education tuition waivers; amending RCW 28B.10.016, 28B.10.265, 28B.15.067, 28B.15.070, 28B.15.202, 28B.15.225, 28B.15.380, 28B.15.402, 28B.15.502, 28B.15.520, 28B.15.522, 28B.15.527, 28B.15.535, 28B.15.540, 28B.15.543, 28B.15.545, 28B.15.556, 28B.15.558, 28B.15.615, 28B.15.620, 28B.15.628, 28B.15.725, 28B.15.730, 28B.15.740, 28B.15.750, 28B.15.756, 28B.50.259, 28B.70.050, 28B.80.580, and 82.33.020; reenacting and amending RCW 28B.15.014 and 28B.15.100; adding a new section to chapter 28B.15 RCW; and providing an effective date.

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

**Sec. 1.** RCW 28B.10.016 and 1991 c 238 s 113 are each amended to read as follows:

For the purposes of this title:

(1) "State universities" means the University of Washington and Washington State University.

(2) "Regional universities" means Western Washington University at Bellingham, Central Washington University at Ellensburg, and Eastern Washington University at Cheney.

(3) "State college" means The Evergreen State College in Thurston county.

(4) "Institutions of higher education" or "postsecondary institutions" means the state universities, the regional universities, The Evergreen State College, the community colleges, and the technical colleges.

(5) "Governing board" means the board of regents or the board of trustees of the institutions of higher education.

**Sec. 2.** RCW 28B.10.265 and 1985 c 390 s 1 are each amended to read as follows:

Subject to the limitations of section 33 of this act, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges may waive all or a portion of the tuition, operating, and services and activities fees for children of any person who was a Washington domiciliary and who within the past eleven years has been determined by the federal government to be a prisoner of war or missing in action in Southeast Asia, including Korea, or who shall become so hereafter((, shall be admitted to and attend any public institution of higher education within the state without the necessity of paying any tuition and service and activities fees for any and all courses offered at any time including summer term whether attending on a part time or full time basis: PROVIDED, That such child shall)), if the children meet such other educational qualifications as such institution of higher education shall deem reasonable and necessary under the circumstances. ((Affected institutions shall in their preparation of future budgets include therein costs resultant from such tuition loss for reimbursement thereof from appropriations of state funds.)) Applicants for free or reduced tuition shall provide institutional administrative personnel with documentation of their rights under this section.

Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act.

**Sec. 3.** RCW 28B.15.014 and 1989 c 306 s 3 and 1989 c 290 s 3 are each reenacted and amended to read as follows:

Subject to the limitations of section 33 of this act, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges may exempt the following nonresidents ((shall be exempted)) from paying all or a portion of the nonresident tuition ((and)) fees differential:

(1) Any person who resides in the state of Washington and who holds a graduate service appointment designated as such by a public institution of higher education or is employed for an academic department in support of the instructional or research programs involving not less than twenty hours per week during the term such person shall hold such appointment.

(2) Any faculty member, classified staff member or administratively exempt employee holding not less than a half time appointment at an institution who resides in the state of Washington, and the dependent children and spouse of such persons.

(3) Active-duty military personnel stationed in the state of Washington and the spouses and dependents of such military personnel.

(4) Any immigrant refugee and the spouse and dependent children of such refugee, if the refugee (a) is on parole status, or (b) has received an immigrant visa, or (c) has applied for United States citizenship.

(5) Domestic exchange students participating in the program created under RCW 28B.15.725.

(6) Any dependent of a member of the United States congress representing the state of Washington.

Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act.

**Sec. 4.** RCW 28B.15.067 and 1990 1st ex.s. c 9 s 413 are each amended to read as follows:

(1) Tuition fees shall be established and adjusted annually under the provisions of this chapter beginning with the 1987-88 academic year. Such fees shall be identical, subject to other provisions of this chapter, for students enrolled at either state university, for students enrolled at the regional universities and The Evergreen State College and for students enrolled at any community college. Tuition fees shall reflect the undergraduate and graduate educational costs of the state universities, the regional universities and the community colleges, respectively, in the amounts prescribed in this chapter. ~~((The change from the biennial tuition fee adjustment to an annual tuition fee adjustment shall not reduce the amount of revenue to the state general fund.))~~

(2) The tuition fees established under this ~~((section))~~ chapter shall not apply to high school students enrolling in community colleges under RCW 28A.600.-300 through 28A.600.395.

**Sec. 5.** RCW 28B.15.070 and 1989 c 245 s 3 are each amended to read as follows:

(1) The higher education coordinating board, in consultation with the house of representatives and senate committees responsible for higher education ~~((shall develop, in cooperation with the higher education coordinating board))~~, the respective fiscal committees of the house of representatives and senate, the office of financial management, and the state institutions of higher education, shall develop by December of every fourth year beginning in 1989, definitions, criteria, and procedures for determining the undergraduate and graduate educational costs for the state universities, regional universities, and community colleges upon which tuition fees will be based. ~~((In the event that no action is taken or disagreement exists between the committees as of that date, the recommendations of the board shall be deemed to be approved.))~~

(2) Every four years, the state institutions of higher education in cooperation with the higher education coordinating board shall perform an educational cost study pursuant to subsection (1) of this section. The study shall be conducted based on every fourth academic year beginning with 1989-90. Institutions shall complete the studies within one year of the end of the study year and report the results to the higher education coordinating board for consolidation, review, and distribution.

(3) In order to conduct the study required by subsection (2) of this section, the higher education coordinating board, in cooperation with the institutions of higher education, shall develop a methodology that requires the collection of comparable educational cost data, which utilizes a faculty activity analysis or similar instrument.

**Sec. 6.** RCW 28B.15.100 and 1985 c 390 s 18 and 1985 c 370 s 67 are each reenacted and amended to read as follows:

(1) ~~The ((board of regents or board of trustees at each of the state's regional and state))~~ governing boards of the state universities, the regional universities ~~((and at)),~~ The Evergreen State College, and the community colleges shall charge to and collect from each of the students registering at the particular institution for any quarter or semester such tuition fees and services and activities fees, and other fees as such board shall in its discretion determine~~((;)).~~ The total of all ~~((such))~~ fees~~((, the tuition fee, and services and activities fee, to))~~ shall be rounded~~((out))~~ to the nearest whole dollar amount: PROVIDED, That such tuition fees for other than the summer ~~((session quarters or semesters))~~ term shall be in the amounts for the respective institutions as otherwise set forth in this chapter~~((, as now or hereafter amended: PROVIDED FURTHER, That the fees charged by boards of trustees of community college districts shall be in the~~

~~amounts for the respective institutions as otherwise set forth in this chapter, as now or hereafter amended).~~

(2) Part time students shall be charged tuition and services and activities fees proportionate to full time student rates established for residents and nonresidents: PROVIDED, That students registered for fewer than two credit hours shall be charged tuition and services and activities fees at the rate established for two credit hours: PROVIDED FURTHER, That, subject to the limitations of section 33 of this act, residents of Idaho or Oregon who are enrolled in community college district number twenty for six or fewer credits during any quarter or semester may be ~~((allowed to enroll at resident tuition and fee rates))~~ exempted from payment of all or a portion of the nonresident tuition fees differential upon a declaration by the higher education coordinating board that it finds Washington residents from ~~((such))~~ the community college district are afforded substantially equivalent treatment by such other states.

(3) Full-time students registered for more than eighteen credit hours shall be charged an additional operating fee for each credit hour in excess of eighteen hours at the applicable established per credit hour tuition fee rate ~~((applicable to))~~ for part-time students ((in the respective institutional tuition and fee rate categories set forth in this chapter)): PROVIDED, That, subject to the limitations of section 33 of this act, the governing boards ((of regents)) of the ~~((University of Washington and Washington State University))~~ state universities and the community colleges may exempt all or a portion of the additional charge, for students who are registered exclusively in first professional programs in medicine, dental medicine, veterinary medicine ~~((and))~~, or law ~~((: PROVIDED FURTHER, That the state board for community college education may exempt students who are registered exclusively))~~, or who are registered exclusively in required courses in vocational preparatory programs ~~((from the additional charge))~~.

(4) Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act.

**Sec. 7.** RCW 28B.15.202 and 1985 c 390 s 19 are each amended to read as follows:

Tuition fees and maximum services and activities fees at the University of Washington and at Washington State University for other than the summer ((quarters or semesters)) term shall be as follows:

(1) For full time resident undergraduate students and all other full time resident students not in graduate study programs or enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, the total tuition fees shall be ~~((one-third))~~ thirty-three percent of the per student undergraduate educational costs at the state universities computed as provided in RCW 28B.15.067 and 28B.15.070: PROVIDED, That

the building fees for each academic year shall be one hundred and twenty dollars.

(2) For full time resident graduate and law students not enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, the total tuition fees shall be twenty-three percent of the per student graduate educational costs at the state universities computed as provided in RCW 28B.15.067 and 28B.15.070: PROVIDED, That the building fees for each academic year shall be one hundred and twenty dollars.

(3) For full time resident students enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, the total tuition fees shall be one hundred sixty-seven percent of such fees charged in subsection (2) (~~above~~) of this section: PROVIDED, That the building fees for each academic year shall be three hundred and forty-two dollars.

(4) For full time nonresident undergraduate students and such other full time nonresident students not in graduate study programs or enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, or doctor of veterinary medicine, the total tuition fees shall be one hundred percent of the per student undergraduate educational costs at the state universities computed as provided in RCW 28B.15.067 and 28B.15.070: PROVIDED, That the building fees for each academic year shall be three hundred and fifty-four dollars.

(5) For full time nonresident graduate and law students not enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, the total tuition fees shall be (~~four thousand and seventy four dollars, and thereafter such fees shall be~~) sixty percent of the per student graduate educational costs at the state universities computed as provided in RCW 28B.15.067 and 28B.15.070: PROVIDED, That the building fees for each academic year shall be three hundred and fifty-four dollars.

(6) For full time nonresident students enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, the total tuition fees shall be one hundred sixty-seven percent of such fees charged in subsection (5) (~~above~~) of this section: PROVIDED, That the building fees for each academic year shall be five hundred and fifty-five dollars.

(7) The governing boards of (~~regents of each of~~) the state universities shall charge to and collect (~~equally~~) from each (~~of the students registering at the particular institution and included in subsections (1) through (6) hereof~~) student, a services and activities fee (~~which for each year of the 1981-83 biennium shall not exceed one hundred and thirty eight dollars. In subsequent biennia~~). The governing board (~~of regents~~) may increase the existing fee annually, consistent with budgeting procedures set forth in RCW 28B.15.045, by a percentage not to exceed the annual percentage increase in (~~tuition fees authorized in subsection (1) above~~) resident undergraduate tuition fees: PROVIDED, That such percentage increase shall not apply to that portion of the services and activities

fee previously committed to the repayment of bonded debt. The services and activities fee committee provided for in RCW 28B.15.045 may initiate a request to the governing board for a fee increase.

**Sec. 8.** RCW 28B.15.225 and 1981 c 20 s 1 are each amended to read as follows:

Subject to the limitations of section 33 of this act, the governing board ((of regents)) of the University of Washington may exempt the following students from the payment of all or a portion of the nonresident ((portion of the legally established student)) tuition ((and)) fees((,-any)) differential: Students admitted to the university's school of medicine pursuant to ((any)) contracts with the states of Alaska, Montana, or Idaho, or agencies thereof, providing for a program of regionalized medical education conducted by ((said)) the school of medicine(,); or ((any)) students admitted to the university's school of dentistry pursuant to ((any)) contracts with the states of Utah, Idaho, or any other western state which does not have a school of dentistry, or agencies thereof, providing for a program of regionalized dental education conducted by ((said)) the school of dentistry(,; which contracts provide that)). The proportional cost of ((such)) the program ((and)), in excess of resident student tuition and fees, will be reimbursed to the university by or on behalf of ((said)) participating states or agencies ((thereof)). Subject to the limitations of section 33 of this act, the governing board of Washington State University may exempt from payment all or a portion of the nonresident tuition fee differential for any student admitted to the University of Washington's school of medicine and attending Washington State University as a participant in the Washington, Alaska, Montana, or Idaho program in this section. Washington State University may reduce the professional student tuition for students enrolled in this program by the amount the student pays the University of Washington as a registration fee.

Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act.

**Sec. 9.** RCW 28B.15.380 and 1990 c 154 s 1 are each amended to read as follows:

((In addition to any other exemptions as may be provided by law,)) Subject to the limitations of section 33 of this act, the governing boards ((of regents at)) of the state universities, the regional universities, and The Evergreen State College may exempt the following ((classes of persons)) students from the payment of all or a portion of tuition fees ((of)) and services and activities fees ((except for individual instruction fees)):

(1) All veterans as defined in RCW 41.04.005: PROVIDED, That such persons are no longer entitled to federal vocational or educational benefits conferred by virtue of their military service: AND PROVIDED FURTHER, That if any such veterans have not resided in this state for one year prior to registration ((said)), the board may exempt ((them)) the student from paying up

to ~~((one-half))~~ fifty percent of the ~~((tuition payable by other nonresident students: AND, PROVIDED FURTHER, That))~~ nonresident tuition fees differential. Such exemptions ~~((shall))~~ may be provided only to those persons otherwise covered who were enrolled in universities on or before October 1, 1977.

(2) Children of any law enforcement officer or fire fighter who lost his or her life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state: PROVIDED, That such persons may receive the exemption only if they begin their course of study at a ~~((state))~~ state-supported college or university within ten years of their graduation from high school.

Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act.

**Sec. 10.** RCW 28B.15.402 and 1989 c 245 s 1 are each amended to read as follows:

Tuition fees and maximum services and activities fees at the regional universities and The Evergreen State College for other than the summer ~~((quarters or semesters))~~ term shall be as follows:

(1) For full time resident undergraduate students and all other full time resident students not in graduate study programs, the total tuition fees shall be ~~((one-fourth))~~ twenty-five percent of the per student undergraduate educational costs at the regional universities computed as provided in RCW 28B.15.067 and 28B.15.070: PROVIDED, That the building fees for each academic year shall be seventy-six dollars and fifty cents.

(2) For full time resident graduate students, the total tuition fees shall be twenty-three percent of the per student graduate educational costs at the regional universities computed as provided in RCW 28B.15.067 and 28B.15.070: PROVIDED, That the building fees for each academic year shall be seventy-six dollars and fifty cents.

(3) For full time nonresident undergraduate students and all other full time nonresident students not in graduate study programs, the total tuition fees shall be one hundred percent of the per student undergraduate educational costs at the regional universities computed as provided in RCW 28B.15.067 and 28B.15.070: PROVIDED, That the building fees for each academic year shall be two hundred and ninety-five dollars and fifty cents.

(4) For full time nonresident graduate students, the total ~~((of))~~ tuition fees shall be seventy-five percent of the per student graduate educational costs at the regional universities computed as provided in RCW 28B.15.067 and 28B.15.070: PROVIDED, That the building fees for each academic year shall be two hundred and ninety-five dollars and fifty cents.

(5) The governing boards ~~((of trustees))~~ of each of the regional universities and The Evergreen State College shall charge to and collect ~~((equally))~~ from each ~~((of the students registering at the particular institution and included in~~

~~subsections (1) through (4) hereof)) student, a services and activities fee ((which for each year of the 1981-83 biennium shall not exceed one hundred eighty four dollars and fifty cents. In subsequent biennia)). The governing board ((of trustees)) may increase the existing fee annually, consistent with budgeting procedures set forth in RCW 28B.15.045, by a percentage not to exceed the annual percentage increase in resident undergraduate tuition fees ((authorized in subsection (1) above)); PROVIDED, That such percentage increase shall not apply to that portion of the services and activities fee previously committed to the repayment of bonded debt. The services and activities fee committee provided for in RCW 28B.15.045 may initiate a request to the governing board for a fee increase.~~

~~((6) Notwithstanding the provisions of RCW 28B.15.067, for the 1989-91 biennium the undergraduate and graduate cost relationship developed by the 1987 cost study for Central Washington University shall be used to establish tuition fees for the regional universities and The Evergreen State College.))~~

**Sec. 11.** RCW 28B.15.502 and 1991 c 353 s 2 are each amended to read as follows:

Tuition fees and maximum services and activities fees at each community college for other than ((at) the summer ((quarters)) term shall be set by the state board for community and technical colleges as follows:

(1) For full time resident students, the total tuition fees shall be twenty-three percent of the per student educational costs at the community colleges computed as provided in RCW 28B.15.067 and 28B.15.070: PROVIDED, That the building fees for each academic year shall be one hundred and twenty-seven dollars and fifty cents.

(2) For full time nonresident students, the total tuition fees shall be one hundred percent of the per student educational costs at the community colleges computed as provided in RCW 28B.15.067 and 28B.15.070: PROVIDED, That the building fees for each academic year shall be four hundred and three dollars and fifty cents.

(3) The governing boards ((of trustees)) of each of the state community colleges shall charge to and collect ((equally)) from each ((of the)) student((s registering at the particular institution and included in subsections (1) and (2) hereof)) a services and activities fee ((which for each year of the 1981-83 biennium shall not exceed sixty four dollars and fifty cents. In subsequent biennia the)). Each governing board ((of trustees)) may increase the existing fee annually, consistent with budgeting procedures set forth in RCW 28B.15.045, by a percentage not to exceed the annual percentage increase in resident student tuition fees ((authorized in subsection (1) above)); PROVIDED, That such percentage increase shall not apply to that portion of the services and activities fee previously committed to the repayment of bonded debt. The services and activities fee committee provided for in RCW 28B.15.045 may initiate a request to the governing board for a fee increase.

(4) Tuition and services and activities fees consistent with ~~((the above schedule will))~~ subsection (3) of this section shall be ~~((fixed))~~ set by the state board for community and technical colleges for summer school students unless the community college charges fees in accordance with RCW 28B.15.515.

~~((The))~~ Subject to the limitations of section 33 of this act, each governing board ~~((of trustees shall))~~ may charge such fees for ungraded courses, noncredit courses, community services courses, and self-supporting ~~((short))~~ courses as it, in its discretion, may determine, ~~((not inconsistent))~~ consistent with the rules and regulations of the state board for community ~~((college education))~~ and technical colleges.

Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act.

**Sec. 12.** RCW 28B.15.520 and 1990 c 154 s 2 are each amended to read as follows:

~~((Notwithstanding any other provision of this chapter or chapter 28B.50 RCW as now or hereafter amended))~~ Subject to the limitations of section 33 of this act, the governing boards of the community colleges may:

(1) ~~((Boards of trustees of the various community colleges shall))~~ Waive all or a portion of tuition fees and services and activities fees for:

(a) Students nineteen years of age or older who are eligible for resident tuition and fee rates as defined in RCW 28B.15.012 through 28B.15.015 and who enroll in a course of study or program which will enable them to finish their high school education and obtain a high school diploma or certificate; and

~~((2) The various community college boards may waive the tuition and services and activities fees for))~~ (b) Children of any law enforcement officer or fire fighter who lost his or her life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state: PROVIDED, That such persons may receive the ~~((exemption))~~ waiver only if they begin their course of study at a community college within ten years of their graduation from high school;

~~((3) Boards of trustees of the various community colleges may))~~ (2) Waive ~~((residency requirements for))~~ all or a portion of the nonresident tuition fees differential for:

(a) Nonresident students enrolled in ~~((that))~~ a community college ~~((in a))~~ course of study or program which will enable them to finish their high school education and obtain a high school diploma or certificate. The waiver shall be in effect only for those courses which lead to a high school diploma or certificate; and

~~((4) Boards of trustees of the various community colleges may waive the nonresident portion of tuition and fees for))~~ (b) Up to forty percent of the students enrolled in the regional education program for deaf students, subject to federal funding of such program.

(3) Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act.

**Sec. 13.** RCW 28B.15.522 and 1985 c 390 s 27 are each amended to read as follows:

(1) The governing boards (~~(of trustees)~~) of the community colleges (~~(districts)~~) may waive all or a portion of the tuition and services and activities fees for persons under subsection (2) of this section pursuant to the following conditions:

(a) Such persons shall register for and be enrolled in courses on a space available basis and new course sections shall not be created as a result of the registration;

(b) Enrollment information on persons registered pursuant to this section shall be maintained separately from other enrollment information and shall not be included in official enrollment reports, nor shall such persons be considered in any enrollment statistics which would affect budgetary determinations; and

(c) Persons who enroll under this section shall have the same access to support services as do all other students and shall be subject to all course prerequisite requirements.

(2) A person is eligible for the waiver under subsection (1) of this section if the person:

(a) Meets the requirements for a resident student under RCW 28B.15.011 through 28B.15.015;

(b) Is twenty-one years of age or older;

(c) At the time of initial enrollment under subsection (1) of this section, has not attended an institution of higher education for the previous six months;

(d) Is not receiving or is not entitled to receive unemployment compensation of any nature under Title 50 RCW; and

(e) Has an income at or below the need standard established under chapter 74.04 RCW by the department of social and health services.

(3) The state board for community and technical colleges (~~(education)~~) shall adopt rules to carry out this section.

(4) Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act.

**Sec. 14.** RCW 28B.15.527 and 1989 c 245 s 5 are each amended to read as follows:

Subject to the limitations of section 33 of this act, the governing boards (~~(of trustees)~~) of the community colleges may waive all or a portion of the nonresident (~~(portion of)~~) tuition fees differential for undergraduate students of foreign nations as follows:

(1) Priority in the awarding of waivers shall be given to students on academic exchanges and students participating in special programs recognized through formal agreements between states, cities, or institutions;

(2) The waiver programs under this section shall promote reciprocal placements and waivers in foreign nations for Washington residents. The number of foreign students granted ~~((resident-tuition))~~ waivers through this program shall not exceed the number of that institution's own students enrolled in approved study programs abroad during the same period;

(3) No reciprocal placements shall be required for up to thirty students participating in the Georgetown University scholarship program funded by the United States agency for international development;

(4) Participation shall be limited to one hundred full-time foreign students each year.

(5) Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act.

**Sec. 15.** RCW 28B.15.535 and 1985 c 390 s 28 are each amended to read as follows:

(1) The governing boards ~~((of regents))~~ of the state universities ~~((and the boards of trustees of))~~, the regional universities, The Evergreen State College, and the community colleges may waive all or a portion of the tuition and services and activities fees for full-time employees of their respective institutions of higher education enrolled in said institutions' courses on a space available basis pursuant to the following conditions:

(a) Employees shall register for and be enrolled in courses on a space available basis, and no new course sections shall be created as a direct result of such registration;

(b) Enrollment information on employees registered on a space available basis shall be maintained separately from other enrollment information and shall not be included in official enrollment reports, nor shall persons enrolled pursuant to the provisions of this section be considered in any enrollment statistics which would affect budgetary determinations;

(c) Employees registering on a space available basis shall be charged a registration fee of not less than five dollars.

(2) The governing boards of the respective colleges and universities may waive all or a portion of tuition and services and activities fees for full-time intercollegiate center for nursing education, cooperative extension service, and agricultural research employees of Washington State University for such employees stationed off the Pullman, Whitman county campus: **PROVIDED**, That such waiver complies with the conditions spelled out in subsection (1) (a), (b), and (c) ~~((above))~~ of this section.

(3) The governing boards (~~(of regents)~~) of the state universities, (~~(the boards of trustees of)~~) the regional universities, and The Evergreen State College (~~(;)~~) and the state board for community and technical colleges (~~(education with respect to community colleges;)~~) shall adopt guidelines for the implementation of institutional employee waivers granted pursuant to this section.

**Sec. 16.** RCW 28B.15.540 and 1985 c 390 s 29 are each amended to read as follows:

~~((Notwithstanding any other provision of this chapter or the laws of this state and))~~ Consistent with the regulations and procedures established by the governing boards (~~(of trustees of the state colleges, the boards of regents)~~) of the state universities, the regional universities, and The Evergreen State College and the state board for community and technical colleges, (~~(education)~~) each institution may for Washington residents who are sixty years of age or older:

(1) Waive, in whole or in part, the tuition and services and activities fees for students who qualify under this section and who are enrolled for credit, and

(2) Waive, in whole or in part, the tuition and services and activities fees for students who qualify under this section, but charge a nominal fee not to exceed five dollars per quarter, or semester, as the case may be, for such students who are enrolled on an audit basis: PROVIDED, That residents enrolling with fee exemptions under this section shall register for not more than two quarter or semester courses at one time on a space available basis, and no new course sections shall be created as a direct result of such registration: PROVIDED FURTHER, That such waivers shall not be available to students who plan to use the course credits gained thereby for increasing credentials or salary schedule increases: PROVIDED FURTHER, That enrollment information concerning fee exemptions awarded under this section shall be maintained separately from other enrollment information but shall not be included in official enrollment reports: PROVIDED, That persons who enroll pursuant to provisions of this section shall not be considered for any purpose in determining student-teacher ratio, nor for any purpose relating to enrollment totals, nor any other statistic which would affect budgetary determinations. Persons enrolling under the provisions of this section shall have, in equal with all other students, access to course counseling services and shall be subject to all course prerequisite requirements.

**Sec. 17.** RCW 28B.15.713 and 1990 c 33 s 558 are each amended to read as follows:

Subject to the limitations of section 33 of this act, the governing boards (~~(of regents and trustees)~~) of the state universities, the regional universities, (~~(state universities;)~~) The Evergreen State College, and the community colleges shall waive tuition and service and activities fees for recipients of the Washington scholars award under RCW 28A.600.100 through 28A.600.150 who received their awards before June 30, 1992. The governing boards may waive all or a portion of tuition and services and activities fees for those recipients of the Washington scholars award who received their awards after June 30, 1992. The

waivers shall be used only for undergraduate studies. To qualify for the waiver, recipients shall enter the college or university within three years of high school graduation and maintain a minimum grade point average at the college or university equivalent to 3.30. Students shall be eligible for waivers for a maximum of twelve quarters or eight semesters and may transfer among ~~((state))~~ state-supported institutions of higher education during that period and continue to have the tuition and services and activities fees waived by the ~~((state))~~ state-supported institution of higher education that the student attends. Should the student's cumulative grade point average fall below 3.30 during the first three quarters or two semesters, that student may petition the higher education coordinating board which shall have the authority to establish a probationary period until such time as the student's grade point average meets required standards.

Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act.

Sec. 18. RCW 28B.15.545 and 1987 c 231 s 1 are each amended to read as follows:

Subject to the limitations of section 33 of this act, the governing boards ~~((of regents and trustees))~~ of the state universities, the regional universities, The Evergreen State College, and the community colleges shall waive tuition and services and activities fees ~~((for a maximum of six quarters or four semesters))~~ for those recipients of the Washington award for vocational excellence established under RCW 28C.04.520 through 28C.04.540 who received their awards before June 30, 1992. The governing boards may waive all or a portion of tuition and services and activities fees for those recipients of the Washington award for vocational excellence who received their awards after June 30, 1992. Each recipient shall not receive a waiver for more than six quarters or four semesters. To qualify for the waiver, recipients shall enter the college or university within three years of receiving the award. A minimum grade point average at the college or university equivalent to 3.00 ~~((in the first year))~~, or an above-average rating at a technical college, shall be required in the first year to qualify for the second-year waiver. The tuition waiver shall be granted for undergraduate studies only.

Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act.

Sec. 19. RCW 28B.15.556 and 1986 c 232 s 2 are each amended to read as follows:

Subject to the limitations of section 33 of this act, the governing boards ~~((of regents))~~ of the state universities ~~((and the boards of trustees of))~~, the regional universities, and The Evergreen State College may waive all or a portion of the

tuition, (~~operating,~~) and services and activities fees for undergraduate or graduate students of foreign nations subject to the following limitations:

(1) No more than the equivalent of one hundred waivers may be awarded to undergraduate or graduate students of foreign nations at each of the two state universities;

(2) No more than the equivalent of twenty waivers may be awarded to undergraduate or graduate students of foreign nations at each of the regional universities and The Evergreen State College;

(3) Priority in the awarding of waivers shall be given to students on academic exchanges or academic special programs sponsored by recognized international educational organizations; and

(4) An undergraduate or graduate student of a foreign nation receiving a waiver under this section is not eligible for any other waiver.

The waiver programs under this section, to the greatest extent possible, shall promote reciprocal placements and waivers in foreign nations for Washington residents. The number of waivers awarded by each institution shall not exceed the number of that institution's own students enrolled in approved study programs abroad during the same period.

(5) Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act.

**Sec. 20.** RCW 28B.15.558 and 1990 c 88 s 1 are each amended to read as follows:

(1) The governing boards of the state (~~(institutions of higher education as defined in RCW 28B.10.016))~~ universities, the regional universities, The Evergreen State College, and the community colleges may waive all or a portion of the tuition and services and activities fees for state employees as defined under subsection (2) of this section pursuant to the following conditions:

(a) Such state employees shall register for and be enrolled in courses on a space available basis and no new course sections shall be created as a result of the registration;

(b) Enrollment information on state employees registered pursuant to this section shall be maintained separately from other enrollment information and shall not be included in official enrollment reports, nor shall such state employees be considered in any enrollment statistics which would affect budgetary determinations; and

(c) State employees registering on a space available basis shall be charged a registration fee of not less than five dollars.

(2) For the purposes of this section, "state employees" means permanent full-time employees in classified service under chapters 28B.16 and 41.06 RCW.

**Sec. 21.** RCW 28B.15.615 and 1984 c 105 s 1 are each amended to read as follows:

Subject to the limitations of section 33 of this act, the governing boards ((of regents)) of the state universities and ((the boards of trustees of)) the regional universities ((are authorized to)) may exempt the following students from paying all or a portion of the resident operating fee ((any person who is enrolled in such institution and who holds)): Students granted a graduate service appointment, designated as such by ((that)) the institution, involving not less than twenty hours of work per week. The exemption shall be for the term of the ((person shall hold the)) appointment. ((Until one year after June 7, 1984, the stipend paid to persons holding the graduate service appointments paid from state funds shall be reduced in an amount equal to the resident operating fee so waived, and the institution shall pay to the general fund from moneys appropriated an amount equivalent to the amount of waived operating fee revenue so as to ensure that the general fund is not negatively impacted. The 1985-87 and subsequent biennial appropriations to the institutions shall be based on the level of reduced stipend resulting from this section.)) The stipend paid to persons holding graduate student appointments from nonstate funds shall be reduced and the institution reimbursed from such funds in an amount equal to the resident operating fee which funds shall be transmitted to the general fund.

Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act.

**Sec. 22.** RCW 28B.15.620 and 1989 c 306 s 4 are each amended to read as follows:

((Notwithstanding any other provision of law,)) Subject to the limitations of section 33 of this act, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges may exempt veterans of the Vietnam conflict who have served in the southeast Asia theater of operations ((attending institutions of higher learning shall be exempted)) from the payment of any increase in tuition and fees otherwise applicable to any other resident or nonresident student ((at any institution of higher education, and)). In such cases, the veteran shall not be required to pay more than the total amount of tuition and fees paid by veterans of the Vietnam conflict on October 1, 1977: PROVIDED, That for the purposes of this exemption, "veterans of the Vietnam conflict" shall be those persons who have been on active federal service as a member of the armed military or naval forces of the United States between a period commencing August 5, 1964, and ending on May 7, 1975, and who qualify as a resident student under RCW 28B.15.012, and who ((have)) enrolled in state institutions of higher education on or before May 7, 1990. This section shall expire June 30, 1995.

Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act.

**Sec. 23.** RCW 28B.15.628 and 1991 c 228 s 14 are each amended to read as follows:

Subject to the limitations of section 33 of this act, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges may exempt veterans of the Persian Gulf combat zone ((shall be exempted)) from increases in tuition and fees ((at any public institution of higher education)) that occur during and after their period of service((-and)). In such cases, the veteran shall not be required to pay more than the total amount of tuition and fees established for the 1990-91 academic year, if the veteran could have qualified as a Washington resident student under RCW 28B.15.012-(2), had he or she been enrolled as a student on August 1, 1990, and if the veteran's adjusted gross family income as most recently reported to the internal revenue service does not exceed Washington state's median family income as established by the federal bureau of the census. For the purposes of this section, "a veteran of the Persian Gulf combat zone" means a person who during any portion of calendar year 1991, served in active federal service as a member of the armed military or naval forces of the United States in a combat zone as designated by the president of the United States by executive order.

Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act.

**Sec. 24.** RCW 28B.15.725 and 1989 c 290 s 2 are each amended to read as follows:

Subject to the limitations of section 33 of this act, the governing boards ((of regents)) of the state universities ((and the boards of trustees of)), the regional universities, and The Evergreen State College may enter into undergraduate upper division student exchange agreements with comparable public four-year institutions of higher education of other states and agree to ((charge)) exempt participating undergraduate upper division students ((resident tuition rates)) from payment of all or a portion of the nonresident tuition fees differential subject to the following restrictions:

(1) In any given academic year, the number of ((undergraduate upper division nonresident exchange)) students receiving ((nonresident tuition waivers)) a waiver at a state institution((;)) shall not exceed the number of that institution's ((undergraduate upper division)) students receiving nonresident tuition waivers at participating out-of-state institutions. Waiver imbalances that may occur in one year shall be off-set in the year immediately following.

(2) Undergraduate upper division student participation in an exchange program authorized by this section is limited to one ((calendar)) academic year.

Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act.

**Sec. 25.** RCW 28B.15.730 and 1985 c 370 s 69 are each amended to read as follows:

~~((1)) The state board for community college education and the boards of trustees for community college districts thirteen, fourteen, sixteen, nineteen, and twenty, for Lower Columbia, Clark, Yakima Valley, Columbia Basin, and Walla Walla community colleges, respectively, and the board of trustees for The Evergreen State College, for any program it offers in Vancouver, shall waive the payment of nonresident tuition and fees by residents of Oregon, upon completion of an agreement between the higher education coordinating board and appropriate officials and agencies in Oregon granting similar waivers for residents of Cowlitz, Clark, Wahkiakum, Skamania, and Klickitat counties, Washington, who qualify for junior or senior standing to attend Portland State University at the undergraduate level.~~

((2)) Subject to the limitations of section 33 of this act, the state board for community and technical colleges ((education)) and the governing boards of ((trustees of the state's)) the state universities, the regional universities, the community colleges, and The Evergreen State College((, and the regional universities and the boards of regents of the University of Washington and Washington State University shall)) may waive all or a portion of the ((payment of)) nonresident tuition ((and)) fees ((by)) differential for residents of Oregon, upon completion of and to the extent permitted by an agreement between the higher education coordinating board and appropriate officials and agencies in Oregon granting similar waivers for residents of the state of Washington.

Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act.

**Sec. 26.** RCW 28B.15.740 and 1989 c 340 s 2 are each amended to read as follows:

~~((1)) Subject to the limitations of section 33 of this act, the ((boards of trustees or regents of each of the state's regional universities, The Evergreen State College, or state universities, and the various community colleges, consistent with regulations and procedures established by the state board for community college education,)) governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges may waive((, in whole or in part,)) all or a portion of tuition and ((services and activities)) fees subject to the ((limitations set forth in subsections (2) and (3)).~~

((2)) following restrictions:

(1) Except as provided in subsection ((3)) (2) of this section, the total dollar amount of tuition and fee waivers awarded by ((any state university, regional university, or state college,)) the governing boards shall not exceed four percent, ((and)) except for the community colleges considered as a whole, such amount shall not exceed three percent of an amount determined by estimating the total collections from tuition and services and activities fees had no such waivers

been made, and deducting the portion of that total amount (~~(which)~~) that is attributable to the difference between resident and nonresident fees: PROVIDED, That at least three-fourths of the dollars waived shall be for needy students who are eligible for resident tuition and fee rates pursuant to RCW 28B.15.012 through 28B.15.015: PROVIDED FURTHER, That the remainder of the dollars waived, not to exceed one-fourth of the total, may be applied to other students at the discretion of the governing boards (~~(of trustees or regents)~~), except on the basis of participation in intercollegiate athletic programs: PROVIDED FURTHER, That the waivers for undergraduate and graduate students of foreign nations under RCW 28B.15.556 are not subject to the limitation under this section.

~~((2))~~ (2) In addition to the tuition and fee waivers provided in subsection ~~((2))~~ (1) of this section and subject to the provisions of RCW 28B.15.455 and 28B.15.460, a total dollar amount of tuition and fee waivers awarded by any state university, regional university, or state college under this chapter, not to exceed one percent, as calculated in subsection ~~((2))~~ (1) of this section, may be used for the purpose of achieving or maintaining gender equity in intercollegiate athletic programs. At any institution that has an underrepresented gender class in intercollegiate athletics, any such waivers shall be awarded:

(a) First, to members of the underrepresented gender class who participate in intercollegiate athletics, where such waivers result in saved or displaced money that can be used for athletic programs for the underrepresented gender class. Such saved or displaced money shall be used for programs for the underrepresented gender class; and

(b) Second, (i) to nonmembers of the underrepresented gender class who participate in intercollegiate athletics, where such waivers result in saved or displaced money that can be used for athletic programs for members of the underrepresented gender class. Such saved or displaced money shall be used for programs for the underrepresented gender class; or (ii) to members of the underrepresented gender class who participate in intercollegiate athletics, where such waivers do not result in any saved or displaced money that can be used for athletic programs for members of the underrepresented gender class.

(3) Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act.

Sec. 27. RCW 28B.15.750 and 1985 c 370 s 73 are each amended to read as follows:

~~((The state board for community college education and the boards of trustees of the state's community colleges, The Evergreen State College, and the regional universities and boards of regents of the University of Washington and Washington State University shall))~~ Subject to the limitations of section 33 of this act, the governing boards of the state universities, the regional universities,

and The Evergreen State College and the state board for community and technical colleges may waive all or a portion of the ((payment-of)) nonresident tuition ((and)) fees ((by)) differential for residents of Idaho, upon completion of and to the extent permitted by an agreement between the higher education coordinating board and appropriate officials and agencies in Idaho granting similar waivers for residents of the state of Washington.

Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act.

**Sec. 28.** RCW 28B.15.756 and 1987 c 446 s 2 are each amended to read as follows:

Subject to the limitations of section 33 of this act, the governing boards of ((trustees of The Evergreen State College and the regional universities,)) the state universities, the regional universities, and The Evergreen State College and the state board for community and technical colleges ((education, and the boards of regents of the University of Washington and Washington State University shall)) may waive all or a portion of the ((payment-of)) nonresident tuition ((and)) fees ((by)) differential for residents of the Canadian province of British Columbia, upon completion of and to the extent permitted by an agreement between the higher education coordinating board and appropriate officials and agencies in the Canadian province of British Columbia providing for enrollment opportunities for residents of the state of Washington without payment of tuition or fees in excess of those charged to residents of British Columbia.

Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act.

**Sec. 29.** RCW 28B.50.259 and 1991 c 315 s 17 are each amended to read as follows:

(1) The state board for community and technical colleges ((education)) shall administer a program designed to provide higher education opportunities to dislocated forest products workers and their unemployed spouses who are enrolled in a community or technical college for ten or more credit hours per quarter. In administering the program, the college board shall have the following powers and duties:

- (a) With the assistance of an advisory committee, design a procedure for selecting dislocated forest products workers to participate in the program;
- (b) Allocate funding to community and technical colleges attended by participants;
- (c) Monitor the program and report on participants' progress and outcomes; and
- (d) Report to the legislature by December 1, 1993, on the status of the program.

(2) Unemployed spouses of eligible dislocated forest products workers may participate in the program, but tuition and fees may be waived under the program only for the worker or the spouse and not both.

(3) Subject to the limitations of section 33 of this act, the governing boards ~~((of trustees))~~ of the community and technical colleges ~~((shall))~~ may waive all or a portion of tuition and fees for program participants, for a maximum of six quarters within a two-year period.

(4) During any biennium, the number of full-time equivalent students to be served in this program shall be determined by the applicable omnibus appropriations act, and shall be in addition to the community college enrollment level funded by the applicable omnibus appropriations act.

(5) Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act.

**Sec. 30.** RCW 28B.70.050 and 1969 ex.s. c 223 s 28B.70.050 are each amended to read as follows:

When said compact becomes operative the governing board of each institution of higher ~~((learning))~~ education in this state, to the extent necessary to conform with the terms of the contractual agreement~~((-may))~~, subject to the limitations of section 33 of this act, may exempt from payment ~~((of))~~ all or a portion of the nonresident tuition fees ~~((established by law for nonresident students))~~ differential, any student admitted to such institution under the terms of a contractual agreement entered into with the commission in accord with the provisions of Article VIII(a) of the compact.

Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act.

**Sec. 31.** RCW 28B.80.580 and 1991 c 315 s 20 are each amended to read as follows:

(1) The board shall contract with institutions of higher education to provide upper division classes to serve additional placebound students in the timber impact areas meeting the following criteria, as determined by the employment security department: (a) A lumber and wood products employment location quotient at or above the state average; (b) a direct lumber and wood products job loss of one hundred positions or more; and (c) an annual unemployment rate twenty percent above the state average; and which are not served by an existing state-funded upper division degree program. The number of full-time equivalent students served in this manner shall be determined by the applicable omnibus appropriations act. The board may direct that all the full-time equivalent enrollments be served in one of the eligible timber impact areas if it should determine that this would be the most viable manner of establishing the program and using available resources. The institutions shall utilize telecommunication

technology, if available, to carry out the purposes of this section. Subject to the limitations of section 33 of this act, the institutions providing the service ((shall)) may waive all or a portion of the tuition, service((;)) and activities fees for dislocated forest products workers or their unemployed spouses enrolled as one of the full-time equivalent students allocated to the college under this section.

(2) Unemployed spouses of eligible dislocated forest products workers may participate in the program, but tuition and fees may be waived under the program only for the worker or the spouse and not both.

(3) Subject to the limitations of section 33 of this act, for any eligible participant, all or a portion of tuition ((shall)) may be waived for a maximum of four semesters or six quarters within a two-year time period ((and)). The participant must be enrolled for a minimum of ten credits per semester or quarter.

Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act.

NEW SECTION. Sec. 32. A new section is added to chapter 28B.15 RCW to read as follows:

Unless the context clearly requires otherwise, as used in this chapter "nonresident tuition fees differential" means the difference between resident tuition fees and nonresident tuition fees.

NEW SECTION. Sec. 33. A new section is added to chapter 28B.15 RCW to read as follows:

(1) Except for revenue waived under programs listed in subsection (3) of this section, and unless otherwise expressly provided in the omnibus state appropriations act, the total amount of operating fee revenue waived, exempted, or reduced by a state university, a regional university, The Evergreen State College, or the community colleges as a whole, shall not exceed the percentage of total net authorized operating fees revenue set forth below. As used in this section, "net authorized operating fees revenue" means the estimated gross operating fees revenue as estimated under RCW 82.33.020, before granting any waivers, minus obligations under RCW 28B.15.820. This limitation applies to all tuition waiver programs established before or after the effective date of this section.

(a) University of Washington	21 percent
(b) Washington State University	20 percent
(c) Eastern Washington University	11 percent
(d) Central Washington University	8 percent
(e) Western Washington University	10 percent
(f) The Evergreen State College	6 percent
(g) Community colleges as a whole	35 percent

(2) The limitations in subsection (1) of this section apply to waivers, exemptions, or reductions in operating fees contained in the following:

- (a) RCW 28B.10.265;
- (b) RCW 28B.15.014;
- (c) RCW 28B.15.100;
- (d) RCW 28B.15.225;
- (e) RCW 28B.15.380;
- (f) Ungraded courses under RCW 28B.15.502(4);
- (g) RCW 28B.15.520;
- (h) RCW 28B.15.526;
- (i) RCW 28B.15.527;
- (j) RCW 28B.15.543;
- (k) RCW 28B.15.545;
- (l) RCW 28B.15.555;
- (m) RCW 28B.15.556;
- (n) RCW 28B.15.615;
- (o) RCW 28B.15.620;
- (p) RCW 28B.15.628;
- (q) RCW 28B.15.725;
- (r) RCW 28B.15.730;
- (s) RCW 28B.15.740;
- (t) RCW 28B.15.750;
- (u) RCW 28B.15.756;
- (v) RCW 28B.50.259;
- (w) RCW 28B.70.050; and
- (x) RCW 28B.80.580.

(3) The limitations in subsection (1) of this section do not apply to waivers, exemptions, or reductions in services and activities fees contained in the following:

- (a) RCW 28B.15.522;
- (b) RCW 28B.15.535;
- (c) RCW 28B.15.540; and
- (d) RCW 28B.15.558.

**Sec. 34.** RCW 82.33.020 and 1990 c 229 s 2 are each amended to read as follows:

(1) Four times each year the supervisor shall prepare, subject to the approval of the economic and revenue forecast council under RCW 82.33.010:

- (a) An official state economic and revenue forecast;
- (b) An unofficial state economic and revenue forecast based on optimistic economic and revenue projections; and
- (c) An unofficial state economic and revenue forecast based on pessimistic economic and revenue projections.

(2) The supervisor shall submit forecasts prepared under this section, along with any unofficial forecasts provided under RCW 82.33.010, to the governor and the members of the committees on ways and means and the chairs of the

committees on transportation of the senate and house of representatives and the chair of the legislative transportation committee, including one copy to the staff of each of the committees, on or before November 20th, February 20th in the even-numbered years, March 20th in the odd-numbered years, June 20th, and September 20th. All forecasts shall include both estimated receipts and estimated revenues in conformance with generally accepted accounting principles as provided by RCW 43.88.037.

(3) All agencies of state government shall provide to the supervisor immediate access to all information relating to economic and revenue forecasts. Revenue collection information shall be available to the supervisor the first business day following the conclusion of each collection period.

(4) The economic and revenue forecast supervisor and staff shall co-locate and share information, data, and files with the tax research section of the department of revenue but shall not duplicate the duties and functions of one another.

(5) As part of its forecasts under subsection (1) of this section, the supervisor shall provide estimated revenue from tuition fees as defined in RCW 28B.15.020.

NEW SECTION. Sec. 35. This act shall take effect July 1, 1992.

NEW SECTION. Sec. 36. A new section is added to chapter 28B.15 RCW to read as follows:

An account is established in the state treasury for each public four-year institution of higher education and the community colleges as a whole, known as the "(institution's name or "community colleges") operating fees account." The account shall consist of all operating fees, as defined in this chapter, collected by the institution, except that two and one-half percent of moneys received as operating fees shall be deposited into the institution long-term loan fund under RCW 28B.15.820. Beginning July 1, 1992, all operating fees revenue shall be transferred to the state treasurer, consistent with RCW 28B.15.031, to be credited to the appropriate higher education operating fees account.

Passed the Senate March 11, 1992.

Passed the House March 12, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

CHAPTER 232

[Engrossed Substitute House Bill 2470]

OPERATING BUDGET, SUPPLEMENTAL 1991-1993

Effective Date: 4/2/92

AN ACT Relating to fiscal matters; amending RCW 70.146.080 and 86.26.007; amending 1991 sp.s. c 16 ss 202, 203, 204, 205, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 301, 302, 303, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 401, 402, 501, 502, 503, 504, 505, 506, 507, 509, 510, 511, 512, 513, 514, 515, 516, 517, 519, 520, 521, 522, 523, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 615, 616, 617, 618, 619, 620, 621, 622, 701, 706, 707, 708, 709, 710, 711, 712, 714, 715, 716, 801, 804, and 909; amending 1991 sp.s. c 9 s 10; reenacting and amending RCW 70.47.030 and 70.47.060; adding new sections to 1991 sp.s. c 16; adding a new section to chapter 43.33A RCW; repealing 1991 sp.s. c 16 ss 101 through 152, 1991 sp.s. c 16 s 207, 1991 c 236 s 10, and 1991 sp.s. c 16 s 614; making appropriations; and declaring an emergency.

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

PART I

GENERAL GOVERNMENT

NEW SECTION. Sec. 101. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE HOUSE OF REPRESENTATIVES**

General Fund Appropriation . . . . . \$ 50,005,000

The appropriation in this section is subject to the following conditions and limitations: \$102,500 is provided solely for the task force on city and county finances to meet the requirements of RCW 82.14.301.

NEW SECTION. Sec. 102. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE SENATE**

General Fund Appropriation . . . . . \$ 38,172,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$102,500 is provided solely for the task force on city and county finances to meet the requirements of RCW 82.14.301.

(2) \$10,000 is provided solely for expenses related to the meetings and conferences of the Pacific northwest economic region established under chapter 251, Laws of 1991 (Substitute Senate Bill No. 5008, Pacific northwest economic region).

NEW SECTION. Sec. 103. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE LEGISLATIVE BUDGET COMMITTEE**

General Fund Appropriation . . . . . \$ 2,226,000

The appropriation in this section is subject to the following conditions and limitations: The legislative budget committee shall conduct an audit of supplemental contracts entered into by school districts under RCW 28A.400.200(4). The audit shall examine the number and frequency of the

contracts, the amount of compensation paid, and the nature of the work performed.

NEW SECTION. Sec. 104. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE**

General Fund Appropriation . . . . . \$ 2,620,000

NEW SECTION. Sec. 105. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE OFFICE OF THE STATE ACTUARY**

Department of Retirement Systems Expense

Fund Appropriation . . . . . \$ 1,280,000

The appropriation in this section is subject to the following conditions and limitations: The office shall provide all necessary services for the department of retirement systems within the funds appropriated in this section.

NEW SECTION. Sec. 106. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE JOINT LEGISLATIVE SYSTEMS COMMITTEE**

General Fund Appropriation . . . . . \$ 7,996,000

The appropriation in this section is subject to the following conditions and limitations: The appropriation shall be transferred to the legislative systems revolving fund.

NEW SECTION. Sec. 107. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE STATUTE LAW COMMITTEE**

General Fund Appropriation . . . . . \$ 6,435,000

The appropriation in this section is subject to the following conditions and limitations: \$15,000 is provided solely for the expenses of the law revision commission under chapter 1.30 RCW.

NEW SECTION. Sec. 108. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE REDISTRICTING COMMISSION**

General Fund Appropriation . . . . . \$ 794,000

NEW SECTION. Sec. 109. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE SUPREME COURT**

General Fund Appropriation . . . . . \$ 16,330,000

The appropriation in this section is subject to the following conditions and limitations:

- (1) \$7,626,000 is provided solely for the indigent appeals program.

(2) In implementing the cost reduction measures required by this act, the supreme court may enter into agreements with other judicial agencies to make efficient and effective use of available financial resources within the judicial branch.

**NEW SECTION. Sec. 110.** A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE LAW LIBRARY**

General Fund Appropriation . . . . . \$ 3,025,000

**\*NEW SECTION. Sec. 111.** A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE COURT OF APPEALS**

*General Fund Appropriation . . . . . \$ 15,249,000*

The appropriation in this section is subject to the following conditions and limitations: In implementing the cost reduction measures required by this act, the court of appeals may enter into agreements with other judicial agencies to make efficient and effective use of available financial resources within the judicial branch.

**\*Sec. 111 was partially vetoed, see message at end of chapter.**

**NEW SECTION. Sec. 112.** A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE COMMISSION ON JUDICIAL CONDUCT**

General Fund Appropriation . . . . . \$ 955,000

**NEW SECTION. Sec. 113.** A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE ADMINISTRATOR FOR THE COURTS**

General Fund Appropriation . . . . .	\$	27,687,000
Public Safety and Education Account Appropriation . . . . .	\$	26,352,000
Judicial Information System Account Appropriation . . . . .	\$	200,000
Drug Enforcement and Education Account Appropriation . . . . .	\$	850,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>55,089,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$20,850,000 of the general fund appropriation is provided solely for the superior court judges program. Of this amount, a maximum of \$150,000 may be used to reimburse county superior courts for superior court judges temporarily assigned to other counties that are experiencing large and sudden surges in criminal filings. Reimbursement shall be limited to per diem and travel expenses of assigned judges.

(2) \$1,744,000 of the public safety and education account appropriation is provided solely to install the district court information system (DISCIS) at forty-two district court sites. When providing equipment upgrades to an existing site,

an equal amount of local matching funds shall be provided by the local jurisdictions.

(3) \$217,000 of the public safety and education account appropriation is provided solely to contract with the state board for community college education to pay for court interpreter training classes in at least six community colleges for a total of at least 200 financially needy students, who shall be charged reduced tuition based on level of need. Other students may be served by charging the full tuition needed to recover costs.

(4) \$688,000 of the general fund appropriation is provided solely to implement chapter 127, Laws of 1991 (Second Substitute Senate Bill No. 5127, foster care citizen review).

(5) \$6,507,000 of the public safety and education account appropriation and \$850,000 of the drug enforcement and education account appropriation are provided solely for the continuation of treatment-alternatives-to-street-crimes (TASC) programs in Pierce, Snohomish, Clark, King, Spokane, and Yakima counties.

(6) In implementing the cost reduction measures required by this act, the administrator for the courts may enter into agreements with other judicial agencies to make efficient and effective use of available financial resources within the judicial branch.

(7) \$345,000 of the general fund—state appropriation is provided solely for implementation of Substitute House Bill No. 2459. The amount provided in this subsection is contingent on enactment of Substitute House Bill No. 2459 (superior court judges) and House Bill No. 2887 or 2997 (appellate court filing fees). If neither House Bill No. 2887 or 2997 is enacted by June 30, 1992, the amount provided in this subsection shall lapse.

(8) \$10,000 of the general fund appropriation is provided solely for the jury source list task force to continue to develop methodology and standards for merging the list of registered voters with the list of licensed drivers and identocard holders to form an expanded jury source list for use in the state. The task force shall include the department of information services. By November 2, 1992, the task force shall report its recommendations to the supreme court and the appropriate committees of the legislature. However, if Substitute House Bill No. 2945 is enacted by June 30, 1992, the amount provided in this subsection is provided solely to implement the bill.

**NEW SECTION.** Sec. 114. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE OFFICE OF THE GOVERNOR**

General Fund Appropriation . . . . . \$ 7,282,000

The appropriation in this section is subject to the following conditions and limitations:

- (1) \$186,000 is provided solely for mansion maintenance.

(2) \$500,000 is provided solely for extradition expenses to carry out RCW 10.34.030, providing for the return of fugitives by the governor, including prior claims, and for extradition-related legal services as determined by the attorney general.

(3) \$207,000 is provided solely for two FTE staff to implement chapter 24, Laws of 1991 (Substitute House Bill No. 1800, office of international relations).

NEW SECTION. Sec. 115. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE COMMISSION ON AFRICAN-AMERICAN AFFAIRS**

General Fund Appropriation . . . . . \$ 277,000

NEW SECTION. Sec. 116. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE LIEUTENANT GOVERNOR**

General Fund Appropriation . . . . . \$ 494,000

\*NEW SECTION. Sec. 117. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE PUBLIC DISCLOSURE COMMISSION**

General Fund Appropriation . . . . . \$ 1,762,000

*The appropriation in this section is subject to the following conditions and limitations: \$25,000 is provided solely to implement a system to track gratuities received by elected officials and other persons required to report under state public disclosure laws.*

\*Sec. 117 was partially vetoed, see message at end of chapter.

NEW SECTION. Sec. 118. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE SECRETARY OF STATE**

General Fund Appropriation . . . . . \$ 8,038,000

Archives and Records Management Account

Appropriation . . . . . \$ 3,522,000

Savings Recovery Account Appropriation . . . . . \$ 569,000

TOTAL APPROPRIATION . . . . . \$ 12,129,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$809,000 of the general fund appropriation is provided solely to reimburse counties for the state's share of primary and general election costs and the costs of conducting mandatory recounts on state measures.

(2) \$2,919,000 of the general fund appropriation is provided solely for the verification of initiative and referendum petitions, maintenance of related voter registration records, legal advertising of state measures, and the publication and distribution of the voters and candidates pamphlet.

**NEW SECTION.** Sec. 119. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE GOVERNOR'S OFFICE OF INDIAN AFFAIRS**

General Fund Appropriation . . . . .	\$	308,000
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**NEW SECTION.** Sec. 120. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE COMMISSION ON ASIAN-AMERICAN AFFAIRS**

General Fund Appropriation . . . . .	\$	354,000
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**NEW SECTION.** Sec. 121. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE STATE TREASURER**

Motor Vehicle Account Appropriation . . . . .	\$	44,000
State Treasurer's Service Fund Appropriation . . . . .	\$	9,727,000
TOTAL APPROPRIATION . . . . .	\$	9,771,000

**NEW SECTION.** Sec. 122. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE STATE AUDITOR**

General Fund Appropriation . . . . .	\$	560,000
Motor Vehicle Fund Appropriation . . . . .	\$	243,000
Municipal Revolving Fund Appropriation . . . . .	\$	19,319,000
Auditing Services Revolving Fund Appropriation . . . . .	\$	10,987,000
TOTAL APPROPRIATION . . . . .	\$	31,109,000

The appropriations in this section are subject to the following conditions and limitations: \$280,000 of the auditing services revolving fund appropriation is provided solely for the whistleblower program.

**NEW SECTION.** Sec. 123. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE CITIZENS' COMMISSION ON SALARIES FOR ELECTED OFFICIALS**

General Fund Appropriation . . . . .	\$	74,000
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**\*NEW SECTION.** Sec. 124. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE ATTORNEY GENERAL**

<i>General Fund—State Appropriation . . . . .</i>	\$	<i>6,373,000</i>
General Fund—Federal Appropriation . . . . .	\$	1,589,000
Public Safety and Education Account Appropriation . . . . .	\$	1,693,000
Legal Services Revolving Fund Appropriation . . . . .	\$	88,291,000
Motor Vehicle Fund Appropriation . . . . .	\$	727,000
New Motor Vehicle Arbitration Account Appropriation . . . . .	\$	1,742,000
TOTAL APPROPRIATION . . . . .	\$	100,415,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The attorney general shall report on actual legal services expenditures and actual attorney and support staffing levels for each agency receiving legal services. A report covering fiscal year 1992 shall be submitted to the office of financial management and the fiscal committees of the senate and house of representatives by September 1, 1992.

(2) Beginning July 1, 1992, the attorney general shall include, at a minimum, the following information with each bill sent to agencies receiving legal services: (a) The number of hours and cost of attorney services provided during the billing period; (b) the number of hours and cost of support staff services provided during the billing period; (c) attorney general overhead and central support costs charged to the agency for the billing period; (d) direct legal costs, such as filing and docket fees, charged to the agency for the billing period; and (e) other costs charged to the agency for the billing period. If requested by an agency receiving legal services, the attorney general shall provide the information required in this subsection by program.

(3) \$1,693,000 of the public safety and education account appropriation is provided solely for the attorney general's criminal litigation unit.

\*Sec. 124 was partially vetoed, see message at end of chapter.

**\*NEW SECTION.** *Sec. 125. A new section is added to 1991 sp.s. c 16 to read as follows:*

**ATTORNEY GENERAL—TRIBAL SHELLFISH LITIGATION COSTS.** *The sum of nine hundred fifteen thousand dollars, or so much thereof as may be necessary, is appropriated from the general fund to the office of the attorney general solely for legal costs incurred in defending the state and public interest in tribal shellfish litigation (U.S. v. Washington, subproceeding 89-3). From this appropriation, the office of the attorney general shall reimburse the department of fisheries for any expenditures made prior to the effective date of this act by the department of fisheries from the moneys provided under section 312(5), chapter 16, Laws of 1991 sp. sess. The office of the attorney general shall prepare an expenditure plan for the use of this appropriation and submit the plan to the house of representatives appropriations committee and the senate ways and means committee by July 1, 1992.*

\*Sec. 125 was vetoed, see message at end of chapter.

**NEW SECTION.** *Sec. 126. A new section is added to 1991 sp.s. c 16 to read as follows:*

**FOR THE ECONOMIC AND REVENUE FORECAST COUNCIL**  
General Fund Appropriation . . . . . \$ 819,000

**\*NEW SECTION. Sec. 127.** A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT**

<b>General Fund—State Appropriation . . . . .</b>	<b>\$</b>	<b>11,473,000</b>
<b>General Fund—Federal Appropriation . . . . .</b>	<b>\$</b>	<b>101,000</b>
<b>Savings Recovery Account Appropriation . . . . .</b>	<b>\$</b>	<b>7,020,000</b>
<b>Public Safety and Education Account Appropriation . . .</b>	<b>\$</b>	<b>283,000</b>
<b>Motor Vehicle Fund Appropriation . . . . .</b>	<b>\$</b>	<b>108,000</b>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>18,985,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriations in this section include amounts sufficient to implement section 13 of chapter 36, Laws of 1991 (Engrossed Substitute House Bill No. 1608, children’s mental health).

(2) \$300,000 of the general fund—state appropriation is provided for the commission on student learning established in Engrossed Substitute Senate Bill No. 5953 (common schools improvement).

\*Sec. 127 was vetoed, see message at end of chapter.

**\*NEW SECTION. Sec. 128.** A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE OFFICE OF ADMINISTRATIVE HEARINGS**

**Administrative Hearings Revolving Fund**

<b>Appropriation . . . . .</b>	<b>\$</b>	<b>11,437,000</b>
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\*Sec. 128 was vetoed, see message at end of chapter.

**\*NEW SECTION. Sec. 129.** A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE DEPARTMENT OF PERSONNEL**

<b>Department of Personnel Service Fund Appropriation . . . .</b>	<b>\$</b>	<b>16,749,000</b>
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The appropriation in this section is subject to the following conditions and limitations:

(1) \$65,000 is provided solely to increase advertising for employment opportunities with the state.

(2) \$163,000 is provided solely to implement management excellence initiatives to improve selection criteria, performance evaluations, and training assessments for state managers.

(3) From the level of expenditures allotted prior to the effective date of this act, the department shall reduce expenditures from the nonappropriated data processing revolving fund by \$248,000.

\*Sec. 129 was partially vetoed, see message at end of chapter.

**NEW SECTION. Sec. 130.** A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE COMMITTEE FOR DEFERRED COMPENSATION**

General Fund Appropriation . . . . . \$ 361,000

The appropriation in this section is subject to the following conditions and limitations: \$330,000 is provided solely for the administration of a state employee salary reduction plan for dependent care assistance.

NEW SECTION. Sec. 131. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE WASHINGTON STATE LOTTERY**

Lottery Administrative Account Appropriation . . . . . \$ 18,658,000

NEW SECTION. Sec. 132. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE COMMISSION ON HISPANIC AFFAIRS**

General Fund Appropriation . . . . . \$ 388,000

NEW SECTION. Sec. 133. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE PERSONNEL APPEALS BOARD**

Department of Personnel Service Fund Appropriation . . . . \$ 862,000

NEW SECTION. Sec. 134. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE DEPARTMENT OF RETIREMENT SYSTEMS—  
OPERATIONS**

Department of Retirement Systems Expense Fund

Appropriation . . . . . \$ 29,076,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$2,403,000 is provided solely for information systems projects known by the following names or successor names: Support of member database, support of audit, and audit of member files. Authority to expend this amount is conditioned on compliance with section 902, chapter 16, Laws of 1991 sp. sess. The department shall report to the fiscal committees of the senate and house of representatives on the status of the member database project by January 15, 1992.

(2) \$1,077,000 is provided solely for the one-time implementation costs of Engrossed Substitute House Bill No. 2947 (early retirement), including the preparation of information on early retirement by the combined benefits communications project. If the bill is not enacted by June 30, 1992, the amount provided in this subsection shall lapse.

NEW SECTION. Sec. 135. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE STATE INVESTMENT BOARD**

State Investment Board Expense Account

Appropriation . . . . . \$ 6,153,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$1,700,000 is provided solely for one-time expenditures incurred in exercising the board's fiduciary responsibilities associated with managing trust and retirement funds. None of this amount may be used to obligate the board to any on-going expenses, including equipment lease-purchase agreements or the employment of permanent staff. The board shall report to the fiscal committees of the senate and house of representatives by January 15, 1992, on the use of this amount.

(2) None of the appropriation in this section may be used for actuarial services, which services shall be provided by the state actuary.

**\*NEW SECTION. Sec. 136.** A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE DEPARTMENT OF REVENUE**

General Fund Appropriation . . . . .	\$	96,370,000
Timber Tax Distribution Account Appropriation . . . . .	\$	4,241,000
State Toxics Control Account Appropriation . . . . .	\$	90,000
Solid Waste Management Account Appropriation . . . . .	\$	82,000
Pollution Liability Reinsurance Trust Account		
Appropriation . . . . .	\$	226,000
Vehicle Tire Recycling Account Appropriation . . . . .	\$	122,000
Air Operating Permit Account Appropriation . . . . .	\$	42,000
Oil/Hazardous Substance Cleanup Account		
Appropriation . . . . .	\$	27,000
Litter Control Account Appropriation . . . . .	\$	96,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>101,296,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$4,145,000 of the general fund appropriation is provided solely for the information systems project known as "taxpayer account integration management". Authority to expend this amount is conditioned on compliance with section 902, chapter 16, Laws of 1991 sp. sess.

(2) \$584,000 of the general fund appropriation is provided solely to reimburse counties for property tax revenue losses resulting from enactment of chapters 203, 213, and 219, Laws of 1991 (Substitute Senate Bill No. 5110, House Bill No. 1299, House Bill No. 1642; senior citizens' tax exemptions).

(3) \$168,000 of the general fund appropriation is provided solely for the implementation of chapter 218, Laws of 1991 (Substitute House Bill No. 1301, property tax administrative practices).

(4) \$100,000 of the general fund appropriation is provided solely for the implementation of Substitute House Bill No. 2672 (cellular phone study). If the bill is not enacted by June 30, 1992, the amount provided in this subsection shall lapse.

(5) \$57,400 of the general fund appropriation is provided solely for the implementation of Substitute House Bill No. 2639 (nonprofit homes for aging).

(6) The entire litter control account appropriation is provided solely for the implementation of House Bill No. 2635 (litter/recycling assessment). If the bill is not enacted by June 30, 1992, the amount provided in this subsection shall lapse.

\*Sec. 136 was partially vetoed, see message at end of chapter.

NEW SECTION. Sec. 137. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE BOARD OF TAX APPEALS**

General Fund Appropriation . . . . . \$ 1,512,000

NEW SECTION. Sec. 138. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE MUNICIPAL RESEARCH COUNCIL**

General Fund Appropriation . . . . . \$ 2,385,000

NEW SECTION. Sec. 139. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE UNIFORM LEGISLATION COMMISSION**

General Fund Appropriation . . . . . \$ 42,000

NEW SECTION. Sec. 140. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES**

General Fund Appropriation . . . . . \$ 2,173,000

\*NEW SECTION. Sec. 141. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

General Fund—State Appropriation . . . . . \$ 4,467,000

General Fund—Federal Appropriation . . . . . \$ 1,649,000

General Fund—Private/Local Appropriation . . . . . \$ 274,000

Savings Recovery Account Appropriation . . . . . \$ 1,070,000

Risk Management Account Appropriation . . . . . \$ 1,151,000

Motor Transport Account Appropriation . . . . . \$ 8,568,000

Central Stores Revolving Account Appropriation . . . . . \$ 3,965,000

Air Pollution Control Account Appropriation . . . . . \$ 111,000

General Administration Facilities and Services

Revolving Fund Appropriation . . . . . \$ 20,749,000

**TOTAL APPROPRIATION . . . . . \$ 42,004,000**

The appropriations in this section are subject to the following conditions and limitations:

(1) \$22,000 of the motor transport account appropriation and \$111,000 of the air pollution control account appropriation are provided solely to implement

the department's responsibilities under chapter 199, Laws of 1991 (Engrossed Substitute House Bill No. 1028, air quality).

(2) \$2,850,000 of the motor transport account appropriation is provided solely for replacement of motor vehicles through the state treasurer's financing contract program under chapter 39.94 RCW. The department may acquire new motor vehicles only to replace and not to increase the number of motor vehicles within the department's fleet.

(3) \$3,965,000 of the central stores revolving fund appropriation is provided solely for the purchasing and contract administration activities of the office of state procurement, division of purchasing, as provided in RCW 43.19.1923. Of this amount \$155,000 is provided solely to implement chapter 297, Laws of 1991 (Second Substitute Senate Bill No. 5143, purchasing recycled goods).

(4) \$117,000 of the general administration facilities and services revolving fund appropriation is provided solely to assist state agencies in processing asbestos claims.

(5) The department shall develop a consolidated mail service to handle all incoming mail in the 98504 zip code area, as well as all outgoing mail of executive branch agencies in the Olympia, Tumwater, and Lacey area, as determined by the director of general administration. Upon request, the department shall also provide outgoing mail services to legislative and judicial agencies in the Olympia, Tumwater, and Lacey area. For purposes of administering the consolidated mail service, the director shall:

(a) Determine the nature and extent of agency participation in the service, including the phasing of participation;

(b) Subject to the approval of the director of financial management and in compliance with applicable personnel laws, transfer employees and equipment from other agencies to the department when the director determines that such transfers will further the efficiency of the consolidated mail service. The director of financial management shall ensure that there are no net increases in state-wide staffing levels as a result of providing services currently being performed by state agencies through the consolidated mail service;

(c) Periodically assess charges on participating agencies to recover the cost of providing consolidated mail services;

(d) Accurately account for all costs incurred in implementation of the consolidated mail operation, and document any cost savings or avoidances; and

(e) By September 1, 1992, report to the appropriate committees of the legislature on the implementation of the service, including documentation of cost savings or avoidances achieved from the consolidation of mail services during fiscal year 1992.

***(6) \$849,000 of the general administration facilities and services revolving fund appropriation is provided solely for maintenance services to the department of labor and industries and the department of natural resources,***

*subject to negotiations with those departments to determine the levels and prices of services.*

*\*Sec. 141 was partially vetoed, see message at end of chapter.*

**NEW SECTION.** Sec. 142. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE DEPARTMENT OF INFORMATION SERVICES**

General Fund Appropriation . . . . .	\$	406,000
Data Processing Revolving Fund Appropriation . . . . .	\$	3,244,000
TOTAL APPROPRIATION . . . . .	\$	3,650,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$406,000 of the general fund appropriation is provided solely to complete the video telecommunications demonstration project begun by the department during the 1989-91 biennium. Authority to spend this amount is conditioned on compliance with section 903 of this act.

(2) The department shall report to the appropriate committees of the legislature by January 15, 1992, on the state's information systems development, review, and approval process. The report shall include recommendations on the appropriate roles and responsibilities of individual agencies, the department of information services, and the office of financial management.

*(3) From the level of expenditures allotted prior to the effective date of this act, the department shall reduce expenditures from nonappropriated moneys in the data processing revolving fund by \$5,294,000.*

*\*Sec. 142 was partially vetoed, see message at end of chapter.*

**NEW SECTION.** Sec. 143. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE PRESIDENTIAL ELECTORS**

General Fund Appropriation . . . . .	\$	1,000
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**NEW SECTION.** Sec. 144. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE INSURANCE COMMISSIONER**

Insurance Commissioner's Regulatory Account

Appropriation . . . . .	\$	15,432,000
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The appropriation in this section is subject to the following conditions and limitations: The insurance commissioner shall employ a fiscal analyst to (1) review financial statements and other data to discern potential financial difficulties of insurance companies admitted to do business in this state; (2) monitor the financial condition of admitted companies on a priority basis; (3) coordinate information within the insurance commissioner's office that relates to solvency conditions; and (4) analyze the financial statements of foreign companies seeking admission in this state in order to expedite the admissions process.

**NEW SECTION.** Sec. 145. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE BOARD OF ACCOUNTANCY**

General Fund Appropriation . . . . .	\$	485,000
Certified Public Accountants' Account Appropriation . . . . .	\$	669,000
TOTAL APPROPRIATION . . . . .	\$	1,154,000

**NEW SECTION.** Sec. 146. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE DEATH INVESTIGATION COUNCIL**

Death Investigations Account Appropriation . . . . .	\$	12,000
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**NEW SECTION.** Sec. 147. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE PROFESSIONAL ATHLETIC COMMISSION**

General Fund Appropriation . . . . .	\$	127,000
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**NEW SECTION.** Sec. 148. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE HORSE RACING COMMISSION**

Horse Racing Commission Fund Appropriation . . . . .	\$	4,865,000
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The appropriation in this section is subject to the following conditions and limitations:

(1) None of this appropriation may be used for the purpose of certifying Washington-bred horses under RCW 67.16.075.

(2) \$91,000 of this appropriation is provided solely for additional coordinators for satellite betting sites. This amount may be expended only during the fiscal period ending June 30, 1992.

**NEW SECTION.** Sec. 149. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE LIQUOR CONTROL BOARD**

Liquor Revolving Fund Appropriation . . . . .	\$	103,568,000
Industrial Insurance Premium Refund Account Appropriation . . . . .	\$	71,000
TOTAL APPROPRIATION . . . . .	\$	103,639,000

**NEW SECTION.** Sec. 150. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE UTILITIES AND TRANSPORTATION COMMISSION**

Public Service Revolving Fund Appropriation . . . . .	\$	29,381,000
Grade Crossing Protective Fund Appropriation . . . . .	\$	320,000
TOTAL APPROPRIATION . . . . .	\$	29,701,000

The appropriations in this section are subject to the following conditions and limitations: \$50,000 of the public service revolving fund appropriation is provided solely for the purpose of contracting with the state energy office to

develop plans and recommendations to expand the availability of compressed natural gas refueling stations for motor vehicles, pursuant to chapter 199, Laws of 1991 (Engrossed Substitute House Bill No. 1028).

**NEW SECTION. Sec. 151.** A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE BOARD FOR VOLUNTEER FIRE FIGHTERS**

Volunteer Fire Fighters' Relief and Pension

Administrative Fund Appropriation . . . . . \$ 373,000

**NEW SECTION. Sec. 152.** A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE MILITARY DEPARTMENT**

General Fund—State Appropriation . . . . . \$ 8,906,000

General Fund—Federal Appropriation . . . . . \$ 7,582,000

General Fund—Private/Local Appropriation . . . . . \$ 180,000

TOTAL APPROPRIATION . . . . . \$ 16,668,000

The appropriations in this section are subject to the following conditions and limitations: \$10,000 of the general fund—state appropriation is provided to the public affairs office for headquarters STARC, Camp Murray, Washington air national guard solely for the purpose of a publication to assist in the recruitment and retention of the Washington national guard.

**NEW SECTION. Sec. 153.** A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE PUBLIC EMPLOYMENT RELATIONS COMMISSION**

General Fund Appropriation . . . . . \$ 2,132,000

**\*NEW SECTION. Sec. 154.** *Sections 101 through 152 of chapter 16, Laws of 1991 sp. sess. are hereby repealed. Each appropriation in sections 101 through 153 of this act shall be reduced by an amount equal to expenditures for the same purpose prior to the effective date of this act from the appropriations in the sections repealed by this section. Each amount specified in a condition or limitation in sections 101 through 153 of this act shall be reduced by an amount equal to expenditures for the same purpose prior to the effective date of this act from amounts specified for the same purpose in the sections repealed by this section.*

\*Sec. 154 was vetoed, see message at end of chapter.

**PART II  
HUMAN SERVICES**

\*Sec. 201. 1991 sp.s. c 16 s 202 is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
CHILDREN AND FAMILY SERVICES PROGRAM**

General Fund—State Appropriation . . . . . \$ ~~((277,041,000))~~  
265,954,000

General Fund—Federal Appropriation . . . . .	\$ ((174,174,000))
	<u>171,473,000</u>
Drug Enforcement and Education Account Appropriation . . . . .	\$ 4,000,000
Public Safety and Education Account Appropriation . . . . .	\$ ((2,618,000))
	<u>2,418,000</u>
TOTAL APPROPRIATION . . . . .	\$ ((457,833,000))
	<u>443,845,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~(\$1,000,000)~~ \$607,000 of the general fund—state appropriation is provided solely to implement chapter 364, Laws of 1991 (Engrossed Substitute Senate Bill No. 5025, youth and family services) subject to the following conditions and limitations.

(a) \$94,000 of this amount is provided solely for an evaluation of family reconciliation services pursuant to section 1, chapter 364, Laws of 1991 (Engrossed Second Substitute Senate Bill No. 5025, youth and family services).

(b) ~~(\$650,000)~~ \$513,000 is provided solely to expand family reconciliation services.

~~((e) \$256,000 is provided solely to expand homebuilder services to Whatcom county on July 1, 1992.)~~

(2) ~~(\$5,902,000)~~ \$2,949,000 of the general fund—state appropriation and ~~(\$1,081,000)~~ \$691,000 of the general fund—federal appropriation are provided solely for vendor rate increases of ~~((five))~~ two percent on ~~((January))~~ July 1, 1992, and five percent on January 1, 1993, for children's out-of-home residential providers except interim care, including but not limited to foster parents and child placement agencies, and ~~((3-1))~~ two percent on ~~((January))~~ July 1, 1992, and ~~((3-4))~~ three percent on January 1, 1993, for other providers, except child care providers.

~~(3) (\$1,350,000 of the general fund—state appropriation is provided solely for the continuation of the family violence pilot project and to initiate one new project at a cost of no more than \$350,000.~~

~~(4))~~ \$1,150,000 of the general fund—state appropriation is provided solely to implement a therapeutic home program under section 2 of chapter 326, Laws of 1991 (Engrossed Substitute House Bill No. 1608, children's services).

~~((5))~~ ~~(4)~~ \$500,000 of the general fund—state appropriation is provided solely to implement chapter 283, Laws of 1991 (Second Substitute Senate Bill No. 5341, foster parent liability insurance).

~~((6))~~ ~~(5)~~ \$110,000 of the general fund—state appropriation is provided solely for volunteers of America of Spokane's crosswalk project.

~~((7))~~ ~~(6)~~ \$3,300,000 of the general fund—state appropriation is provided solely for direct services provided by four existing continuum of care projects.

~~((8))~~ ~~(7)~~ \$900,000 of the drug enforcement and education account appropriation and \$300,000 of the general fund—state appropriation are provided

solely to contract for the operation of one pediatric interim care facility. The facility shall provide residential care for up to twelve children through two years of age. Seventy-five percent of the children served by the facility must be in need of special care as a result of substance abuse by their mothers. The facility also shall provide on-site training to biological, adoptive, or foster parents. The facility shall provide at least three months of consultation and support to parents accepting placement of children from the facility. The facility may recruit new and current foster and adoptive parents for infants served by the facility. The department shall not require case management as a condition of the contract. The department shall solicit proposals from current pediatric interim care providers. The department shall select a provider from among the current pediatric interim care providers through an accelerated selection process by August 15, 1991. The contract shall be awarded by August 15, 1991.

~~((9))~~ (8) \$700,000 of the general fund—state appropriation and \$299,000 of the drug enforcement and education account appropriation are provided solely for up to three nonfacility based programs for the training, consultation, support, and recruitment of biological, foster, and adoptive parents of children through age three in need of special care as a result of substance abuse by their mothers, except that each program may serve up to three medically fragile nonsubstance-abuse-affected children. In selecting nonfacility based programs, preference shall be given to programs whose federal or private funding sources have expired or have successfully performed under the existing pediatric interim care program. The department shall select providers under this subsection using an accelerated selection process, to be completed no later than August 15, 1991.

~~((10))~~ (9) The amounts in subsections (7) and (8) ~~((and (9)))~~ of this section may be used to continue the existing pediatric interim care programs through August 15, 1991.

~~((11))~~ (10) ~~(\$200,000)~~ \$100,000 of the public safety and education account is provided solely to implement sections 11 and 12, chapter 301, Laws of 1991 (Engrossed Substitute House Bill No. 1884, domestic violence programs).

~~((12))~~ (11) Up to \$25,000 of the general fund—state appropriation is provided to implement section 7 of chapter 301, Laws of 1991 (Substitute House Bill No. 1884, domestic violence programs).

~~((13))~~ (12) \$1,500,000 of the general fund—state appropriation is provided solely for increased funding for domestic violence programs.

~~((15))~~ (13) \$480,000 of the general fund—state appropriation is provided solely for purchase of service and for grants to nonprofit child placement agencies licensed under chapter 74.15 RCW to recruit potential adoptive parents for, and place for adoption, children with physical, mental, or emotional disabilities, children who are part of a sibling group, children over age 10, and minority or limited English-speaking children.

(14) \$1,000,000 of the general fund—state appropriation is provided solely for the transfer of children who are inappropriately housed in crisis residential centers to residential services designed to meet their specific needs.

(15) \$30,000 of the general fund—state appropriation is provided solely to fund follow-up research on the Childhaven therapeutic childcare study.

\*Sec. 201 was partially vetoed, see message at end of chapter.

Sec. 202. 1991 sp.s. c 16 s 203 is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
JUVENILE REHABILITATION PROGRAM**

**(1) COMMUNITY SERVICES**

General Fund—State Appropriation . . . . .	\$	<del>((57,604,000))</del>
		<u>53,246,000</u>
General Fund—Federal Appropriation . . . . .	\$	135,000
Drug Enforcement and Education Account Appropriation .	\$	1,762,000
TOTAL APPROPRIATION . . . . .	\$	<del>((59,501,000))</del>
		<u>55,143,000</u>

The appropriations in this subsection are subject to the following conditions and limitations: ~~((a) \$1,117,000))~~ \$670,000 of the general fund—state appropriation is provided solely to provide vendor rate increases of ~~((five))~~ two percent on ~~((January))~~ July 1, 1992, and five percent on January 1, 1993, to juvenile rehabilitation group homes, and ~~((3-1))~~ two percent on ~~((January))~~ July 1, 1992, and ~~((3-4))~~ three percent on January 1, 1993, for other vendors.

**(2) INSTITUTIONAL SERVICES**

General Fund—State Appropriation . . . . .	\$	<del>((54,370,000))</del>
		<u>57,750,000</u>
General Fund—Federal Appropriation . . . . .	\$	949,000
Drug Enforcement and Education Account Appropriation .	\$	940,000
TOTAL APPROPRIATION . . . . .	\$	<del>((56,259,000))</del>
		<u>59,639,000</u>

**(3) PROGRAM SUPPORT**

General Fund Appropriation . . . . .	\$	<del>((4,390,000))</del>
		<u>2,996,000</u>
Drug Enforcement and Education Account Appropriation .	\$	342,000
TOTAL APPROPRIATION . . . . .	\$	<del>((4,732,000))</del>
		<u>3,338,000</u>

The appropriations in this subsection are subject to the following conditions and limitations: \$90,000 of the general fund—state appropriation is provided solely to implement chapter 234, Laws of 1991 (Second Substitute Senate Bill No. 5167, juvenile justice act), including section 2 of the act.

\*Sec. 203. 1991 sp.s. c 16 s 204 is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
MENTAL HEALTH PROGRAM**

**(1) COMMUNITY SERVICES/REGIONAL SUPPORT NETWORKS**

General Fund—State Appropriation . . . . .	\$ ((235,715,000))	<u>219,896,000</u>
General Fund—Federal Appropriation . . . . .	\$ ((110,751,000))	<u>109,490,000</u>
General Fund—Local Appropriation . . . . .	\$ 3,360,000	
TOTAL APPROPRIATION . . . . .	\$ ((349,826,000))	<u>332,746,000</u>

The appropriations in this subsection are subject to the following conditions and limitations:

(a) ((~~\$6,213,000~~)) \$3,444,000 of the general fund—state appropriation and ((~~\$2,863,000~~)) \$1,602,000 of the general fund—federal appropriation are provided solely for vendor rate increases of ((~~3.1~~)) two percent on ((~~January~~)) July 1, 1992, and ((~~3.4~~)) three percent on January 1, 1993.

(b) ((~~\$33,021,000~~)) \$23,971,000 of the general fund—state appropriation and \$250,000 of the general fund—federal appropriation are provided for the continued implementation of chapter 206, Laws of 1989, as amended, and other community enhancements. Of this amount:

(i) ((~~\$7,200,000~~)) \$6,400,000 is provided solely to implement sections 1(16) and 2(8) of chapter 262, Laws of 1991 (Second Substitute Senate Bill No. 5667, evaluation/treatment access).

(ii) \$400,000 of the general fund—state appropriation is provided solely for Pierce county for costs related to the administration of the involuntary treatment act.

(iii) ((~~\$17,582,000~~)) \$9,582,000 is provided solely to expand mental health service capacity in a manner to be determined by the regional support networks. However, community services that will reduce the populations of the state hospitals shall have first priority for these funds.

(iv) \$1,900,000 of the general fund—state appropriation is provided solely for regional support networks for acquisition and implementation of local management information systems in compliance with RCW 71.24.035. These information systems shall assure exchange of state required core data concerning mental health programs. The department of social and health services shall contract with regional support networks for these information systems.

(v) \$1,600,000 of the general fund—state appropriation is provided solely for an integrated information system which allows for assured exchange of state required core data in compliance with RCW 71.24.035. Authority to expend these funds is conditioned on compliance with section 902 of this act.

(vi) \$589,000 of the general fund—state appropriation is provided solely to establish the Grays Harbor regional support network by January 1, 1992.

(vii) \$500,000 of the general fund—state appropriation is provided solely to implement section 14, chapter 326, Laws of 1991 (Engrossed Substitute House Bill No. 1608, services for children).

(viii) ~~(\$750,000)~~ \$500,000 of the general fund—state appropriation and \$250,000 of the general fund—federal appropriation are provided solely for up to five performance-based contracts for the delivery of children’s mental health services with regional support networks that have developed interagency children’s mental health services delivery plans. To be eligible for a contract, the interagency children’s mental health services delivery plan shall:

(A) Involve the major child-serving systems, including education, child welfare, and juvenile justice, in the county or counties served by the regional support network, in a coordinated system for delivery of children’s mental health services; and

(B) Include mechanisms for interagency case planning, where necessary, that do not result in duplicative case management, to meet the mental health needs of children served through the plan.

(c) \$1,500,000 of the general fund—state appropriation is provided solely for transportation services.

(d) \$2,000,000 of the general fund—state appropriation is provided solely to enroll an additional four counties in the regional support network program by January 1993.

(2) INSTITUTIONAL SERVICES

General Fund—State Appropriation . . . . .	\$	<del>((237,703,000))</del>	
			<u>193,404,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((13,604,000))</del>	
			<u>62,735,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((251,307,000))</del>	<u>256,139,000</u>

(3) CIVIL COMMITMENT

General Fund—State Appropriation . . . . .	\$	<del>((4,908,000))</del>	
			<u>4,339,000</u>

(4) SPECIAL PROJECTS

General Fund—State Appropriation . . . . .	\$	<del>((1,917,000))</del>	
			<u>1,889,000</u>
General Fund—Federal Appropriation . . . . .	\$	2,966,000	
TOTAL APPROPRIATION . . . . .	\$	<del>((4,883,000))</del>	<u>4,855,000</u>

The appropriations in this subsection are subject to the following conditions and limitations: ~~(\$59,000)~~ \$31,000 of the general fund—state appropriation is provided solely for vendor rate increases of ~~((3-1))~~ two percent on ~~((January))~~ July 1, 1992, and ~~((3-4))~~ three percent on January 1, 1993.

(5) PROGRAM SUPPORT

General Fund—State Appropriation . . . . .	\$	<del>((6,197,000))</del>	
			<u>5,959,000</u>

General Fund—Federal Appropriation . . . . .	\$	((1,887,000))
		<u>1,867,000</u>
TOTAL APPROPRIATION . . . . .	\$	((8,084,000))
		<u>7,826,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$338,000 from the general fund—state appropriation is provided solely for transfer by interagency agreement to the University of Washington for an evaluation of mental health reform. The legislative budget committee shall review the evaluation work plan and deliverables. The indirect cost rate for this study shall be the same as that for the first steps evaluation.

\*Sec. 203 was partially vetoed, see message at end of chapter.

NEW SECTION. Sec. 204. A new section is added to 1991 sp.s. c 16 to read as follows:

**DEPARTMENT OF SOCIAL AND HEALTH SERVICES—MENTAL HEALTH PROGRAM—RISK POOL FUND.** The sum of \$8,000,000, or so much thereof as may be necessary, is appropriated from the state general fund to the mental health program of the department of social and health services for a risk pool fund to support a collaborative effort between regional support networks and state hospitals to serve patients in community settings.

Money from this fund shall be expended as payments to regional support networks for reductions in usage of bed days at Eastern and Western State Hospitals, or, to the extent such reductions are not made, to cover resulting budget deficits at the state hospitals. Money from this fund shall be used to contract with regional support networks on both the east and west side of the Cascade mountains based on the regional support networks' ability to participate in reductions in usage of bed days.

Payments to regional support networks shall be specified in regional support network contracts with the department and shall be based on negotiations between regional support networks and the state hospitals. These negotiations shall identify the intended reductions in bed days, the expected reductions in costs in state hospitals, and the amount and timing of payments to regional support networks.

Money from this fund shall not be used to meet any operating deficits at the state hospitals resulting from causes unrelated to the failure of the regional support networks to reduce bed day usage as specified in the contracts developed pursuant to this section.

\*Sec. 205. 1991 sp.s. c 16 s 205 is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—DEVELOPMENTAL DISABILITIES PROGRAM**

**(1) COMMUNITY SERVICES**

General Fund—State Appropriation . . . . .	\$	((189,332,000))
		<u>183,785,000</u>

General Fund—Federal Appropriation . . . . .	\$ ((111,394,000))
	<u>113,221,000</u>
TOTAL APPROPRIATION . . . . .	\$ ((300,726,000))
	<u>297,006,000</u>

The appropriations in this subsection are subject to the following conditions and limitations:

((e)) (a) \$500,000 of the general fund—state appropriation, or as much thereof as may be necessary, is provided solely for tenant or intensive tenant support services for clients of group homes of over fifteen clients that demonstrate difficulty in meeting departmental standards.

((d) ~~\$706,000~~) (b) \$631,000 of the general fund—state appropriation and \$815,000 of the general fund—federal appropriation are provided solely for community-based residential programs for twelve clients under the care of the united cerebral palsy intermediate care facility for the mentally retarded.

~~((e) \$3,150,000 of the general fund—state appropriation and \$3,698,000 of the general fund—federal appropriation are provided solely for community-based services for developmentally disabled persons who have transferred from Western State Hospital or Eastern State Hospital to the community or who in the judgment of the secretary are at risk of being committed to either hospital.~~

(f)) (c) \$1,500,000 of the general fund—state appropriation is provided solely for the family support services program.

~~((g) \$7,200,000 of the general fund—state appropriation and \$7,200,000 of the general fund—federal appropriation are provided solely for additional clients in the state-operated living alternative community residential program (SOLA) who previously resided in residential habilitation centers. Any of these amounts used for employment or day programs shall be used to contract with private community providers.~~

~~(h) \$5,900,000 of the general fund—state appropriation and \$5,900,000 of the general fund—federal appropriation are provided solely for additional clients in privately-operated community residential programs who previously resided in residential habilitation centers.~~

~~((i) \$1,800,000) (d) \$4,674,000 of the general fund—state appropriation and \$4,674,000 of the general fund—federal appropriation are provided solely for community-based residential programs for up to seventy-three clients who during the 1991-93 biennium transfer from residential habilitation centers.~~

~~(e) \$400,000 of the general fund—state appropriation ((and \$600,000 of the general fund—federal appropriation are)) is provided solely for costs related to additional case management.~~

((j)) (f) \$800,000 of the general fund—state appropriation and \$800,000 of the general fund—federal appropriation are provided solely for emergency community residential placements in lieu of placement at residential habilitation centers.

~~((k) \$1,924,000 of the general fund—state appropriation and \$1,465,000 of the general fund—federal appropriation are provided solely for community-based residential services for seventy clients transferred from Fircrest School to the community.))~~

*(g) \$1,709,000 of the general fund—state appropriation and \$2,088,000 of the general fund—federal appropriation are provided solely for prospective rate increases for intermediate care facilities for the mentally retarded to cover the medicaid share of the new business and occupation tax levied in accordance with Engrossed Substitute House Bill No. 2967. These amounts shall lapse upon expiration of the tax. Amounts that have been paid under this subsection (1)(g), but are properly attributable to a period after the expiration date of the tax, shall be repaid or credited to the state as provided in rules of the department of revenue.*

(2) INSTITUTIONAL SERVICES

General Fund—State Appropriation . . . . .	\$ ((115,404,000))
	<u>141,371,000</u>
General Fund—Federal Appropriation . . . . .	\$ ((143,511,000))
	<u>181,440,000</u>
TOTAL APPROPRIATION . . . . .	\$ ((258,915,000))
	<u>322,811,000</u>

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The general fund—state appropriation shall be reduced by the amount that has been expended as of the effective date of this act from the appropriation under section 207, chapter 16, Laws of 1991 sp. sess.

(b) ~~\$((400,000))~~ 100,000 of the general fund—state appropriation is provided solely for enhanced staff training.

*(c) \$15,379,000 of the general fund—state appropriation and \$18,798,000 of the general fund—federal appropriation are provided solely for prospective rate increases for intermediate care facilities for the mentally retarded to cover the medicaid share of the new business and occupation tax levied in accordance with Engrossed Substitute House Bill No. 2967. These amounts shall lapse upon expiration of the tax. Amounts that have been paid under this subsection (2)(c), but are properly attributable to a period after the expiration date of the tax, shall be repaid or credited to the state as provided in rules of the department of revenue.*

(3) PROGRAM SUPPORT

General Fund—State Appropriation . . . . .	\$ ((5,638,000))
	<u>5,585,000</u>
General Fund—Federal Appropriation . . . . .	\$ ((1,094,000))
	<u>1,001,000</u>
TOTAL APPROPRIATION . . . . .	\$ ((6,732,000))
	<u>6,586,000</u>

The appropriations in this section are subject to the following conditions and limitations: (~~(\$1,040,000)~~) \$1,015,000 of the general fund—state appropriation is provided solely to establish five regional centers representing all areas of the state and to provide grants to nonprofit community-based organizations to provide services for the deaf in each region. If Substitute Senate Bill No. 5458 (regional deaf centers) is enacted by July 31, 1991, the amount provided in this subsection is provided solely to implement the bill.

\*Sec. 205 was partially vetoed, see message at end of chapter.

NEW SECTION. Sec. 206. INTERLAKE SCHOOL. 1991 sp.s. c 16 s 207 is repealed.

NEW SECTION. Sec. 207. A new section is added to 1991 sp.s. c 16 to read as follows:

**DEPARTMENT OF SOCIAL AND HEALTH SERVICES—DEVELOPMENTAL DISABILITIES—STATE HOSPITALS.** The sum of \$3,050,000 from the general fund—state and \$3,581,000 from the general fund—federal is appropriated to the developmental disabilities program of the department of social and health services to reduce the number of persons with developmental disabilities residing at eastern and western state hospitals, and to improve care for those who do reside there. At least \$450,000 of the general fund—state appropriation in this section shall be used to supplement standard state hospital expenditures in order to provide additional, specialized care for persons with developmental disabilities who reside in the state hospitals. The balance of the state and federal appropriation shall be used in collaboration with mental health regional support networks to provide case management, crisis intervention, respite, residential, or other community-based services for persons with developmental disabilities who transfer from or who are at risk of placement into the state hospitals. Expenditures under this section for nonstate hospital services shall be conditioned upon specific reductions in admissions to, or in the utilization of bed days at, the state hospitals.

The appropriations in this section shall be reduced by the amount that has been expended as of the effective date of this act from the appropriations under section 205(1)(e), chapter 16, Laws of 1991 sp. sess.

Sec. 208. 1991 sp.s. c 16 s 208 is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—DEVELOPMENTAL DISABILITIES PROGRAM—COMMUNITY SERVICES EXPANSION**

The sum of (~~(\$17,000,000)~~) \$11,710,000, or so much thereof as may be necessary, is appropriated from the state general fund to the developmental disabilities program of the department of social and health services for the community services program to expand community-based services during the 1991-93 fiscal biennium. Of this appropriation:

(1) ~~(\$6,700,000 of the general fund appropriation is provided solely for expansion of employment programs for persons who have completed a high school curriculum within the previous two years.~~

(2) ~~\$5,400,000 of the general fund appropriation is provided solely for employment programs for those persons who complete a high school curriculum during the 1991-93 biennium.~~

(3) \$4,200,000 of the general fund appropriation) \$6,810,000 is provided solely for employment programs, or to the extent that the programs will lead to employment, community access programs, for those persons who completed a high school curriculum during 1989 or 1990, or who will complete a high school curriculum during the 1991-93 biennium.

(2) \$4,200,000 is provided solely to expand the family support services program.

~~((4))~~ (3) \$700,000 of the general fund appropriation is provided solely to add new cases to the early intervention services program.

**Sec. 209.** 1991 sp.s. c 16 s 209 is amended to read as follows:  
**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
DEVELOPMENTAL DISABILITIES PROGRAM—COMMUNITY  
VENDOR RATES**

The sums of ~~(\$10,834,000)~~ \$4,724,000 from the general fund—state appropriation and ~~(\$5,480,000)~~ \$2,804,000 from the general fund—federal appropriation, or so much thereof as may be necessary, are provided for vendor rate increases of ~~((six)) two~~ percent on ~~((January)) July~~ 1, 1992, and six percent on January 1, 1993, to be used only for increases to vendors currently providing services and not for program expansion, to the department of social and health services, developmental disabilities program for the biennium ending June 30, 1993. A minimum increase of 4.5 percent on January 1, 1993, shall be provided to all vendors. The remaining amount may be used by the department or by counties contracting with the department to address inequities in the current vendor reimbursement system or the special needs of various vendors of services to the developmentally disabled.

**\*Sec. 210.** 1991 sp.s. c 16 s 210 is amended to read as follows:  
**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
LONG-TERM CARE SERVICES**

General Fund—State Appropriation . . . . .	\$	<del>((565,033,000))</del>
		<u>538,176,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((665,949,000))</del>
		<u>643,550,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((1,230,982,000))</del>
		<u>1,181,726,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Nursing home rates shall be adjusted for inflation under RCW 74.46.495 by 3.1 percent on July 1, 1991, and 3.4 percent on July 1, 1992.

(2) \$1,000,000 of the general fund—state appropriation is provided solely to increase the capacity of the chore services program.

(3) At least ~~(\$16,686,400)~~ \$16,015,400 of the general fund—state appropriation shall initially be allotted for implementation of the senior citizens services act. However, at least \$1,290,300 of this amount shall be used solely for programs that use volunteer workers for the provision of chore services to persons whose need for chore services is not being met by the chore services programs.

(4) \$714,000 of the general fund—state appropriation is provided solely to continue funding for the volunteer chore services program.

(5) ~~(\$5,276,000)~~ \$3,387,000 of the general fund—state appropriation and ~~(\$3,171,000)~~ \$1,668,000 of the general fund—federal appropriation are provided solely for vendor rate increases of ~~((3-4))~~ two percent on ~~((January))~~ July 1, 1992, and ~~((3-4))~~ three percent on January 1, 1993.

(6) \$5,001,000 of the general fund—state appropriation and \$3,751,000 of the general fund—federal appropriation are provided solely for salary and wage increases for chore workers (both contracted and individual providers), COPES workers (agency and individual providers), Title XIX personal care contracted workers, and respite care workers.

(7) \$1,477,000 of the general fund—state appropriation and \$1,748,000 of the general fund—federal appropriation are provided solely for increases in the assisted living program.

(8) \$100,000 of the general fund—state appropriation is provided solely for a prospective rate enhancement for nursing homes meeting all of the following conditions: (a) The nursing home entered into an arms-length agreement for a facility lease prior to January 1, 1980; (b) the lessee purchased the leased facility after January 1, 1980; (c) the lessor defaulted on its loan or mortgage for the assets of the facility; (d) the facility is located in a county with a 1989 population of less than 45,000 and an area more than 5,000 square miles. The rate increase shall be effective July 1, 1990. To the extent possible, the increase shall recognize the 1982 fair market value of the nursing home's assets as determined by an appraisal contracted by the department of general administration. If necessary, the increase shall be granted from state funds only. In no case shall the annual value of the rate increase exceed \$50,000. The rate adjustment in this subsection shall not be implemented if it jeopardizes federal matching funds for qualifying facilities or the long-term care program in general. Funds may be disbursed on a monthly basis.

(9) Within the appropriations in this section, the department shall implement chapter 271, Laws of 1991 (Engrossed Substitute House Bill No. 2100, nursing homes/ethnic minorities).

(10) The department shall transfer clients of the chore services program to the personal care program if the individual is financially and programmati-

cally eligible for the personal care program, except that the department shall not transfer chore services clients who cannot be served through the personal care program due to a geographic factor which makes impractical their participation in the personal care program.

(11) By November 1, 1992, the department shall report to appropriate committees of the legislature on ways in which the nursing home rate-setting system might be revised to recognize, within current levels of state funding, any special financial requirements of nursing facilities which have a medicaid population of 90 percent or greater.

(12) Within the appropriations provided in this section, the department shall implement House Bill No. 2811 (AIDS nursing supply costs).

\*Sec. 210 was partially vetoed, see message at end of chapter.

\*Sec. 211. 1991 sp.s. c 16 s 211 is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
INCOME ASSISTANCE PROGRAM**

General Fund—State Appropriation . . . . .	\$ ((601,519,000))
	<u>619,135,000</u>
General Fund—Federal Appropriation . . . . .	\$ ((655,543,000))
	<u>685,111,000</u>
TOTAL APPROPRIATION . . . . .	\$ ((1,257,062,000))
	<u>1,304,246,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Payment levels in the programs for aid to families with dependent children, general assistance, and refugee assistance shall contain an energy allowance to offset the costs of energy. The allowance shall be excluded from consideration as income for the purpose of determining eligibility and benefit levels of the food stamp program to the maximum extent such exclusion is authorized under federal law and RCW 74.08.046. To this end, up to \$230,000,000 of the income assistance payments is so designated for exemptions of the following amounts:

Family size:	1	2	3	4	5	6	7	8 or more
Exemption:	\$55	71	86	102	117	133	154	170

(2) ~~(\$1,100,000)~~ \$563,000 of the general fund—state appropriation and ~~(\$1,173,000)~~ \$616,000 of the general fund—federal appropriation are provided solely for a ~~((3-1))~~ two percent vendor rate increase on ~~((January))~~ July 1, 1992, and a ~~((3-4))~~ three percent increase on January 1, 1993.

(3) ~~(\$21,404,000)~~ \$5,182,000 of the general fund—state appropriation and ~~(\$25,887,000)~~ \$5,284,000 of the general fund—federal appropriation are provided solely for a grant standard increase for aid for families with dependent children, the family independence program, general assistance—special and supplemental security income additional requirements, consolidated emergency

assistance, and refugee assistance. The increase shall equal (~~(3.1 percent on January 1, 1992, and 3.4)~~) three percent on January 1, 1993.

(4) \$1,008,000 of the general fund—state appropriation is provided solely to implement retrospective budgeting under RCW 74.04.005(6)(b)(ii).

(5) Of the general fund—state appropriation, no more shall be expended for the state supplementary payment for supplemental security income (SSI) payments than is required to comply with 20 CFR Ch. III, s 416.2096(c)(1). The department shall adjust the state supplementary payment in order to comply within this condition and limitation.

(6) \$1,500,000 of the general fund—state appropriation, or so much thereof as is necessary, is provided to implement Substitute House Bill No. 2983 (public assistance job training).

\*Sec. 211 was partially vetoed, see message at end of chapter.

Sec. 212. 1991 sp.s. c 16 s 212 is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
ALCOHOL AND SUBSTANCE ABUSE PROGRAM**

General Fund—State Appropriation . . . . .	\$	<del>((45,437,000))</del>
		<u>41,458,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((41,691,000))</del>
		<u>41,642,000</u>
Drug Enforcement and Education Account		
State Appropriation . . . . .	\$	38,236,000
TOTAL APPROPRIATION . . . . .	\$	<del>((125,364,000))</del>
		<u>121,336,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) (~~((3,242,000))~~) \$1,781,000 of the general fund—state appropriation (~~((is))~~) and \$44,000 of the general fund—federal appropriation are provided solely for vendor rate increases of (~~((3.1))~~) two percent on (~~((January))~~) July 1, 1992, and (~~((3.4))~~) three percent on January 1, 1993.

(2) \$50,000 of the general fund—state appropriation is provided solely for a program to inform clients in substance abuse programs of the consequences of the use of drugs and alcohol during pregnancy.

Sec. 213. 1991 sp.s. c 16 s 213 is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
MEDICAL ASSISTANCE PROGRAM**

General Fund—State Appropriation . . . . .	\$	<del>((968,684,000))</del>
		<u>1,009,929,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((1,058,273,000))</del>
		<u>1,205,576,000</u>

General Fund—Local Appropriation . . . . .	\$	<del>((12,000,000))</del>
		<u>58,904,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((2,038,957,000))</del>
		<u>2,274,409,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~((10,853,000))~~ \$5,995,000 of the general fund—state appropriation and ~~((11,832,000))~~ \$6,182,000 of the general fund—federal appropriation is provided solely for a ~~((3.1))~~ two percent vendor rate increase on ~~((January))~~ July 1, 1992, and a ~~((3.4))~~ three percent increase on January 1, 1993.

(2) ~~((2,262,000))~~ \$341,000 of the general fund—state appropriation and ~~((2,763,000))~~ \$370,000 of the general fund—federal appropriation is provided solely for the grant standard increase authorized in section 211 of this act.

(3) The department shall adopt measures to realize savings of \$7,500,000 in general fund—state expenditures for optional medicaid services or coverages as estimated in the March 1991 forecast estimate by the office of financial management. These limits or measures shall be effective no later than September 1, 1991, and shall be reported to the appropriate committees of the legislature by that date.

(4) The department shall establish standards for the use and frequency of use of reimbursable chiropractic services. The standards shall recognize the medical or therapeutic value of such services.

(5) The department shall continue disproportionate share payments and vendor payment advances to Harborview medical center. It is the intent of the legislature that Harborview medical center continue to be an economically viable component of the health care system and that the state’s financial interest in Harborview medical center be recognized. To this end, the legislature requests that the chair of Harborview medical center board of trustees convene a work group consisting of state legislators and county elected officials, with representation from the University of Washington board of regents and administration, to discuss alternative governance strategies. The legislature requests that by December 1, 1991, the work group submit to appropriate legislative committees recommendations to improve the structure and governance process of Harborview medical center. It is the intent of the legislature that Harborview medical center maintain its high standards of care through active participation in health research. Therefore, the legislature expects Harborview medical center to proceed with the renovation of Harborview hall.

(6) The department is authorized under 42 U.S.C. Sec. 1396b(a)(1) to pay third-party health insurance premiums for categorically needy medical assistance recipients upon a determination that payment of the health insurance premium is cost effective. In determining cost effectiveness, the department shall compare the amount, duration, and scope of coverage offered under the medical assistance program.

(7) The department shall continue variable ratable reductions for the medically indigent and general assistance—unemployable programs in effect November 1, 1988.

(8) \$14,473,000 of the general fund—state appropriation and \$17,566,000 of the general fund—federal appropriation are provided solely for the adult dental program for Title XIX categorically eligible and medically needy persons.

(9) \$125,000 of the general fund—state appropriation and \$150,000 of the general fund—federal appropriation are provided solely for a prenatal care project. The project shall be designed to triage low-income pregnant women according to health needs and to refer them through an equitable client distribution system to appropriate maternity care providers. The project shall be located in an urban county designated as a maternity care distressed area, with a high need for such services, as evidenced by the number of women unable otherwise to obtain care and by the rate of infant mortality and similar factors. The department shall give preference to existing programs that are at risk of termination due to lack of funding.

(10) Not more than \$261,000 from the appropriations in this section may be expended to implement chapter 233, Laws of 1991 (Substitute Senate Bill No. 5010, occupational therapy), subject to the adoption of savings measures by the department under subsection (3) of this section.

(11) \$435,000, of which \$217,500 is appropriated from the general fund—federal appropriation, is provided solely for transfer by interagency agreement to the University of Washington for the continuation of the first steps evaluation. The legislative budget committee shall review the evaluation progress and deliverables. Overhead on the research contract shall continue at the 1989-91 level.

(12) \$49,000,000 of the general fund—federal appropriation and \$40,000,000 of the general fund—private/local appropriation are provided solely to establish a hospital assistance program through the disproportionate share mechanism. The program shall assist Harborview Medical Center, University of Washington Medical Center, small and rural hospitals as determined by the department.

(13) \$341,000 of the general fund—state appropriation and \$427,000 of the general fund—federal appropriation are provided solely to restore foot care services by podiatric physicians and surgeons beginning July 1, 1992.

**Sec. 214.** 1991 sp.s. c 9 s 10 is amended to read as follows:

(1) ~~((The sum of one hundred twenty-eight million four hundred ten thousand dollars from the state general fund, of which sixty-nine million nine hundred thousand dollars is from the general fund—federal, is hereby appropriated))~~ \$29,540,000 is appropriated from the general fund—state and \$34,532,000 is appropriated from the general fund—federal for the fiscal period beginning September 1, 1991, and ending June 30, 1993, to the medical assistance program of the department of social and health services for the purpose of the payment of the components of the disproportionate share adjustment under section 9 of

this act. The appropriation in this subsection shall lapse on the date that sections 1 through 4 of this act expire. Amounts that have been paid under this subsection, but are properly attributable to a period after the expiration of sections 1 through 4 of this act shall be repaid or credited to the state as provided in rules of the department.

(2) ~~((The sum of thirty eight million one hundred eighty seven thousand dollars from the state general fund, of which twenty million nine hundred ninety five thousand dollars is from the general fund—federal, is hereby appropriated))~~ \$13,713,000 is appropriated from the general fund—state and \$16,762,000 is appropriated from the general fund—federal for the biennium ending June 30, 1993, to the medical assistance program of the department of social and health services for the purpose of the payment of the medical indigency care components of the disproportionate share adjustment under RCW 74.09.730(1) (b) and (c).

(3) The allotments from the appropriations in this section shall be made so as to enable expenditure of the appropriations through the end of the 1991-93 biennium.

(4) The appropriations ~~((is))~~ in this section are supplemental to other appropriations to the medical assistance program. The department of social and health services shall not use the moneys appropriated in this section in lieu of any other appropriations for the medical assistance program.

Sec. 215. 1991 sp.s. c 16 s 214 is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
VOCATIONAL REHABILITATION PROGRAM**

General Fund—State Appropriation . . . . .	\$	<del>((16,601,000))</del>
		<u>16,077,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((56,973,000))</del>
		<u>55,803,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((73,574,000))</del>
		<u>71,880,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~((91,000))~~ \$48,000 of the general fund—state appropriation is provided solely for vendor rate increases of ~~((3.1))~~ two percent on ~~((January))~~ July 1, 1992, and ~~((3.4))~~ three percent on January 1, 1993.

(2) \$1,621,000 of the general fund—state appropriation and \$3,576,000 of the general fund—federal appropriation are provided solely to enhance vocational rehabilitation services.

(3) \$800,000 of the general fund—state appropriation and \$2,420,000 of the general fund—federal appropriation are provided solely for vocational rehabilitation services for severely handicapped individuals who completed a high school curriculum in 1989 or 1990, or who will complete a high school curriculum during the 1991-93 biennium.

Sec. 216. 1991 sp.s. c 16 s 215 is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
ADMINISTRATION AND SUPPORTING SERVICES PROGRAM**

General Fund—State Appropriation . . . . .	\$ ((53,529,000))	
		<u>49,428,000</u>
General Fund—Federal Appropriation . . . . .	\$ ((37,706,000))	
		<u>36,372,000</u>
<b>Industrial Insurance Premium Refund Account</b>		
Appropriation . . . . .	\$	80,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$ ((91,315,000))</b>	<b><u>85,880,000</u></b>

The appropriations in this section are subject to the following conditions and limitations:

((2)) (1) \$500,000 of the general fund—state appropriation is provided solely to implement section 28 of chapter 315, Laws of 1991 (Engrossed Substitute Senate Bill No. 5555, timber family support centers).

(2) The secretary shall require each regional office of the developmental disabilities division, each aging and adult field services regional office, each county alcohol and substance abuse program, and each mental health regional support network to enter into written collaborative agreements by October 1, 1992. The agreements shall define specific actions each party will take to reduce the number and length of state and local psychiatric hospitalizations by persons in the nonmental health agency's target population, including persons with developmental disabilities, persons with age-related dementia and traumatic brain injury, and persons with chemical dependencies. By November 1, 1992, the secretary shall report to the human services and appropriations committees of the house of representatives and the health and long-term care and ways and means committees of the senate on the actions each party in each regional support network catchment area will take to reduce hospitalization of each target population.

Sec. 217. 1991 sp.s. c 16 s 216 is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
COMMUNITY SERVICES ADMINISTRATION PROGRAM**

General Fund—State Appropriation . . . . .	\$ ((221,996,000))	
		<u>193,987,000</u>
General Fund—Federal Appropriation . . . . .	\$ ((267,315,000))	
		<u>204,785,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$ ((489,311,000))</b>	<b><u>398,772,000</u></b>

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~(\$266,000)~~ \$68,000 of the general fund—state appropriation and ~~(\$50,000)~~ \$20,000 of the general fund—federal appropriation are provided

solely for vendor rate increases of ~~((3.1))~~ two percent on ~~((January))~~ July 1, 1992, and ~~((3.4))~~ three percent on January 1, 1993.

(2) \$1,748,000 of the general fund—state appropriation and \$1,748,000 of the general fund—federal appropriation are provided solely for the supplemental security income pilot project.

(3) \$500,000 of the general fund—state appropriation is provided solely to implant section 28 of Substitute Senate Bill No. 5555 (timber area assistance). If the bill is not enacted by July 31, 1991, the amount provided in this subsection shall lapse.

(4) ~~\$(266,000))~~ 249,000 of the general fund—state appropriation and ~~\$(492,000))~~ 419,000 of the general fund—federal appropriation are provided solely for development costs of the automated client eligibility system. Authority to expend these funds is conditioned on compliance with section 902 of this act.

~~(5) (\$435,000 is provided solely for transfer by interagency agreement to the University of Washington for the continuation of the first steps evaluation. The legislative budget committee shall review the evaluation progress and deliverables. Overhead on the research contract shall continue at the 1989-91 level.~~

~~(7))~~ \$250,000 of the general fund—state appropriation is provided solely for the delivery of information to new immigrants and legal aliens. The program shall emphasize information needed to help these individuals become healthy, productive members of their communities.

~~((8))~~ (6) The department shall establish procedures for the timely referral of general assistance clients not meeting the criteria for supplemental security income to employment, vocational, and educational services designed to assist them in entering the work force.

~~((9) \$636,600))~~ (7) \$599,000 of the general fund—state appropriation and ~~(\$1,181,400))~~ \$1,103,000 of the general fund—federal appropriation are provided solely for transfer by interagency agreement to the legislative budget committee for an independent evaluation of the family independence program as required by section 14, chapter 434, Laws of 1987.

~~((10) \$1,000,000))~~ (8) \$962,000 of the general fund—state appropriation and ~~(\$1,000,000))~~ \$962,000 of the general fund—federal appropriation are provided solely for transfer by interagency agreement to the institute for public policy at The Evergreen State College to continue to conduct a longitudinal study for public assistance recipients, pursuant to section 14, chapter 434, Laws of 1987.

~~((11))~~ (9) \$800,000 of the general fund—state appropriation is provided solely to expand refugee services.

~~((13))~~ (10) \$600,000 of the general fund—state appropriation is provided solely for transfer by interagency agreement to the office of the superintendent of public instruction for the purpose of English as a second language courses.

(11) \$80,000 of the general fund—state appropriation and \$80,000 of the general fund—federal appropriation are provided solely for a program to inform

clients in community service offices of the consequences of the use of drugs and alcohol during pregnancy.

(12) \$183,000 of the general fund—state appropriation is provided for the department's continued administration of the development of the automated client eligibility system (ACES).

**Sec. 218.** 1991 sp.s. c 16 s 217 is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
REVENUE COLLECTIONS PROGRAM**

General Fund—State Appropriation . . . . .	\$	((43,979,000))
		<u>46,106,000</u>
General Fund—Federal Appropriation . . . . .	\$	((90,407,000))
		<u>92,698,000</u>
General Fund—Local Appropriation . . . . .	\$	280,000
Public Safety and Education Account Appropriation . . . . .	\$	((5,100,000))
		<u>5,049,000</u>
TOTAL APPROPRIATION . . . . .	\$	((139,766,000))
		<u>144,133,000</u>

The appropriations in this section are subject to the following conditions and limitations:

((5,100,000)) (1) \$5,049,000 from the public safety and education account appropriation is provided solely to county officials to provide child support enforcement services.

(2) The department shall increase federal support for current state programs. It is the intent of the legislature that the department increase federal support by at least \$2,000,000. If necessary, the department shall retain outside experts to assist in increasing federal support.

**Sec. 219.** 1991 sp.s. c 16 s 218 is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
PAYMENTS TO OTHER AGENCIES PROGRAM**

General Fund—State Appropriation . . . . .	\$	((33,062,000))
		<u>31,223,000</u>
General Fund—Federal Appropriation . . . . .	\$	((11,516,000))
		<u>11,249,000</u>
TOTAL APPROPRIATION . . . . .	\$	((44,578,000))
		<u>42,472,000</u>

NEW SECTION. **Sec. 220.** A new section is added to 1991 sp.s. c 16 to read as follows:

The appropriations in sections 201 through 218 of this act are subject to the following conditions and limitations: The department of social and health services may shift up to \$2,000,000 of the general fund—state appropriations made to other department programs in this act, to the revenue program. Such

transfers shall be from other programs where general fund—state savings are realized as the result of increased federal support for current state programs.

Sec. 221. 1991 sp.s. c 16 s 219 is amended to read as follows:

**FOR THE WASHINGTON STATE HEALTH CARE AUTHORITY**

State Health Care Authority Administrative Account

Appropriation . . . . .	\$	<del>((9,357,000))</del>	
			<u>9,731,000</u>
General Fund Appropriation . . . . .	\$	<del>((366,000))</del>	
			<u>356,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((9,723,000))</del>	
			<u>10,087,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,261,000 of the state health care authority administrative account appropriation is provided solely to implement the recommendations of the health care purchasing study concerning the use of diagnostic-related groups for hospital care, the implementation of a resource-based relative value scale for physicians' fees, and new prescription drug policies. The departments of social and health services, veteran's affairs, health, corrections, and other state agencies that purchase or oversee health care services shall work cooperatively with the health care authority to implement the study's recommendations.

(2) The state employees' benefits board shall consider developing and offering to employees a health care benefit plan that minimizes the impact of deductibles, copayments, or coinsurance on lower-paid employees by using a sliding scale or a means test for out-of-pocket expenses.

(3) The entire general fund appropriation ((is)) and \$69,000 of the state health care authority administrative account appropriation are provided solely for the operations of the health care commission, including the employment of a research director.

(4) \$140,000 of the state health care authority administrative account appropriation is provided solely to implement the provisions of Substitute House Bill No. 2857 (school retirees' health insurance coverage). If the bill is not enacted by June 30, 1992, the amount provided in this subsection shall lapse.

\*Sec. 222. 1991 sp.s. c 16 s 220 is amended to read as follows:

**FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT**

General Fund—State Appropriation . . . . .	\$	<del>((102,767,000))</del>	
			<u>101,731,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((153,195,000))</del>	
			<u>202,410,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	1,370,000	
Public Safety and Education Account Appropriation . . . . .	\$	<del>((5,532,000))</del>	
			<u>7,794,000</u>
<u>Fire Service Trust Account . . . . .</u>	<u>\$</u>		<u>164,000</u>

Building Code Council Account Appropriation . . . . .	\$	(924,000)
		<u>974,000</u>
Public Works Assistance Account Appropriation . . . . .	\$	1,022,000
Fire Service Training Account Appropriation . . . . .	\$	((803,000))
		<u>1,103,000</u>
State Toxics Control Account Appropriation . . . . .	\$	((556,000))
		<u>726,000</u>
Drug Enforcement and Education Account Appropriation . . . . .	\$	4,188,000
Low Income Weatherization Account Appropriation . . . . .	\$	2,563,000
Washington Housing Trust Fund Appropriation . . . . .	\$	13,500,000
Oil Spill Administration Account Appropriation . . . . .	\$	395,000
<u>Enhanced 911 Account Appropriation . . . . .</u>	<u>\$</u>	<u>1,936,000</u>
<u>Water Quality Account Appropriation . . . . .</u>	<u>\$</u>	<u>1,500,000</u>
TOTAL APPROPRIATION . . . . .	\$	((286,815,000))
		<u>341,376,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$5,331,000 of the general fund—state appropriation and \$2,500,000 of the general fund—federal appropriation are provided solely for the early childhood education and assistance program.

(2) \$970,000 of the general fund—state appropriation is provided solely for the department to offer technical assistance to timber-dependent communities in economic diversification and revitalization efforts, as authorized by section 9, chapter 314, Laws of 1991 (Engrossed Substitute House Bill No. 1341, timber-dependent communities).

(3) ~~((750,000))~~ \$744,000 of the general fund—state appropriation is provided solely for mortgage assistance in timber-dependent communities as authorized in sections 23 through 27, chapter 315, Laws of 1991 (Engrossed Substitute Senate Bill No. 5555, timber areas assistance). No more than five percent of this amount may be expended by the department for administration.

~~(4) (\$400,000 of the general fund—state appropriation is provided solely for a state wide stabilization program for arts organizations that have annual budgets exceeding \$200,000. The grants authorized in this subsection shall be made to individual arts organizations. No portion of this amount may be expended for a grant without equal matching funds from nonstate sources. No organization may receive a grant without a written contract. No money may be paid under the contract unless the grantee has operated without a deficit during the contract period, which shall be for at least one year, beginning no earlier than July 1, 1991.~~

(5)) \$50,000 of the general fund—state appropriation is provided solely as a pass-through grant to the city of Vancouver for costs associated with the Medal of Honor project.

~~((6))~~ (5) \$3,213,000 of the general fund—state appropriation is provided solely for emergency food assistance authorized under section 201, chapter 336, Laws of 1991 (Second Substitute Senate Bill No. 5568, hunger and nutrition). Of this amount, \$2,913,000 shall be allocated by the department for the purpose of supporting the operation of food banks, food distribution programs, and tribal voucher programs, for the purchase, transportation and storage of food under the emergency food assistance program. These funds may be used to purchase food for people with special nutritional needs. The remaining \$300,000 shall be allocated to food banks in timber-dependent communities, as defined in chapter 314, Laws of 1991 (Engrossed Substitute House Bill No. 1341, timber-dependent communities).

~~((7))~~ (6) \$20,000 of the general fund—state appropriation is provided solely for a grant for the Children's Museum.

~~((8) \$300,000)~~ (7) \$225,000 of the general fund—state appropriation is provided solely for continuation of the Washington state games.

~~((9) \$300,000)~~ (8) \$198,000 of the general fund—state appropriation is provided solely for continuation of the community economic diversification program under chapter 43.63A RCW.

~~((10))~~ (9) \$68,000 of the state building code council appropriation is provided solely to implement chapter 347, Laws of 1991 (Engrossed Substitute House Bill No. 2026, water resources management).

~~((11) \$14,539,000)~~ (10) \$12,095,000 of the general fund—state appropriation is provided solely for growth management planning grants to local governments.

~~((12) \$7,739,000)~~ (11) \$4,129,000 of the general fund—state appropriation is provided solely to implement chapter 32, Laws of 1991 sp. sess. (Engrossed Substitute House Bill No. 1025 ~~((c))~~, growth management). ~~((If this bill is not enacted by July 31, 1991, \$5,239,000 of the amount provided in this subsection shall lapse.))~~ Of the amount provided in this subsection:

(a) ~~((4,250,000))~~ \$2,433,000 is provided solely for planning grants to local governments additional to those provided for under subsection ~~((11))~~ (10) of this section;

(b) ~~((1,000,000 is provided solely to conduct environmental planning pilot projects; and~~

~~((975,000))~~ \$225,000 is provided solely to contract with the environmental hearings office for three growth planning hearings boards. A maximum of ~~((1,950,000))~~ \$1,200,000 of the amount provided in this subsection ~~((12))~~ (11) may be used for this purpose.

~~((13))~~ (12) \$7,955,000 of the general fund—federal appropriation is provided solely for the drug control and system improvement formula grant program, to be distributed in fiscal year 1992 as follows:

(a) \$4,400,000 to local units of government to continue existing local drug task forces.

(b) \$800,000 to local units of government for urban projects.

(c) \$766,000 to the department of community development to continue the state-wide drug prosecution assistance program.

(d) \$170,000 to the department of community development for a state-wide drug offense indigent defense program.

(e) \$440,000 to the department of community development for drug education programs in the common schools. The department shall give priority to programs in underserved areas. The department shall direct the funds to education programs that employ either local law enforcement officers or state troopers.

(f) \$50,000 to the Washington state patrol for data management.

(g) \$225,000 to the Washington state patrol for a technical support unit.

(h) \$375,000 to the Washington state patrol for support of law enforcement task forces.

(i) \$120,000 to the Washington state patrol for continued funding for a clandestine drug lab unit. The patrol shall coordinate activities related to the clandestine drug lab unit with the department of ecology to ensure maximum effectiveness of the program.

(j) \$150,000 to the Washington state patrol for coordination of local drug task forces.

(k) \$279,000 to the department of community development for allocation to public or private nonprofit groups or organizations with experience and expertise in the field of domestic violence, for the purpose of continuing existing domestic violence advocacy programs, providing legal and other assistance to victims and witnesses in court proceedings, and establishing new domestic violence advocacy programs.

(l) \$180,000 to the department of community development for general administration of grants.

~~(((14) \$500,000 of the general fund—state appropriation is provided solely for fire protection contracts. The department shall award contracts for cities and towns where state owned facilities constitute fifteen percent of the total valuation of property within the jurisdiction, and where the city or town does not have an existing agreement with a state agency for fire protection reimbursement.~~

(15) \$1,080,000)) (13) \$8,087,000 of the general fund—federal appropriation is provided solely for the drug control and system improvement formula grant program, to be distributed in fiscal year 1993 as follows:

(a) \$4,180,000 to local units of government to continue existing local drug task forces.

(b) \$440,000 to local units of government for urban projects. The distribution shall be made through a competitive grant process administered by the department.

(c) \$749,000 to the department of community development to continue the state-wide drug prosecution assistance program.

(d) \$231,000 to the department of community development for a state-wide drug offense indigent defense program.

(e) \$300,000 to the department of community development for drug education programs in the common schools. The department shall give priority to programs in underserved areas. The department shall direct the funds to education programs that employ either local law enforcement officers or state troopers.

(f) \$50,000 to the Washington state patrol for data management.

(g) \$225,000 to the Washington state patrol for a technical support unit.

(h) \$543,000 to the Washington state patrol for support of law enforcement task forces.

(i) \$150,000 to the Washington state patrol for coordination of local drug task forces.

(j) \$200,000 to the department of community development for allocation to public or private nonprofit groups or organizations with experience and expertise in the field of domestic violence, for the purpose of continuing existing domestic violence advocacy programs, providing legal and other assistance to victims and witnesses in court proceedings, and establishing new domestic violence advocacy programs.

(k) \$225,000 to the department of community development for general administration of grants.

(l) \$140,000 to the department of community development to conduct a program evaluation in accordance with federal regulations.

(m) \$404,000 to the Washington state patrol for implementing changes in managing criminal history records in accordance with new federal standards.

(n) \$100,000 to the Washington state patrol for the crime lab program.

(o) \$150,000 to the criminal justice training commission for law enforcement training.

(p) If the department determines insufficient state match dollars are available in managing state and federal drug programs, it is the intent of the legislature that funds appropriated to the supreme court in section 109(1) of this act be used as match, as appropriate, to ensure the receipt of all available federal funding.

(14) \$170,000 of the state toxics control account appropriation is provided solely for a contract with the Washington state patrol for continued funding of the clandestine drug lab unit. The patrol shall coordinate activities related to the clandestine drug lab unit with the department of ecology to ensure maximum effectiveness of the program.

(15) \$980,000 of the general fund—state appropriation is provided solely for continuation of the urban-rural links grant program established under the growth management act of 1990.

~~((16) \$300,000 of the public safety and education account appropriation is provided solely for legal advocacy services to victims of sexual assault under chapter 267, Laws of 1991 (Engrossed Substitute House Bill No. 1534, sexual assault investigation).~~

~~(17))~~ (16) \$395,000 of the oil spill administration account appropriation is provided solely to implement chapter 200, Laws of 1991 (Engrossed Substitute House Bill No. 1027, oil and hazardous substance spill prevention and response).

~~((18) \$75,000))~~ (17) \$150,000 of the general fund—state appropriation is provided solely for the Mount St. Helen's monitoring system and emergency medical services.

~~((19) \$340,000))~~ (18) \$290,000 of the general fund—state appropriation is provided solely to replace lost federal funds for continued support of the community development finance program.

~~((20))~~ (19) \$200,000 of the general fund—state appropriation is provided solely to continue assistance to Okanogan county to address impacts associated with tourism developments.

~~((21))~~ (20) \$46,000 of the general fund—state appropriation is provided solely to implement chapter 297, Laws of 1991 (Substitute Senate Bill No. 5143 recycled products).

~~((22) \$250,000))~~ (21) \$220,000 of the general fund—state appropriation is provided solely to provide technical assistance and managerial support to nonprofit community-based organizations by:

(a) Acting as a clearinghouse for and providing information and referral services;

(b) Providing management training courses designed for nonprofit managers, staff, and boards;

(c) Providing direct assistance to individual organizations;

(d) Assisting organizations in soliciting and managing volunteers; and

(e) Coordinating activities with the state volunteer center, other state agencies, local service providers, and other volunteer organizations giving similar assistance.

If Substitute Senate Bill No. 5581 (community partnership program) is enacted by July 31, 1991, the amount provided in this subsection is provided solely to implement the bill.

~~((23))~~ (22) \$40,000 of the general fund—state appropriation is provided solely to continue the circuit-rider program, which provides technical and managerial assistance to cities and counties.

~~((24))~~ (23) \$50,000 of the general fund—state appropriation is provided solely to provide technical assistance to local governments to help them implement screening procedures, service delivery standards, and cost recovery, and the other requirements of RCW 10.101.020, 10.101.030, and 10.101.040. If Substitute Senate Bill No. 5072 (indigent defense task force) is enacted by July 31, 1991, the amount provided in this subsection is provided solely to implement the bill.

~~((25) \$50,000))~~ (24) \$25,000 of the general fund—state appropriation is provided solely for Washington's share of costs associated with the Bi-State Policy Advisory Committee.

~~((27))~~ (25) \$25,000 of the general fund—state appropriation is provided solely for a contract with an organization representing persons with disabilities. Under the contract, the organization shall provide legal advocacy to ensure that the state, as trustee, is fully complying with the fiduciary duties owed to persons with disabilities, pursuant to trusts established under state and federal law.

(26) \$50,000 of the general fund—state appropriation is provided solely for the community development finance program to continue assistance to timber-dependent communities.

(27) \$545,000 of the general fund—state appropriation is provided solely for the local development matching fund program.

(28) \$135,000 of the general fund—state appropriation is provided solely for administration of the development loan fund.

(29) \$2,400,000 of the public safety and education account appropriation is provided solely for civil representation of indigent persons in accordance with Engrossed Substitute House Bill No. 1378 or House Bill No. 2997 (indigent civil legal services). If neither bill is enacted by June 30, 1992, the amount provided in this subsection shall lapse.

(30) \$50,000 of the state building code council appropriation is provided to fund training related to state building code requirements for accessibility as related to the federal fair housing amendments act of 1988 and Americans with disabilities act of 1990.

(31) \$50,000 of the general fund—state appropriation is provided solely for the department to contract for long-term care ombudsperson services.

(32) \$1,500,000 from the water quality account appropriation is provided solely to implement Second Substitute Senate Bill No. 6255 (wetlands). If the bill is not enacted by June 30, 1992, the amount provided in this subsection shall lapse.

\*Sec. 222 was partially vetoed, see message at end of chapter.

*\*Sec. 223. 1991 sp.s. c 16 s 221 is amended to read as follows:*

**FOR THE HUMAN RIGHTS COMMISSION**

<i>General Fund—State Appropriation</i> . . . . .	\$	<del>((4,392,000))</del>
		<u>4,021,000</u>
<i>General Fund—Federal Appropriation</i> . . . . .	\$	<del>((942,000))</del>
		<u>999,000</u>
<i>General Fund—Private/Local Appropriation</i> . . . . .	\$	520,000
<b>TOTAL APPROPRIATION</b> . . . . .	\$	<del>((5,754,000))</del>
		<u>5,540,000</u>

*The appropriations in this section are subject to the following conditions and limitations: \$520,000 of the general fund—local/private appropriation is provided solely for the provision of technical assistance services by the department.*

\*Sec. 223 was vetoed, see message at end of chapter.

Sec. 224. 1991 sp.s. c 16 s 222 is amended to read as follows:

**FOR THE BOARD OF INDUSTRIAL INSURANCE APPEALS**

Public Safety and Education Account Appropriation . . . . .	\$	<del>((110,000))</del>
		<u>107,000</u>
Worker and Community Right-to-Know Account		
Appropriation . . . . .	\$	20,000
Accident Fund Appropriation . . . . .	\$	<del>((8,373,000))</del>
		<u>8,602,000</u>
Medical Aid Fund Appropriation . . . . .	\$	<del>((8,373,000))</del>
		<u>8,602,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b><del>((16,876,000))</del></b>
		<b><u>17,331,000</u></b>

Sec. 225. 1991 sp.s. c 16 s 223 is amended to read as follows:

**FOR THE CRIMINAL JUSTICE TRAINING COMMISSION**

General Fund Appropriation . . . . .	\$	<del>((66,000))</del>
		<u>62,000</u>
Death Investigations Account Appropriation . . . . .	\$	36,000
Public Safety and Education Account Appropriation . . . . .	\$	<del>((12,016,000))</del>
		<u>11,357,000</u>
Drug Enforcement and Education Account Appropriation . . . . .	\$	370,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b><del>((12,488,000))</del></b>
		<b><u>11,825,000</u></b>

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~((33,000))~~ \$31,000 of the general fund appropriation is provided solely to implement chapter 328, Laws of 1991 (Engrossed Substitute House Bill No. 1181, private detectives licensing).

(2) ~~((33,000))~~ \$31,000 of the general fund appropriation is provided solely to implement chapter 334, Laws of 1991 (Second Substitute Senate Bill No. 5124, security guards licensing).

Sec. 226. 1991 sp.s. c 16 s 224 is amended to read as follows:

**FOR THE DEPARTMENT OF LABOR AND INDUSTRIES**

General Fund Appropriation . . . . .	\$	<del>((10,708,000))</del>
		<u>9,988,000</u>
Public Safety and Education Account State		
Appropriation . . . . .	\$	<del>((21,226,000))</del>
		<u>19,776,000</u>
Public Safety and Education Account Federal		
Appropriation . . . . .	\$	4,480,000
Accident Fund Appropriation . . . . .	\$	<del>((131,416,000))</del>
		<u>131,662,000</u>
Electrical License Fund Appropriation . . . . .	\$	15,230,000

Farm Labor Revolving Account Appropriation . . . . .	\$	30,000
Medical Aid Fund Appropriation . . . . .	\$	<del>((148,883,000))</del>
		<u>149,883,000</u>
Plumbing Certificate Fund Appropriation . . . . .	\$	649,000
Pressure Systems Safety Fund Appropriation . . . . .	\$	1,898,000
Worker and Community Right-to-Know Fund		
Appropriation . . . . .	\$	2,112,000
TOTAL APPROPRIATION . . . . .	\$	<del>((336,632,000))</del>
		<u>335,708,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$8,970,229 from the accident fund appropriation; \$7,265,063 from the medical aid fund appropriation; \$714,163 from the electrical license fund appropriation; \$41,139 from the plumbing certificate fund appropriation; \$92,956 from the pressure systems safety fund appropriation; \$317 from the public safety and education account appropriation; and \$12,448 from the worker and community right-to-know fund appropriation are provided solely for information systems projects named in this section. Authority to expend these moneys is conditioned on compliance with section 902 of this act. For the purposes of this section, "information systems projects" means the projects known by the following names or successor names: Document imaging, state fund information system, safety and health information management system, and local area network/wide area network data communications.

(2) ~~((50,000))~~ \$100,000 of the accident fund appropriation and ~~((50,000))~~ \$100,000 of the medical aid fund appropriation are provided solely to implement chapter 172, Laws of 1991 (Substitute Senate Bill No. 5374 ((c)), labor/management cooperative program), and to continue the program through June 30, 1993.

(3) \$2,466,500 from the accident fund appropriation and \$2,466,500 from the medical aid fund appropriation is provided solely to increase the claims management staffing levels.

(4) \$263,500 from the accident fund appropriation and \$263,500 from the medical aid fund appropriation are provided solely to increase the staffing levels of the asbestos-related disease claims filed with the department.

(5) \$1,920,150 from the accident fund appropriation and \$338,850 from the medical aid fund appropriation are provided solely to increase staffing levels for work environment improvement safety and health package.

(6) \$70,000 from the accident fund appropriation and \$70,000 from the medical aid fund appropriation are provided solely to add one additional staff to establish a return-to-work program for all state agencies and institutions of higher education.

(7) \$42,000 of the medical aid fund appropriation and \$42,000 of the accident fund appropriation are provided solely for an additional adjudicator

position to assist in monitoring complaints and compliance of self-insured employers.

(8) \$65,263 of the accident fund appropriation and \$65,262 of the medical aid fund appropriation are provided solely to conduct a study investigating the problems and causes associated with assaults on state employees at eastern and western state hospitals. The study will include, but not be limited to, the possible ameliorative actions of increased staffing levels, increased employee training, and physical plant improvements. In the study, the department shall consult with state employees and their representatives, department of social and health services and hospital management, advocates of the mentally ill, patients or former patients of state mental hospitals, persons with demonstrated expertise in managing assaultive and self destructive behavior, and others with an interest in this issue. The department shall report its finding and recommendations to the appropriate committees of the legislature by December 31, 1993.

*\*Sec. 227. 1991 sp.s. c 16 s 225 is amended to read as follows:*

**FOR THE INDETERMINATE SENTENCE REVIEW BOARD**

General Fund Appropriation . . . . .	\$	<del>((3,247,000))</del>
		<u>3,018,000</u>

\*Sec. 227 was vetoed, see message at end of chapter.

*Sec. 228. 1991 sp.s. c 16 s 226 is amended to read as follows:*

**FOR THE DEPARTMENT OF VETERANS AFFAIRS**

General Fund—State Appropriation . . . . .	\$	<del>((21,839,000))</del>
		<u>22,005,000</u>
General Fund—Federal Appropriation . . . . .	\$	6,708,000
General Fund—Local Appropriation . . . . .	\$	10,429,000
TOTAL APPROPRIATION . . . . .	\$	<del>((38,976,000))</del>
		<u>39,142,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$300,000 of the general fund—state appropriation is provided solely for the expansion of services for counseling of Vietnam veterans for post-traumatic stress disorder. This counseling shall be provided in a joint effort between existing community mental health systems and the department. The department shall place a priority on the delivery of these services to minority veterans.

(2) \$10,092,000 of the general fund—state appropriation, \$4,269,000 of the general fund—federal appropriation, and \$7,296,000 of the general fund—local appropriation are provided solely for operation of the veterans' home at Retsil.

(3) \$6,928,000 of the general fund—state appropriation, \$2,439,000 of the general fund—federal appropriation, and \$3,133,000 of the general fund—local appropriation are provided solely for operation of the soldiers' home and colony at Orting.

\*Sec. 229. 1991 sp.s. c 16 s 227 is amended to read as follows:

**FOR THE DEPARTMENT OF HEALTH**

<b>General Fund—State Appropriation</b> . . . . .	\$ <del>((132,613,000))</del>	<u>121,810,000</u>
General Fund—Federal Appropriation . . . . .	\$ <del>((109,011,000))</del>	<u>129,786,000</u>
General Fund—Local Appropriation . . . . .	\$ <del>((16,100,000))</del>	<u>17,817,000</u>
Hospital Commission Account Appropriation . . . . .	\$ 2,919,000	
Medical Disciplinary Account Appropriation . . . . .	\$ 1,677,000	
Health Professions Account Appropriation . . . . .	\$ <del>((25,237,000))</del>	<u>25,350,000</u>
Public Safety and Education Account Appropriation . . . . .	\$ <del>((90,000))</del>	<u>82,000</u>
State Toxics Control Account Appropriation . . . . .	\$ 3,321,000	
Drug Enforcement and Education Account Appropriation . . . . .	\$ 492,000	
Medical Test Site Licensure Account Appropriation . . . . .	\$ 489,000	
Safe Drinking Water Account Appropriation . . . . .	\$ 710,000	
<b>TOTAL APPROPRIATION</b> . . . . .	\$ <del>((292,659,000))</del>	<u>304,453,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~((3,312,000))~~ \$3,038,000 of the general fund—state appropriation is provided solely to implement the Puget Sound water quality management plan.

(2) \$3,500,000 of the general fund—state appropriation is provided solely to increase funding to regional AIDS service networks to address growth in the number of persons living with AIDS. Seventy-five percent of these funds shall be allocated on the basis of reported incidence of surviving Class IV AIDS cases and twenty-five percent shall be distributed on the basis of each region's population. Ongoing funding for each regional AIDS service network shall continue at 1989-91 levels.

~~((4))~~ (3) \$165,000 of the general fund—state appropriation is provided solely to provide inflation adjustments of 3.1 percent on January 1, 1992, and 3.4 percent on January 1, 1993 for current medical and dental services provided by community clinics.

~~((5))~~ (4) \$1,000,000 of the general fund—state appropriation is provided solely for expanding the high priority infant tracking program.

~~((6))~~ (5) \$2,410,000 of the general fund—state appropriation is provided solely to continue implementation of the trauma system plan.

~~((7))~~ (6) \$2,400,000 of the general fund—state appropriation is provided solely for expansion of migrant health clinic services.

~~((8))~~ (7) \$1,100,000 of the general fund—state appropriation is provided solely for expanding by 1000 the number of women funded through the state-only prenatal program.

~~((9))~~ (8) The entire safe drinking water account appropriation is provided solely to implement chapter 304, Laws of 1991 (Substitute House Bill No. 1709, water system operating permit).

~~((10))~~ (9) \$450,000 of the general fund—state appropriation provided solely for implementation of chapter 332, Laws of 1991 (Engrossed Substitute House Bill No. 1960, health professions practice).

~~((11))~~ (10) \$1,000,000 of the general fund—state appropriation is provided solely for a grant to a nonprofit agency whose major goal is AIDS prevention and education.

(11) \$40,000 of the general fund—state appropriation is provided solely to implement Engrossed Substitute Senate Bill No. 6069 (bone marrow donor program). If the bill is not enacted by June 30, 1992, the amount provided in this subsection shall lapse.

(12) \$40,000 of the general fund—state appropriation is provided solely to implement Engrossed Substitute House Bill No. 2337 (malpractice insurance/retired). If the bill is not enacted by June 30, 1992, the amount provided in this subsection shall lapse.

(13) The department of health, in consultation with the current poison center network, shall prepare a plan to consolidate the network into one center. The plan shall include proposed funding methods that minimize the need for increased general fund—state support. The plan shall take maximum advantage of efficiencies realized through consolidation. The plan shall include a proposed site or host institution. Any proposed increases in the quantity or quality of service shall be separately identified as potential additions to the plan. The plan shall be delivered to the fiscal and health committees of the house of representatives and senate by December 1, 1992.

(14) By October 1, 1992, each regional AIDS network shall enter a written collaborative agreement with each mental health regional support network in its catchment area. The agreement shall define specific actions each party will take to reduce state and local psychiatric hospitalizations of persons with AIDS-related dementia. By November 1, 1992, the department of health shall report to the human services and appropriations committees of the house of representatives and to the health and long-term care and ways and means committees of the senate on the actions each regional AIDS network will take to reduce hospitalization of persons with AIDS-related dementia.

\*Sec. 229 was partially vetoed, see message at end of chapter.

**Sec. 230.** 1991 sp.s. c 16 s 228 is amended to read as follows:  
**FOR THE DEPARTMENT OF CORRECTIONS**

**(1) COMMUNITY CORRECTIONS**

General Fund Appropriation . . . . .	\$ ((106,548,000))	
		<u>103,115,000</u>
Drug Enforcement and Education Account Appropriation . . . . .	\$ 7,604,000	
Public Safety and Education Account Appropriation . . . . .	\$ ((200,000))	
		<u>195,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$ ((114,352,000))</b>	<b><u>110,914,000</u></b>

The appropriations in this subsection are limited to the following conditions and limitations:

(a) ~~(\$200,000)~~ \$195,000 from the public safety and education account appropriation is provided solely for comprehensive local criminal justice planning under the county partnership program pursuant to RCW 72.09.300.

(b) \$75,000 of the general fund—state appropriation is provided solely to implement chapter 147, Laws of 1991 (Substitute Senate Bill No. 5128, witness notification).

**(2) INSTITUTIONAL SERVICES**

General Fund Appropriation . . . . .	\$ ((358,209,000))	
		<u>340,687,000</u>
Drug Enforcement and Education Account Appropriation . . . . .	\$ ((25,837,000))	
		<u>37,837,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$ ((384,046,000))</b>	<b><u>378,524,000</u></b>

The appropriations in this subsection are subject to the following conditions and limitations:

(1) \$10,560,000 of the general fund—state appropriation is provided solely for the start-up and operation of new correctional capacity. Expenditure of any portion of this amount shall be subject to the prior written authorization of the director of the office of financial management, which shall be transmitted to the legislative fiscal committees. If the new correctional capacity is not completed during fiscal year 1993, up to \$1,497,000 of this amount may be expended to support emergency capacity.

(2) If the secretary determines that institutional overcrowding constitutes an emergency and the availability of additional new capacity can alleviate this emergency, the department may, subject to the authorization of the director of financial management, exceed its allotment authority to accelerate new facility start-up. Notice of any such action shall be transmitted to appropriate legislative committees. This subsection does not authorize the department to exceed its biennial appropriation.

(3) ADMINISTRATION AND PROGRAM SUPPORT

General Fund Appropriation . . . . .	\$	((37,651,000))
		<u>35,234,000</u>
Drug Enforcement and Education Account Appropriation .	\$	2,140,000
Industrial Insurance Premium Refund Account		
Appropriation . . . . .	\$	((72,000))
		<u>208,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>((39,863,000))</b>
		<u><b>37,582,000</b></u>

The appropriations in this (~~section~~) subsection are subject to the following conditions and limitations:

(a) \$350,000 of the general fund appropriation is provided solely to mitigate the impact of state institutions on local communities in the manner provided under RCW 72.72.030(2).

(b) \$125,000 of the general fund appropriation is provided solely for an additional affirmative action officer.

(c) Within the appropriations in this subsection, amounts may be deposited into the community services revolving fund and used to satisfy outstanding court-ordered costs and restitution, consistent with the authority granted under RCW 9.95.360, of a Washington state inmate who is a foreign national seeking transfer to the United Kingdom pursuant to RCW 43.06.350. The foreign national shall execute a promissory note for the full amount paid by the department, plus interest, to satisfy outstanding court-ordered costs and restitution costs.

(4) CORRECTIONAL INDUSTRIES

General Fund Appropriation . . . . .	\$	((3,526,000))
		<u>3,348,000</u>

Sec. 231. 1991 sp.s. c 16 s 229 is amended to read as follows:

**FOR THE DEPARTMENT OF SERVICES FOR THE BLIND**

General Fund—State Appropriation . . . . .	\$	((2,957,000))
		<u>2,720,000</u>
General Fund—Federal Appropriation . . . . .	\$	((7,969,000))
		<u>7,758,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>((10,926,000))</b>
		<u><b>10,478,000</b></u>

The appropriations in this section are subject to the following conditions and limitations: (~~\$47,000~~) \$32,000 of the general fund—state appropriation is provided solely for vendor rate increases of (~~(3-1)~~) two percent on (~~January~~) July 1, 1992, and (~~(3-4)~~) three percent on January 1, 1993.

Sec. 232. 1991 sp.s. c 16 s 230 is amended to read as follows:

**FOR THE WASHINGTON BASIC HEALTH PLAN**

General Fund Appropriation . . . . .	\$	((45,768,000))
		<u>40,713,000</u>

The appropriation in this section is subject to the following conditions and limitations:

(1) The basic health plan may enroll up to 24,000 members during the 1991-93 biennium.

(2) At least 2,000 of the 4,000 members added must be from timber communities on the Olympic Peninsula and southwest Washington that were not served by the plan during 1989-91(~~(, pursuant to section 22, chapter 315, Laws of 1991 (Engrossed Substitute Senate Bill No. 5555, timber assistance))~~).

(3) (~~(Plan enrollment may exceed 24,000 by up to 1,300, beginning January 1, 1993, if coordination of benefits with medicaid is in place and will result in savings of at least \$4,500,000 from the state general fund by June 30, 1993. Before expanding enrollment, the plan shall report to the fiscal committees of the house of representatives and senate on the anticipated savings level.~~

(4)) A maximum of (~~(\$4,151,000)~~) \$3,881,000 of the general fund appropriation may be expended for administration of the plan.

Sec. 233. 1991 sp.s. c 16 s 231 is amended to read as follows:

**FOR THE SENTENCING GUIDELINES COMMISSION**

General Fund Appropriation . . . . .	\$	<del>((628,000))</del>
		<u>684,000</u>

Sec. 234. 1991 sp.s. c 16 s 232 is amended to read as follows:

**FOR THE EMPLOYMENT SECURITY DEPARTMENT**

General Fund—State Appropriation . . . . .	\$	<del>((32,000))</del>
		<u>431,000</u>
General Fund—Federal Appropriation . . . . .	\$	133,302,000
General Fund—Local Appropriation . . . . .	\$	9,329,000
Administrative Contingency Fund—Federal Appropriation . . . . .	\$	11,808,000
Unemployment Compensation Administration Fund Federal Appropriation . . . . .	\$	130,803,000
Employment Service Administration Account Federal Appropriation . . . . .	\$	9,837,000
<u>Industrial Insurance Premium Refund Account—</u> <u>State Appropriation . . . . .</u>	<u>\$</u>	<u>79,000</u>
<u>Unemployment Compensation Administration Fund—State Appropriation . . . . .</u>	<u>\$</u>	<u>100,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((295,111,000))</del>
		<u>295,689,000</u>

The appropriations in this section are subject to the following conditions and limitations:

((2)) (1) \$70,000 of the administrative contingency fund—federal appropriation is provided solely to implement section 30 of chapter 315, Laws of 1991, (Engrossed Substitute Senate Bill No. 5555, timber areas assistance) for

the department to contract with the department of community development for support of existing employment centers in timber-dependent communities.

~~((3))~~ (2) \$240,000 of the administrative contingency fund—federal appropriation is provided solely for the department to contract with the department of community development for support of existing reemployment support centers.

~~((6))~~ (3) \$1,000,000 of the administrative contingency fund—federal appropriation is provided solely to implement sections 5 through 9 of chapter 315, Laws of 1991 (Engrossed Substitute Senate Bill No. 5555, countercyclical program for timber-impacted areas).

~~((7))~~ (4) \$500,000 of the administrative contingency fund—federal appropriation is provided solely to implement section 3 of chapter 315, Laws of 1991 (Engrossed Substitute Senate Bill No. 5555, self-employment enterprise development program for timber areas).

(5) \$400,000 of the general fund—state appropriation for fiscal year 1993 is provided solely for the corrections clearinghouse ex-offender program.

**PART III  
NATURAL RESOURCES**

**Sec. 301.** 1991 sp.s. c 16 s 301 is amended to read as follows:

**FOR THE STATE ENERGY OFFICE**

General Fund—State Appropriation . . . . .	\$	((2,359,000))
		<u>2,148,000</u>
General Fund—Federal Appropriation . . . . .	\$	20,433,000
General Fund—Private/Local Appropriation . . . . .	\$	5,640,000
Geothermal Account—Federal Appropriation . . . . .	\$	40,000
Building Code Council Account Appropriation . . . . .	\$	86,000
Air Pollution Control Account Appropriation . . . . .	\$	((6,830,000))
		<u>6,861,000</u>
Energy Code Training Account Appropriation . . . . .	\$	121,000
Energy Efficiency Services Account Appropriation . . . . .	\$	1,008,000
TOTAL APPROPRIATION . . . . .	\$	((36,517,000))
		<u>36,337,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$43,000 of the general fund—state appropriation is provided solely to maintain the database for the state hydropower plan.

(2) \$292,000 of the general fund—state appropriation and all of the energy efficiency services account appropriation are provided solely to implement chapter 201, Laws of 1991 (Engrossed Substitute Senate Bill No. 5245, energy policy development).

(3) The entire air pollution control account appropriation is provided solely to implement chapter 199, Laws of 1991 (Engrossed Substitute House Bill No. 1028, air pollution control) and chapter 202, Laws of 1991 (Second Substitute

House Bill No. 1671, growth strategies and transportation planning). It is the intent of the legislature that revenue generated from fees established by chapter 199, Laws of 1991 may be used for grants to local government for purposes of implementing chapter 202, Laws of 1991.

**Sec. 302.** 1991 sp.s. c 16 s 302 is amended to read as follows:

**FOR THE COLUMBIA RIVER GORGE COMMISSION**

General Fund—State Appropriation . . . . .	\$	((537,000))
		<u>502,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	516,000
TOTAL APPROPRIATION . . . . .	\$	((1,053,000))
		<u>1,018,000</u>

**\*Sec. 303.** 1991 sp.s. c 16 s 303 is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

<i>General Fund—State Appropriation</i> . . . . .	\$	((65,589,000))
		<u>58,074,000</u>
General Fund—Federal Appropriation . . . . .	\$	38,234,000
General Fund—Private/Local Appropriation . . . . .	\$	1,015,000
<del>((Flood Control Assistance Account Appropriation . . . . .</del>	<del>\$</del>	<del>3,999,000))</del>
Special Grass Seed Burning Research Account		
Appropriation . . . . .	\$	132,000
Reclamation Revolving Account Appropriation . . . . .	\$	513,000
Emergency Water Project Revolving Account		
Appropriation: Appropriation pursuant to		
chapter 1, Laws of 1977 ex.s. . . . .	\$	300,000
Litter Control Account Appropriation . . . . .	\$	7,674,000
State and Local Improvements Revolving Account—		
Waste Disposal Facilities: Appropriation		
pursuant to chapter 127, Laws of 1972		
ex.s. (Referendum 26) . . . . .	\$	2,547,000
State and Local Improvements Revolving Account—		
Waste Disposal Facilities 1980: Appropriation		
pursuant to chapter 159, Laws of 1980		
(Referendum 39) . . . . .	\$	908,000
State and Local Improvements Revolving Account—		
Water Supply Facilities: Appropriation pursuant		
to chapter 234, Laws of 1979 ex.s.		
(Referendum 38) . . . . .	\$	1,298,000
Stream Gaging Basic Data Fund Appropriation . . . . .	\$	302,000
Vehicle Tire Recycling Account Appropriation . . . . .	\$	7,820,000
Water Quality Account Appropriation . . . . .	\$	3,461,000
Wood Stove Education Account Appropriation . . . . .	\$	1,380,000
Worker and Community Right-to-Know Fund		
Appropriation . . . . .	\$	393,000

State Toxics Control Account—State Appropriation . . . . .	\$	((48,128,000))
		<u>50,482,000</u>
State Toxics Control Account—Federal Appropriation . . . . .	\$	7,527,000
Local Toxics Control Account Appropriation . . . . .	\$	3,220,000
Water Quality Permit Account Appropriation . . . . .	\$	14,532,000
Solid Waste Management Account Appropriation . . . . .	\$	7,918,000
Underground Storage Tank Account Appropriation . . . . .	\$	3,862,000
Hazardous Waste Assistance Account Appropriation . . . . .	\$	5,543,000
Air Pollution Control Account Appropriation . . . . .	\$	((7,955,000))
		<u>8,555,000</u>
Aquatic Lands Enhancement Account Appropriation . . . . .	\$	50,000
Oil Spill Response Account Appropriation . . . . .	\$	2,863,000
Oil Spill Administration Account Appropriation . . . . .	\$	((3,104,000))
		<u>3,156,000</u>
Fresh Water Aquatic Weed Control Account		
Appropriation . . . . .	\$	895,000
Air Operating Permit Account Appropriation . . . . .	\$	2,511,000
<u>Water Pollution Control Revolving Account</u>		
<u>Appropriation</u> . . . . .	\$	<u>1,094,000</u>
TOTAL APPROPRIATION . . . . .	\$	((243,673,000))
		<u>236,259,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) ((~~\$9,462,000~~)) \$8,648,000 of the general fund—state appropriation and \$1,149,000 of the general fund—federal appropriation are provided solely for the implementation of the Puget Sound water quality management plan.

(2) ((~~\$5,640,000~~)) \$5,174,000 of the general fund—state appropriation is provided solely for the auto emissions inspection and maintenance program. The amount provided in this subsection is contingent upon a like amount being deposited in the general fund from auto emission inspection fees in accordance with RCW 70.120.170(4).

(3) \$1,323,000 of the general fund—state appropriation is provided solely for water resource management activities associated with the continued implementation of the growth management act (chapter 17, Laws of 1990 1st ex.s.).

(4) \$1,000,000 of the general fund—state appropriation and \$578,000 of the water quality permit account appropriation are provided solely to carry out the recommendations of the commission on efficiency and accountability in government concerning the wastewater discharge permit program.

(5) \$961,000 of the general fund—state appropriation, \$3,459,000 of the general fund—federal appropriation, and \$2,316,000 of the air pollution control account appropriation are provided solely for grants to local air pollution control authorities.

(6) The aquatic lands enhancement account appropriation is provided solely for the department to: (a) Conduct a sediment transport study of the Nooksack river to determine the amount of material that would have to be removed from the river to minimize flooding; and (b) develop an environmental assessment, of the Nooksack river and, based on this assessment, develop a sand and gravel management plan, for the river. In preparing the management plan, the department shall seek input from appropriate state and local agencies, Indian tribes, and other interested parties to the maximum extent feasible. The department shall prepare the management plan in such a manner that the plan can be used as a model for future plans that may be developed for other state rivers.

(7) ~~(\$491,000)~~ \$295,000 of the general fund—state appropriation is provided solely to implement chapter 347, Laws of 1991 (Engrossed Substitute House Bill No. 2026, water resources management).

(8) ~~(\$6,000,000)~~ \$8,000,000 of the state toxics control account appropriation is provided solely for the following purposes:

(a) To conduct remedial actions for sites for which there are no potentially liable persons or for which potentially liable persons cannot be found;

(b) To provide funding to assist potentially liable persons under RCW 70.105D.070(2)(d)(xi) to pay for the cost of the remedial actions; and

(c) To conduct remedial actions for sites for which potentially liable persons have refused to comply with the orders issued by the department under RCW 70.105D.030 requiring the persons to provide the remedial action.

(9) \$3,104,000 of the oil spill administration account appropriation and the entire oil spill response account appropriation are provided solely to implement chapter 200, Laws of 1991 (Engrossed Substitute House Bill No. 1027, oil and hazardous substance spill prevention and response).

~~((11))~~ (10) \$286,000 of the general fund—state appropriation is provided solely to implement chapter 350, Laws of 1991 (Second Substitute Senate Bill No. 5358, water system interties).

~~((12))~~ (11) \$139,000 of the solid waste management account appropriation is provided solely to implement chapter 297, Laws of 1991 (Senate Bill No. 5143, recycled products procurement).

~~((13)) \$30,000 of the general fund—state appropriation is provided solely for the department's participation in the Pacific Ocean resources management compact.~~

~~(14))~~ (12) \$200,000 of the general fund—state appropriation is provided solely to implement chapter 273, Laws of 1991 (House Bill No. 2021, joint water resource policy committee).

~~((15))~~ (13) \$100,000 of the state toxics control account appropriation is provided for a study on the need for regional hazardous materials response teams. The study shall include, but not be limited to, the following items: Review of existing services, determination of where services are needed and the risks of not providing those services, funding requirements, equipment standards, training, mutual aid between jurisdictions, liability, and cost recovery. The study

shall include specific recommendations on each of these items. Furthermore, the study shall include a specific recommendation on how to implement regional teams based upon geographic location and public exposure. The study shall include a review of steps taken in Oregon to address these problems. The state emergency response commission shall act as the steering committee for the study. Representatives from adjoining states may be requested to assist the commission.

~~((16))~~ (14) The entire fresh water aquatic weed control account appropriation is provided solely to implement chapter 302, Laws of 1991 (Engrossed Substitute House Bill No. 1389, aquatic plant regulation).

(15) \$144,000 of the general fund—state appropriation is provided solely for the wastewater treatment operator certification and training program. Of this amount, no more shall be expended than the amount anticipated to be deposited by June 30, 1993, into the general fund from revenues from wastewater treatment operator certification and training fees.

\*Sec. 303 was partially vetoed, see message at end of chapter.

Sec. 304. 1991 sp.s. c 16 s 305 is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

General Fund—State Appropriation . . . . .	\$	<del>((38,450,000))</del>
		<u>51,261,000</u>
General Fund—Federal Appropriation . . . . .	\$	1,683,000
General Fund—Private/Local Appropriation . . . . .	\$	1,043,000
<del>((Trust Land Purchase Account Appropriation . . . . .</del>	<del>\$</del>	<del>14,935,000))</del>
Winter Recreation Program Account Appropriation . . . . .	\$	832,000
ORV (Off-Road Vehicle) Account Appropriation . . . . .	\$	225,000
Snowmobile Account Appropriation . . . . .	\$	<del>((1,283,000))</del>
		<u>1,548,000</u>
Millersylvania State Park—Private/Local		
Appropriation . . . . .	\$	9,000
Public Safety and Education Account Appropriation . . . . .	\$	<del>((50,000))</del>
		<u>45,000</u>
Motor Vehicle Fund Appropriation . . . . .	\$	1,112,000
Oil Spill Administration Account Appropriation . . . . .	\$	61,000
TOTAL APPROPRIATION . . . . .	\$	<del>((59,683,000))</del>
		<u>57,819,000</u>

The appropriations in this section are subject to the following conditions and limitations:

- (1) The commission shall conduct a review of fees charged to park users. The commission's review shall: (a) Examine current park use, including use by campers, day users, boaters, recreational vehicle operators, and other users of park facilities; (b) examine the extent to which user groups pay park fees to support their use of park facilities; and (c) propose alternatives to the current structure of park fees that equitably distribute the cost of operating state parks

among the various user groups. The commission shall submit the results of the review to the office of financial management and the appropriate committees of the legislature by January 1, 1992.

(2) \$65,000 of the ~~((trust land purchase account))~~ general fund—state appropriation is provided solely for preparation of a conceptual plan for future alpine skiing facilities and service levels at Mount Spokane State Park. In preparing the plan, the commission shall: (a) Reevaluate the goals and objectives of the alpine ski area; (b) examine current functions of the alpine ski area including lodge use, ski patrol operations, food and beverage services, equipment rentals, grooming of slopes, selection and maintenance of ski runs, and customer service and public relations; (c) determine how to provide reasonable opportunities for the use of the alpine ski area for all members of the skiing public; and (d) propose alternatives to the current management approach. The commission shall submit the plan to the office of financial management and the appropriate committees of the legislature by August 1, 1992.

(3) \$120,000 of the ~~((trust land purchase account))~~ general fund—state appropriation is provided solely for the scenic rivers program.

(4) \$644,000 of the ~~((trust land purchase account))~~ general fund—state appropriation is provided solely to repair damage to state parks facilities caused by November and December, 1990, and January, 1991, storms.

(5) ~~(\$294,000)~~ \$287,000 of the general fund—state appropriation is provided solely to implement the Puget Sound water quality management plan.

~~(6) ((The entire trust land purchase account appropriation is provided solely for costs associated with the administration, maintenance, and operation of state parks and other state parks programs.~~

~~(7))~~ \$61,000 of the oil spill administration account appropriation is provided solely to implement chapter 200, Laws of 1991 (Engrossed Substitute House Bill No. 1027, oil and hazardous substance spill prevention and response).

(7) This section provides sufficient funds to preclude reductions in public access to state parks. The commission shall not close state parks or reduce public access during the biennium, with the exception of closures resulting from an increase in real property costs.

Sec. 305. 1991 sp.s. c 16 s 306 is amended to read as follows:

**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

Outdoor Recreation Account—State Appropriation . . . . .	\$	<del>((2,172,000))</del>
		<u>2,185,000</u>
Outdoor Recreation Account—Federal Appropriation . . . . .	\$	32,000
Firearms Range Account Appropriation . . . . .	\$	44,000
TOTAL APPROPRIATION . . . . .	\$	<del>((2,248,000))</del>
		<u>2,261,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$13,000 of the outdoor recreation account—state appropriation is

provided solely for a study to examine and address the stewardship needs of state-owned parks, natural areas, and recreational lands.

Sec. 306. 1991 sp.s. c 16 s 307 is amended to read as follows:

**FOR THE ENVIRONMENTAL HEARINGS OFFICE**

General Fund Appropriation . . . . .	\$	<del>((1,180,000))</del>
		<u>1,131,000</u>

The appropriation in this section is subject to the following conditions and limitations: ~~((~~\$80,000~~))~~ \$67,000 is provided solely for an additional administrative law judge.

\*Sec. 307. 1991 sp.s. c 16 s 308 is amended to read as follows:

**FOR THE DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT**

<i>General Fund Appropriation</i> . . . . .	\$	<del>((33,708,000))</del>
		<u>30,037,000</u>
Motor Vehicle Fund Appropriation . . . . .	\$	564,000
Solid Waste Management Account Appropriation . . . . .	\$	<del>((1,000,000))</del>
		<u>1,800,000</u>
Litter Control Account Appropriation . . . . .	\$	<del>((1,000,000))</del>
		<u>2,200,000</u>
<b>TOTAL APPROPRIATION</b> . . . . .	\$	<del>((36,272,000))</del>
		<u>34,601,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$500,000 of the general fund appropriation is provided solely for establishment of a European trade office. The amount provided in this subsection is contingent on receipt of at least \$200,000 in nonstate sources from port associations for establishment of the office.

~~((~~(3)~~ \$1,000,000))~~ (2) \$2,200,000 of the litter control account appropriation and ~~((~~\$1,000,000~~))~~ \$1,800,000 of the solid waste management account appropriation are provided solely for the purposes of implementing the market development center created in chapter 319, Laws of 1991 (Second Substitute Senate Bill No. 5591, comprehensive recycling program) for the ~~((fiscal year ending June 30, 1992))~~ 1991-1993 biennium. If House Bill No. 2635 (litter/recycling assessment) is not enacted by June 30, 1992, \$1,200,000 from the litter control account appropriation and \$800,000 from the solid waste management account appropriation shall lapse.

~~((~~(4)~~ \$2,000,000))~~ (3) \$1,800,000 of the general fund appropriation is provided solely to continue and expand the department's efforts to promote value-added manufacturing under the forest products program, as authorized under section 7, chapter 314, Laws of 1991 (Engrossed Substitute House Bill No. 1341, timber-dependent communities). Within this amount, the department shall maintain expenditures for the forest products program at the fiscal year 1991

level. The balance of this amount shall be provided as contracts to promote value-added manufacturing. The department shall report to the appropriate committees of the legislature on the amount and types of contracts provided by January 1, 1992.

~~((7) \$1,200,000)~~ (4) \$1,040,000 of the general fund appropriation is provided solely for establishment of the Pacific Northwest export assistance center, as authorized in sections 11 through 18 of chapter 314, Laws of 1991 (Engrossed Substitute House Bill No. 1341, timber-dependent communities). The center will provide export assistance to firms located in timber-dependent communities.

~~((8) \$8,195,000)~~ (5) \$7,565,000 of the general fund appropriation is provided solely for the Washington high technology center.

~~((9))~~ (6) The department of trade and economic development shall establish a schedule of fees for services performed by the department's overseas trade offices. ~~((The fee schedule shall generate revenue of at least \$1,032,000 during the 1991-93 biennium, which shall be deposited in the general fund.~~

~~((11) \$100,000)~~ (7) \$90,000 of the general fund appropriation is provided solely for a contract with the Tacoma world trade center to enhance export opportunities for Washington businesses.

~~((12))~~ (8) \$150,000 of the general fund appropriation is provided solely as an enhancement to the current level of funding for associate development organizations (ADOs). In determining revisions of contract amounts for grants to ((associate development organizations)) ((A)ADOs((A)) the department shall seek to maintain current grant levels for ADOs that serve rural or economically distressed communities.

(9) \$500,000 of the general fund appropriation is provided solely for business network contracts to assist timber-dependent communities. The department shall report to the appropriate committees of the legislature by December 1, 1992, regarding the amount and types of contracts awarded.

(10) \$30,000 of the general fund appropriation is provided solely for the Taiwan office.

(11) \$40,000 of the general fund appropriation is provided solely to implement Substitute Senate Bill No. 6494 (Hanford lease). If the bill is not enacted by June 30, 1992, the amount provided in this subsection shall lapse.

\*Sec. 307 was partially vetoed, see message at end of chapter.

Sec. 308. 1991 sp.s. c 16 s 309 is amended to read as follows:

**FOR THE CONSERVATION COMMISSION**

General Fund Appropriation . . . . .	\$	<del>((2,189,000))</del>
		<u>1,997,000</u>
Water Quality Account Appropriation . . . . .	\$	192,000
TOTAL APPROPRIATION . . . . .	\$	<del>((2,381,000))</del>
		<u>2,189,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Not more than eight percent of the water quality account moneys administered by the commission may be used by the commission for administration and program activities related to the grant and loan program.

(2) \$385,000 of the general fund appropriation is provided solely to implement the Puget Sound water quality management plan.

(3) (~~(\$650,000)~~) \$608,000 of the general fund appropriation is provided solely for increased basic operation grants to conservation districts.

**Sec. 309.** 1991 sp.s. c 16 s 310 is amended to read as follows:

**FOR THE WINTER RECREATION COMMISSION**

General Fund Appropriation . . . . .	\$	<del>((20,000))</del>
		<u>11,000</u>

**Sec. 310.** 1991 sp.s. c 16 s 311 is amended to read as follows:

**FOR THE PUGET SOUND WATER QUALITY AUTHORITY**

General Fund—State Appropriation . . . . .	\$	<del>((3,679,000))</del>
		<u>3,444,000</u>
General Fund—Federal Appropriation . . . . .	\$	202,000
Water Quality Account Appropriation . . . . .	\$	1,100,000
TOTAL APPROPRIATION . . . . .	\$	<del>((4,981,000))</del>
		<u>4,746,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) (~~(\$330,000)~~) \$322,000 of the general fund—state appropriation is provided solely for an interagency agreement with Washington State University cooperative extension service for field agents to provide technical assistance in implementing the Puget Sound water quality management plan.

(2) (~~(\$240,000)~~) \$234,000 of the general fund—state appropriation is provided solely for an interagency agreement with the University of Washington sea grant program for field agents to provide technical assistance in implementing the Puget Sound water quality management plan.

(3) In addition to the amounts provided in subsections (1) and (2) of this section, \$812,000 of the general fund—state appropriation is provided solely to implement other provisions of the Puget Sound water quality management plan.

**\*Sec. 311.** 1991 sp.s. c 16 s 312 is amended to read as follows:

**FOR THE DEPARTMENT OF FISHERIES**

General Fund—State Appropriation . . . . .	\$	<del>((61,034,000))</del>
		<u>56,263,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((17,901,000))</del>
		<u>17,928,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	<del>((8,301,000))</del>
		<u>8,313,000</u>

Aquatic Lands Enhancement Account Appropriation . . . . .	\$	<del>((1,092,000))</del>
		<u>1,083,000</u>
Oil Spill Administration Account Appropriation . . . . .	\$	410,000
<u>Industrial Insurance Premium Refund Account</u>		
<u>Appropriation</u> . . . . .	\$	<u>4,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((88,738,000))</del>
		<u>84,001,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$263,000 of the general fund—state appropriation is provided solely for improvements to and monitoring of wastewater discharges from state salmon hatcheries.

(2) ~~((1,180,000))~~ \$1,153,000 of the general fund—state appropriation is provided solely to implement the Puget Sound water quality management plan.

(3) \$410,000 of the oil spill administration account appropriation is provided solely to implement chapter 200, Laws of 1991 (Engrossed Substitute House Bill No. 1027, oil and hazardous substance spill prevention and response).

~~((5)) \$950,000 of the general fund—state appropriation is provided solely for attorney general cost, on behalf of the department of fisheries, department of natural resources, department of health, and the state parks and recreation commission, in defending the state and public interest in tribal shellfish litigation (U.S. v. Washington, subproceeding 89-3). The attorney general cost shall be paid as an interagency reimbursement.~~

~~(6))~~ (4) \$427,000 of the general fund—state appropriation is provided solely for increased enforcement activities.

\*Sec. 311 was partially vetoed, see message at end of chapter.

Sec. 312. 1991 sp.s. c 16 s 313 is amended to read as follows:

**FOR THE DEPARTMENT OF WILDLIFE**

General Fund Appropriation . . . . .	\$	<del>((11,497,000))</del>
		<u>10,843,000</u>
ORV (Off-Road Vehicle) Account Appropriation . . . . .	\$	275,000
Aquatic Lands Enhancement Account Appropriation . . . . .	\$	1,096,000
Public Safety and Education Account Appropriation . . . . .	\$	589,000
Wildlife Fund—State Appropriation . . . . .	\$	<del>((50,002,000))</del>
		<u>50,002,000</u>
Wildlife Fund—Federal Appropriation . . . . .	\$	<del>((16,308,000))</del>
		<u>16,308,000</u>
Wildlife Fund—Private/Local Appropriation . . . . .	\$	2,120,000
Game Special Wildlife Account Appropriation . . . . .	\$	<del>((532,000))</del>
		<u>832,000</u>
Oil Spill Administration Account Appropriation . . . . .	\$	565,000
TOTAL APPROPRIATION . . . . .	\$	<del>((82,984,000))</del>
		<u>82,630,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) (~~(\$514,000)~~) \$498,000 of the general fund appropriation is provided solely to implement the Puget Sound water quality management plan.

(2) \$565,000 of the oil spill administration account appropriation is provided solely to implement chapter 200, Laws of 1991 (Engrossed Substitute House Bill No. 1027, oil and hazardous substance spill prevention and response).

(3) \$770,000 of the wildlife fund—state appropriation is provided solely for the operation of the game farm program.

(4) During the 1991-93 biennium the wildlife enforcement FTE staff levels shall not be reduced below the fiscal year 1991 average FTE staff level. \$1,300,000 of the general fund—state appropriation and \$3,872,000 of the wildlife fund—state appropriation are provided solely for wildlife enforcement. ~~((If House Bill No. 2235 (hunting and fishing fees) is not enacted by July 31, 1991, this subsection shall be null and void.))~~

(5) \$25,000 of the general fund appropriation and \$25,000 of the wildlife fund—state appropriation are provided solely for a demonstration project to develop a wildlife mitigation plan for private and public lands in the Lake Roosevelt area. The department shall create a steering committee consisting of representatives of local private landowners, local government, tribes, hunters, fishers, and other users of wildlife in the Lake Roosevelt area. The committee shall study and report to the department on issues related to the development of the Lake Roosevelt plan including, but not limited to, local government impact, wildlife species, needs of wildlife users, other recreational needs, land use regulations, and wildlife supply.

(6) The office of financial management and legislative committees staff shall examine wildlife fees and expenditures. Issues to be examined shall include the division of agency resources in support of both game and nongame activities and the overall funding level for the agency. ~~((If House Bill No. 2235 (hunting and fishing fees) is not enacted by July 31, 1991, this subsection shall be null and void.))~~

**Sec. 313.** 1991 sp.s. c 16 s 314 is amended to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

General Fund—State Appropriation . . . . .	\$	<del>((58,010,000))</del> <u>59,058,000</u>
General Fund—Federal Appropriation . . . . .	\$	604,000
General Fund—Private/Local Appropriation . . . . .	\$	12,000
ORV (Off-Road Vehicle) Account Appropriation . . . . .	\$	4,521,000
Forest Development Account Appropriation . . . . .	\$	30,155,000
Survey and Maps Account Appropriation . . . . .	\$	1,074,000
Natural Resources Conservation Area Stewardship		
Account Appropriation . . . . .	\$	1,080,000
Aquatic Lands Enhancement Account Appropriation . . . . .	\$	<del>((1,491,000))</del>

	<u>1,716,000</u>
Resource Management Cost Account Appropriation . . . . . \$	((79,780,000))
	<u>79,555,000</u>
<b>Aquatic Land Dredged Material Disposal Site</b>	
Account Appropriation . . . . . \$	814,000
State Toxics Control Account Appropriation . . . . . \$	764,000
Air Pollution Control Account Appropriation . . . . . \$	430,000
Oil Spill Administration Account Appropriation . . . . . \$	128,000
Litter Control Account Appropriation . . . . . \$	500,000
<b><u>Industrial Insurance Premium Refund Account</u></b>	
<u>Appropriation</u> . . . . . \$	<u>82,000</u>
TOTAL APPROPRIATION . . . . . \$	((179,363,000))
	<u>180,493,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,841,000, of which \$1,136,000 is from the resource management cost account appropriation and \$705,000 is from the forest development account appropriation, is provided solely for the development of a harvest planning system for state trust lands.

(2) ~~\$450,000 (of which \$225,000 is from the resource management cost account appropriation and \$225,000 is from)~~ \$1,862,000 of the aquatic lands enhancement account appropriation is provided solely for the control and eradication of Spartina, including research, environmental impact statements, and public education. The department shall develop a Spartina eradication plan and report to the house of representatives natural resources committee and the senate environment and natural resources committee by January 15, 1992, on the plan.

(3) ~~(((\$5,185,000))~~ \$10,695,000 of the general fund—state appropriation is provided solely for the emergency fire suppression subprogram.

(4) ~~(((\$1,909,000))~~ \$1,862,000 of the general fund—state appropriation is provided solely to implement the Puget Sound water quality management plan.

(5) ~~(((\$2,840,000))~~ \$2,698,000 of the general fund—state appropriation is provided solely for cooperative monitoring, evaluation, and research projects related to implementation of the timber-fish-wildlife agreement.

(6) ~~(((\$1,683,000))~~ \$1,433,000 of the general fund—state appropriation is provided solely for the development of an electronic forest practices permit processing data management system.

(7) \$163,000 of the general fund—state appropriation is provided solely for the department to contract with the University of Washington college of forest resources for continuation of the timber supply study. The study shall identify the quantity of timber present now and the quantity of timber that may be available from forest lands in the future, use various assumptions of landowner management, and include changes in the forest land base, amount of capital

invested in timber management, and expected harvest age. No portion of this appropriation may be expended for indirect costs associated with the study.

(8) The department of natural resources shall sell approximately 726 acres of undeveloped land at the Northern State multiservice center to Skagit county. The land shall be sold at fair market value, which shall not exceed \$701,000 if the sale occurs before January 1, 1992. Proceeds of the sale shall be deposited in the charitable, educational, penal and reformatory institutions account. The sale of the land shall be conditioned on the permanent dedication of the land for public recreational uses, which may include fairgrounds, and up to 50 acres of which may be used for purposes of a public educational institution.

(9) \$500,000 of the general fund—state appropriation and \$1,000,000 of the resource management cost account appropriation are provided solely to implement sections 5 through 9, chapter 315, Laws of 1991 (Engrossed Substitute Senate Bill No. 5555, countercyclical program for timber-impacted areas).

(10) ~~(\$3,400,000)~~ \$2,930,000 of the general fund—state appropriation is provided solely for forest practices activities. Of the amount provided in this subsection, ~~(\$1,500,000)~~ \$1,126,000 is provided solely for monitoring and enforcement of forest practices permit conditions, reforestation requirements, and conversion requirements. The department shall submit a plan to the appropriate committees of the legislature by October 1, 1991, showing how it will spend this amount. The balance of the amount provided in this subsection shall be expended as follows: ~~(\$760,000)~~ \$722,000 to the department of fisheries, ~~(\$660,000)~~ \$626,000 to the department of wildlife, and ~~(\$480,000)~~ \$456,000 to the department of ecology for each of these department's responsibilities related to forest practices.

(11) \$429,000 of the air pollution control account appropriation, \$60,000 of the forest development account appropriation, and \$141,000 of the resource management cost account appropriations are provided solely to implement chapter 199, Laws of 1991 (Engrossed Substitute House Bill No. 1028, air pollution control).

(12) \$150,000 of the general fund—state appropriation is provided solely for the department to contract for increased development of the Mount Tahoma cross-country ski trails system. ~~((No portion of the amount provided in this subsection may be expended without equal matching funds from nonstate sources for the same purpose.))~~ Expenditure of this amount is contingent on receipt of a nonstate match of equal value, as determined by the department.

(13) ~~(\$1,700,000)~~ \$1,575,000 of the general fund—state appropriation is provided for fiscal year 1993 solely for the forest practices program for activities related to critical wildlife habitat, cumulative effects assessment, clear-cut size and timing, wetlands, and rate-of-harvest monitoring that are required as a result of rules adopted by the forest practices board. The department shall submit a status report on adoption of forest practices rules by February 1, 1992, to the appropriate committees of the legislature. The amount provided in this

subsection shall lapse if the forest practices board does not adopt rules on these items by June 30, 1992.

(14) \$160,000 from the natural resources conservation area stewardship account appropriation is provided solely for operating expenses of the natural heritage program.

(15) \$128,000 of the oil spill administration account appropriation is provided solely to implement chapter 200, Laws of 1991 (Engrossed Substitute House Bill No. 1027, oil and hazardous substance spill prevention and response).

Sec. 314. 1991 sp.s. c 16 s 315 is amended to read as follows:

**FOR THE DEPARTMENT OF AGRICULTURE**

General Fund—State Appropriation . . . . .	\$	<del>((19,680,000))</del>
		<u>18,776,000</u>
General Fund—Federal Appropriation . . . . .	\$	1,226,000
State Toxics Control Account Appropriation . . . . .	\$	1,109,000
<u>Weights and Measures Account Appropriation . . . . .</u>	<u>\$</u>	<u>400,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((22,015,000))</del>
		<u>21,511,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Within the appropriations provided in this section, the department shall collect and provide information to growers on minor use crop pesticides.

(2) \$100,000 of the general fund—state appropriation is provided solely to implement the Puget Sound water quality management plan.

(3) ~~((872,000))~~ \$836,000 of the general fund—state appropriation is provided solely for the state noxious weed program. Of this amount ~~((524,000))~~, \$506,000 is provided solely for noxious weed control grants.

(4) ~~((The appropriations in this section are based on an assumption that the IMPACT program will establish fees pursuant to RCW 28B.30.541.~~

~~((5)))~~ \$97,000 of the general fund—state appropriation is provided solely to implement chapter 280, Laws of 1991 (Engrossed Second Substitute Senate Bill No. 5096, adverse impacts on agriculture).

(5) \$30,000 of the general fund—state appropriation is provided solely for the Taiwan office.

(6) The following amounts are for the weights and measures program as provided in Substitute Senate Bill 6483:

(a) \$50,000 of the general fund—state appropriation is provided solely for a study regarding funding for the weights and measures program;

(b) \$150,000 of the general fund—state appropriation is provided solely for the consumer protection activities of the weights and measures program; and

(c) \$400,000 of the weights and measures account appropriation is provided solely to implement the weights and measures program.

Sec. 315. 1991 sp.s. c 16 s 316 is amended to read as follows:

**FOR THE STATE CONVENTION AND TRADE CENTER**

State Convention/Trade Center Account Appropriation . . .	\$	((21,490,000))
		<u>21,790,000</u>

The appropriation in this section is subject to the following conditions and limitations: \$4,786,000 is provided solely for marketing the facilities and services of the convention center, for promoting the locale as a convention and visitor destination, and for related activities. Of the amount provided in this section, the center shall not expend more than is received from revenue generated by the special excise tax deposited in the state convention and trade center operations account under RCW 67.40.090(3). Projections of such revenue shall be as determined and updated by the department of revenue.

**PART IV  
TRANSPORTATION**

**Sec. 401.** 1991 sp.s. c 16 s 401 is amended to read as follows:

**FOR THE STATE PATROL**

General Fund—State Appropriation . . . . .	\$	((24,089,000))
		<u>23,201,000</u>
General Fund—Federal Appropriation . . . . .	\$	220,000
General Fund—Private/Local Appropriation . . . . .	\$	169,000
Death Investigations Account Appropriation . . . . .	\$	24,000
Drug Enforcement and Education Account Appropriation . . . . .	\$	((1,960,000))
		<u>2,258,000</u>
<u>Industrial Insurance Premium Refund Account—State</u>		
<u>Appropriation</u> . . . . .	\$	<u>19,000</u>
TOTAL APPROPRIATION . . . . .	\$	((26,462,000))
		<u>25,891,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The staff of the Washington state patrol crime laboratory shall not provide tests for marijuana to cities or counties except: (a) To verify weight for criminal cases where weight is a factor, or (b) for criminal cases that the prosecuting attorney and field administrator of the crime laboratory agree are likely to go to trial.

(2) \$194,900 of the general fund—state appropriation is provided solely for security costs for the national governors' association 1991 conference.

(3) \$151,000 of the general fund—state appropriation is provided solely for reimbursement to local law enforcement agencies for the cost of registering sex offenders.

(4) \$320,000 of the general fund—state appropriation is provided for aircraft lease costs.

(5) \$271,000 of the general fund—state appropriation is provided for vehicle license fraud investigation.

(6) \$150,000 of the general fund—state appropriation is provided for special services.

(7) \$60,000 of the general fund—state appropriation is provided solely to implement chapter 274, Laws of 1991 (Substitute House Bill 1997, sex offender registration).

(8) \$300,000 of the general fund—state appropriation is provided solely to reduce the backlog of DNA identification work on sex offenders released from prison.

Sec. 402. 1991 sp.s. c 16 s 402 is amended to read as follows:

**FOR THE DEPARTMENT OF LICENSING**

General Fund Appropriation . . . . .	\$	<del>((21,240,000))</del>
		<u>17,575,000</u>
Architects' License Account Appropriation . . . . .	\$	861,000
Cemetery Account Appropriation . . . . .	\$	203,000
Health Professions Account Appropriation . . . . .	\$	506,000
Professional Engineers' Account Appropriation . . . . .	\$	2,096,000
Real Estate Commission Account Appropriation . . . . .	\$	7,396,000
Air Pollution Control Account Appropriation . . . . .	\$	106,000
<u>Master Licensing Account Appropriation . . . . .</u>	<u>\$</u>	<u>3,310,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((32,408,000))</del>
		<u>32,053,000</u>

The appropriations in this section are subject to the following conditions and limitations: ~~((2))~~

(1) Of the general fund appropriation, the amounts specified in this subsection are provided solely for the purposes of the following legislation. The general fund shall be reimbursed by June 30, 1993, by an assessment of fees sufficient to cover all costs of implementing the specified legislation.

- (a) Chapter 334, Laws of 1991 (Engrossed Second Substitute Senate Bill No. 5124, licensing private security guards) . . . . . \$ 538,000
- (b) Chapter 328, Laws of 1991 (Engrossed Substitute House Bill No. 1181, licensing private detectives) . . . . . \$ 145,000
- (c) Chapter 236, Laws of 1991 (Substitute House Bill No. 1712, athlete agent registration) . . . . . \$ 42,000

The appropriation in this subsection (1)(c) shall be reduced by any amount expended as of the effective date of this act from the appropriation in section 10, chapter 236, Laws of 1991.

(d) Chapter 324, Laws of 1991 (Engrossed Substitute House Bill No. 1136, cosmetology regulations) . . . . \$ 329,000

(2) The entire master licensing account appropriation is contingent on enactment of Senate Bill No. 6461 (master license fees). If the bill is not enacted by June 30, 1992, the appropriation is null and void.

NEW SECTION. Sec. 403. ATHLETE AGENT REGISTRATION PROGRAM. 1991 c 236 s 10 is repealed.

**PART V  
EDUCATION**

Sec. 501. 1991 sp.s. c 16 s 501 is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR STATE ADMINISTRATION**

General Fund—State Appropriation . . . . .	\$	<del>((23,813,000))</del>
		<u>22,290,000</u>
General Fund—Federal Appropriation . . . . .	\$	13,006,000
Public Safety and Education Account Appropriation . . . . .	\$	383,000
Drug Enforcement and Education Account Appropriation . . . . .	\$	153,000
TOTAL APPROPRIATION . . . . .	\$	<del>((37,355,000))</del>
		<u>35,832,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The entire public safety and education account appropriation is provided solely for administration of the traffic safety education program, including in-service training related to instruction in the risks of driving while under the influence of alcohol and other drugs.

(2) The entire drug enforcement and education account appropriation is provided solely for administration of the grant awards established under chapter 28A.170 RCW.

(3) ~~(((\$100,000))~~ Up to \$95,000 of the general fund—state appropriation is ~~((provided solely))~~ to print and distribute an informational brochure on enrollment options.

(4) The superintendent of public instruction shall propose procedures and standards to meet demonstrable funding needs beyond the level provided in the state-funded program for handicapped children. The procedures and standards shall permit relief for a school district only if a district can at least demonstrate that:

(a) Student characteristics and costs of providing program services in the district differ significantly from the assumptions of the state handicapped funding formula;

(b) Individualized education plans are properly and efficiently prepared and formulated;

- (c) The district is making a reasonable effort to provide program services for handicapped children within funds generated by the state funding formula;
- (d) District programs are operated in a reasonably efficient manner;
- (e) No indirect costs are charged against the handicapped program; and
- (f) Any available federal funds are insufficient to address the additional needs.

The superintendent of public instruction shall submit a report describing the proposed procedures and standards to the legislature by January 10, 1992.

(5) ~~\$(650,000)~~ 400,000 of the general fund—state appropriation is provided solely to upgrade the data collection capability of the superintendent of public instruction. The office of financial management may not disburse any of this amount until the superintendent:

(a) Establishes an advisory committee on information needs with representation from the senate ways and means committee, the house of representatives appropriations committee, the office of financial management, and educational service districts;

(b) Presents a decision package to the office of financial management describing the recommended system design, including cost estimates, describing the extent to which the recommended system meets the information needs established by the advisory committee, and describing comparable information for at least two alternative systems; and

(c) Receives approval from the office of financial management for the recommended system design.

(6) ~~\$(1,000,000)~~ 900,000 of the general fund—state appropriation is provided solely for inservice training, technical assistance, and evaluation of the special services demonstration projects authorized in chapter 265, Laws of 1991 (Engrossed Substitute House Bill No. 1329, special services demonstration projects).

(7) ~~\$(853,000)~~ 810,000 of the general fund—state appropriation is provided solely for the operation and expenses of the state board of education, including basic education assistance activities.

(8) ~~\$(500,000)~~ 475,000 of the general fund—state appropriation is provided solely for certification investigation activities of the office of professional practices.

(9) ~~\$(39,000)~~ 62,000 of the general fund—state appropriation is provided ~~((to implement chapter 255, Laws of 1991 (Second Substitute Senate Bill No. 5022, teacher excellence awards)))~~ for the Washington award for excellence program. Of this amount, \$25,000 is provided for stipends to reimburse academic grant recipients for their educationally related costs as provided in Engrossed Substitute Senate Bill No. 6326 (awards for excellence).

(10) The superintendent shall adopt rules to implement the intent of RCW 28A.400.275 and 28A.400.280.

(11) The superintendent shall continue participation in the national assessment education program.

(12) \$20,000 of the general fund state appropriation is provided for the superintendent to develop violence prevention materials for use in local school districts, including information on techniques for anger management and effective alternatives to violence for solving problems.

**Sec. 502.** 1991 sp.s. c 16 s 502 is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR GENERAL APPORTIONMENT (BASIC EDUCATION)**

General Fund Appropriation . . . . . \$ ~~((5,215,683,000))~~  
5,183,846,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$~~((500,537,000))~~ 499,307,000 of the general fund appropriation is provided solely for the remaining months of the 1990-91 school year.

(2) Allocations for certificated staff salaries for the 1991-92 and 1992-93 school years shall be determined using formula-generated staff units calculated pursuant to this subsection. Small school enrollments in kindergarten through grade six shall generate funding under (a) of this subsection, and shall not generate allocations under (d) and (e) of this subsection, if the staffing allocations generated under (a) of this subsection exceed those generated under (d) and (e) of this subsection. The certificated staffing allocations shall be as follows:

(a) On the basis of average annual full time equivalent enrollments, excluding full time equivalent enrollment otherwise recognized for certificated staff unit allocations under (c) through (f) of this subsection:

(i) Four certificated administrative staff units for each one thousand full time equivalent kindergarten through twelfth grade students excluding full time equivalent handicapped enrollment as recognized for funding purposes under section 509 of this act;

(ii) 54.3 certificated instructional staff units for each one thousand full time equivalent students in kindergarten through third grade, excluding full time equivalent handicapped students ages six through eight; and

(iii) Forty-six certificated instructional staff units for each one thousand full time equivalent students, excluding full time equivalent handicapped students ages nine and above;

(b) For school districts with a minimum enrollment of 250 full time equivalent students, whose full time equivalent student enrollment count in a given month exceeds the first of the month full time equivalent enrollment count by 5 percent, an additional state allocation of 110 percent of the share that such increased enrollment would have generated had such additional full time equivalent students been included in the normal enrollment count for that particular month;

(c) On the basis of full time equivalent enrollment in vocational education programs and skill center programs approved by the superintendent of public

instruction, 0.92 certificated instructional staff units and 0.08 certificated administrative staff units for each 16.67 full time equivalent vocational students;

(d) For districts enrolling not more than twenty-five average annual full time equivalent students in kindergarten through grade eight, and for small school plants within any school district which have been judged to be remote and necessary by the state board of education and enroll not more than twenty-five average annual full time equivalent students in kindergarten through grade eight:

(i) For those enrolling no students in grades seven and eight, 1.76 certificated instructional staff units and 0.24 certificated administrative staff units for enrollment of not more than five students, plus one-twentieth of a certificated instructional staff unit for each additional student enrolled; and

(ii) For those enrolling students in grades seven or eight, 1.68 certificated instructional staff units and 0.32 certificated administrative staff units for enrollment of not more than five students, plus one-tenth of a certificated instructional staff unit for each additional student enrolled.

(e) For specified enrollments in districts enrolling more than twenty-five but not more than one hundred average annual full time equivalent students in kindergarten through grade eight, and for small school plants within any school district which enroll more than twenty-five average annual full time equivalent kindergarten through eighth grade students and have been judged to be remote and necessary by the state board of education:

(i) For enrollment of up to sixty annual average full time equivalent students in kindergarten through grade six, 2.76 certificated instructional staff units and 0.24 certificated administrative staff units; and

(ii) For enrollment of up to twenty annual average full time equivalent students in grades seven and eight, 0.92 certificated instructional staff units and 0.08 certificated administrative staff units.

(f) For districts operating no more than two high schools with enrollments of less than three hundred average annual full time equivalent students, for enrollment in grades nine through twelve in each such school, other than alternative schools:

(i) For remote and necessary schools enrolling students in any grades nine through twelve but no more than twenty-five average annual full time equivalent kindergarten through twelfth grade students, four and one-half certificated instructional staff units and one-quarter of a certificated administrative staff unit;

(ii) For all other small high schools under this subsection, nine certificated instructional staff units and one-half of a certificated administrative staff unit for the first sixty average annual full time equivalent students, and additional staff units based on a ratio of 0.8732 certificated instructional staff units and 0.1268 certificated administrative staff units per each additional forty-three and one-half average annual full time equivalent students.

Units calculated under (f)(ii) of this subsection shall be reduced by certificated staff units at the rate of forty-six certificated instructional staff units

and four certificated administrative staff units per thousand vocational and handicapped full time equivalent students.

(g) For each nonhigh school district having an enrollment of more than seventy annual average full time equivalent students and less than one hundred eighty students, operating a grades K-8 program or a grades 1-8 program, an additional one-half of a certificated instructional staff unit;

(h) For each nonhigh school district having an enrollment of more than fifty annual average full time equivalent students and less than one hundred eighty students, operating a grades K-6 program or a grades 1-6 program, an additional one-half of a certificated instructional staff unit.

(3) Allocations for classified salaries for the 1991-92 and 1992-93 school years shall be calculated using formula-generated classified staff units determined as follows:

(a) For enrollments generating certificated staff unit allocations under subsection (2) (d) through (h) of this section, one classified staff unit for each three certificated staff units allocated under such subsections.

(b) For all other enrollment in grades kindergarten through twelve, including vocational but excluding handicapped full time equivalent enrollments, one classified staff unit for each sixty average annual full time equivalent students.

(c) For each nonhigh school district with an enrollment of more than fifty annual average full time equivalent students and less than one hundred eighty students, an additional one-half of a classified staff unit.

(4) Fringe benefit allocations shall be calculated at a rate of 21.11 percent in the 1991-92 ~~((and 1992-93))~~ school year~~((s))~~ and 20.30 percent in the 1992-93 school year of certificated salary allocations provided under subsection (2) of this section, and a rate of 18.84 percent in the 1991-92 ~~((and 1992-93))~~ school year~~((s))~~ and 18.53 percent in the 1992-93 school year of classified salary allocations provided under subsection (3) of this section.

(5) Insurance benefit allocations shall be calculated at the rates specified in section 505 of this act, based on:

(a) The number of certificated staff units determined in subsection (2) of this section; and

(b) The number of classified staff units determined in subsection (3) of this section multiplied by 1.152. This factor is intended to adjust allocations so that, for the purposes of distributing insurance benefits, full time equivalent classified employees may be calculated on the basis of 1440 hours of work per year, with no individual employee counted as more than one full time equivalent.

(6)(a) For nonemployee-related costs associated with each certificated staff unit allocated under subsection (2) (a), (b), and (d) through (h) of this section, there shall be provided a maximum of \$6,848 per certificated staff unit in the 1991-92 school year and a maximum of \$7,060 per certificated staff unit in the 1992-93 school year.

(b) For nonemployee-related costs associated with each certificated staff unit allocated under subsection (2)(c) of this section, there shall be provided a

maximum of \$13,049 per certificated staff unit in the 1991-92 school year and a maximum of \$13,454 per certificated staff unit in the 1992-93 school year.

(7) Allocations for substitute costs for classroom teachers shall be distributed at a maximum rate of \$318 for the 1991-92 school year and \$318 per year for the 1992-93 school year for allocated classroom teachers. Solely for the purposes of this subsection, allocated classroom teachers shall be equal to the number of certificated instructional staff units allocated under subsection (2) of this section, multiplied by the ratio between the number of actual basic education certificated teachers and the number of actual basic education certificated instructional staff reported state-wide for the 1990-91 school year.

(8) The superintendent may distribute a maximum of ~~\$(4,633,000)~~ 4,690,000 outside the basic education formula during fiscal years 1992 and 1993 as follows:

(a) For fire protection for school districts located in a fire protection district as now or hereafter established pursuant to chapter 52.04 RCW, a maximum of \$386,000 may be expended in fiscal year 1992 and a maximum of \$398,000 may be expended in fiscal year 1993.

(b) For summer vocational programs at skills centers, a maximum of ~~\$(1,777,000)~~ 1,766,000 may be expended in fiscal year 1992 and a maximum of ~~\$(1,788,000)~~ 1,856,000 may be expended in fiscal year 1993.

(c) A maximum of \$284,000 may be expended for school district emergencies.

(9) For the purposes of RCW 84.52.0531, the increase per full time equivalent student in state basic education appropriations provided under this act, including appropriations for salary and benefits increases, is 5.6 percent from the 1990-91 school year to the 1991-92 school year, and 5.0 percent from the 1991-92 school year to the 1992-93 school year.

(10) A maximum of \$2,450,000 may be expended in the 1991-92 fiscal year and a maximum of \$2,450,000 may be expended in the 1992-93 fiscal year for high technology vocational equipment for secondary vocational education programs and skill centers.

(11)(a) Funds provided under subsection (2)(a)(ii) of this section in excess of the amount required to maintain the statutory minimum ratio established under RCW 28A.150.260(2)(c), shall be allocated only if the district documents an actual ratio equal to or greater than 54.3 certificated instructional staff per thousand full time equivalent students in grades K-3. For any school district documenting a lower certificated instructional staff ratio, the allocation shall be based on the district's actual K-3 certificated instructional staff ratio achieved in that school year, or the statutory minimum ratio established under RCW 28A.150.260(2)(c), if greater.

(b) Districts at or above 51.0 certificated instructional staff per one thousand full time equivalent students in grades K-3 may dedicate up to 1.3 of the 54.3 funding ratio to employ additional classified instructional assistants assigned to basic education classrooms in grades K-3. For purposes of documenting a

district's staff ratio under subsection (11)(a) and (c) of this section, funds used by the district to employ additional classified instructional assistants shall be converted to a certificated staff equivalent and added to the district's actual certificated instructional staff ratio. Additional classified instructional assistants, for the purposes of this subsection, shall be determined using the 1989-90 school year as the base year.

(c) Any district maintaining a ratio equal to or greater than 54.3 certificated instructional staff per thousand full time equivalent students in grades K-3 may use allocations generated under subsection (2)(a)(ii) in excess of that required to maintain the minimum ratio established under RCW 28A.150.260(2)(c) to employ additional basic education certificated instructional staff or classified instructional assistants in grades 4-6. Funds allocated under this section shall only be expended to reduce class size in grades K-6. No more than 1.3 of the certificated instructional funding ratio amount may be expended for provision of classified instructional assistants.

(12) The superintendent of public instruction shall study the rate of staff per student if current levels of certificated instructional staffing and paraprofessionals are counted together as "classroom resources." A report identifying "classroom resource" per pupil rates shall be provided to the appropriate fiscal and policy committees of the house of representatives and senate by January 10, 1992.

Sec. 503. 1991 sp.s. c 16 s 503 is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—BASIC EDUCATION EMPLOYEE COMPENSATION INCREASES**

General Fund Appropriation . . . . . \$ ((218,249,000))  
206,433,000

The appropriation in this section is subject to the following conditions and limitations:

(1) The following calculations determine the salaries used in the general fund allocations for certificated instructional, certificated administrative, and classified staff units under section 502 of this act:

(a) Salary allocations for certificated instructional staff units shall be determined for each district by multiplying the district's certificated instructional derived base salary shown on LEAP Document ((12)) 12A, by the district's average staff mix factor for basic education certificated instructional staff in that school year, computed using LEAP Document 1A.

(b) Salary allocations for certificated administrative staff units and classified staff units for each district shall be based on the district's certificated administrative and classified salary allocation amounts shown on LEAP Document ((12)) 12A.

(2) For the purposes of this section:

(a) "Basic education certificated instructional staff" is defined as provided in RCW 28A.150.100.

(b) "LEAP Document 1A" means the computerized tabulation establishing staff mix factors for basic education certificated instructional staff according to education and years of experience, as developed by the legislative evaluation and accountability program committee on April 8, 1991, at 13:35 hours.

(c) "LEAP Document ((12)) 12A" means the computerized tabulation of 1990-91, 1991-92, and 1992-93 school year salary allocations for basic education certificated administrative staff and basic education classified staff and derived base salaries for basic education certificated instructional staff as developed by the legislative evaluation and accountability program committee on (~~June 26, 1991, at 12:01 hours~~) January 15, 1992, at 12:00 hours.

(3) Incremental fringe benefits factors shall be applied to salary increases at a rate of 1.2047 for certificated salaries and 1.1534 for classified salaries for ((both)) the 1991-92 ((and 1992-93)) school year(s). For the 1992-93 school year, the rate for certificated salaries shall be 1.1966 and the rate for classified salaries shall be 1.1503.

(4) The increase for each certificated administrative staff unit provided under section 502 of this act shall be the 1990-91 state-wide average certificated administrative salary increased by 4.0 percent for the 1991-92 school year, and further increased by ((3.547)) 3.0 percent for the 1992-93 school year, as shown on LEAP Document ((12)) 12A.

(5) The increase for each classified staff unit provided under section 502 of this act shall be the 1990-91 state-wide average classified salary increased by 4.0 percent for the 1991-92 school year and further increased by ((3.547)) 3.0 percent for the 1992-93 school year, as shown on LEAP Document ((12)) 12A.

(6) Increases for certificated instructional staff units provided under section 502 of this act shall be the difference between the salary allocation specified in subsection (1)(a) of this section and the salary allocation specified as follows:

(a) For the 1991-92 school year, the allocation for each certificated instructional staff unit shall be the 1991-92 derived base salary, as shown on LEAP Document ((12)) 12A, multiplied by the district's average staff mix factor for actual 1991-92 full time equivalent basic education certificated instructional staff using LEAP Document 1A.

(b) For the 1992-93 school year, the allocation for each certificated instructional staff unit shall be the 1992-93 derived base salary, as shown on LEAP Document ((12)) 12A, multiplied by the district's average staff mix factor for actual 1992-93 full time equivalent basic education certificated instructional staff using LEAP Document 1A.

(7)(a) Pursuant to RCW 28A.150.410, the following state-wide salary allocation schedules for certificated instructional staff are established for basic education salary allocations for the 1991-92 and 1992-93 school years:

1991-92 STATE-WIDE SALARY ALLOCATION SCHEDULE  
FOR INSTRUCTIONAL STAFF

Years of Service	BA	BA+15	BA+30	BA+45	BA+90
0	20,801	21,363	21,945	22,528	24,400
1	21,482	22,063	22,664	23,285	25,212
2	22,178	22,776	23,395	24,076	26,035
3	22,908	23,525	24,161	24,880	26,874
4	23,652	24,307	24,961	25,718	27,764
5	24,430	25,102	25,775	26,589	28,668
6	25,240	25,910	26,620	27,492	29,603
7	26,064	26,750	27,478	28,407	30,569
8	26,899	27,624	28,368	29,374	31,566
9		28,528	29,309	30,352	32,595
10			30,262	31,379	33,653
11				32,437	34,760
12				33,461	35,897
13					37,062
14					38,233
15 or more					39,227

Years of Service	BA+135	MA	MA+45	MA+90 or PHD
0	25,606	24,939	26,811	28,018
1	26,434	25,696	27,624	28,846
2	27,295	26,488	28,447	29,706
3	28,188	27,292	29,286	30,600
4	29,115	28,130	30,176	31,527
5	30,073	29,000	31,080	32,485
6	31,043	29,904	32,015	33,455
7	32,065	30,818	32,981	34,476
8	33,116	31,786	33,978	35,528
9	34,198	32,762	35,007	36,609
10	35,308	33,791	36,064	37,720
11	36,449	34,849	37,172	38,861
12	37,637	35,949	38,309	40,049
13	38,854	37,086	39,474	41,265
14	40,116	38,258	40,720	42,528
15 or more	41,159	39,252	41,779	43,634

1992-93 STATE-WIDE SALARY ALLOCATION SCHEDULE  
FOR INSTRUCTIONAL STAFF

((Years-of

Service	BA	BA+15	BA+30	BA+45	BA+90
0	21,539	22,120	22,724	23,327	25,265
1	22,244	22,845	23,468	24,111	26,106
2	22,965	23,584	24,225	24,930	26,959
3	23,721	24,359	25,018	25,763	27,827
4	24,491	25,169	25,847	26,630	28,749
5	25,296	25,992	26,689	27,532	29,685
6	26,135	26,829	27,564	28,468	30,653
7	26,988	27,699	28,453	29,414	31,653
8	27,853	28,603	29,375	30,416	32,686
9		29,540	30,349	31,428	33,751
10			31,335	32,492	34,846
11				33,587	35,993
12				34,648	37,170
13					38,376
14					39,589
15 or more					40,618

Years of Service	BA+135	MA	MA+45	MA+90 or PHD
0	26,514	25,824	27,762	29,012
1	27,372	26,608	28,603	29,869
2	28,263	27,428	29,456	30,759
3	29,188	28,260	30,324	31,685
4	30,148	29,128	31,246	32,645
5	31,139	30,029	32,182	33,637
6	32,144	30,965	33,150	34,642
7	33,202	31,912	34,151	35,699
8	34,290	32,913	35,183	36,788
9	35,411	33,924	36,248	37,908
10	36,561	34,989	37,344	39,058
11	37,742	36,085	38,490	40,239
12	38,972	37,224	39,667	41,469
13	40,232	38,401	40,874	42,729
14	41,539	39,615	42,165	44,036
15 or more	42,619	40,644	43,261	45,181))

Years of Service	BA	BA+15	BA+30	BA+45	BA+90
<u>0</u>	<u>21,425</u>	<u>22,003</u>	<u>22,603</u>	<u>23,203</u>	<u>25,131</u>
<u>1</u>	<u>22,126</u>	<u>22,724</u>	<u>23,343</u>	<u>23,983</u>	<u>25,968</u>
<u>2</u>	<u>22,843</u>	<u>23,459</u>	<u>24,096</u>	<u>24,798</u>	<u>26,816</u>
<u>3</u>	<u>23,595</u>	<u>24,230</u>	<u>24,886</u>	<u>25,626</u>	<u>27,679</u>

<u>4</u>	<u>24,361</u>	<u>25,036</u>	<u>25,709</u>	<u>26,489</u>	<u>28,596</u>
<u>5</u>	<u>25,162</u>	<u>25,854</u>	<u>26,547</u>	<u>27,386</u>	<u>29,527</u>
<u>6</u>	<u>25,997</u>	<u>26,686</u>	<u>27,418</u>	<u>28,317</u>	<u>30,490</u>
<u>7</u>	<u>26,845</u>	<u>27,552</u>	<u>28,302</u>	<u>29,258</u>	<u>31,485</u>
<u>8</u>	<u>27,705</u>	<u>28,452</u>	<u>29,219</u>	<u>30,255</u>	<u>32,513</u>
<u>9</u>		<u>29,384</u>	<u>30,188</u>	<u>31,261</u>	<u>33,572</u>
<u>10</u>			<u>31,169</u>	<u>32,320</u>	<u>34,661</u>
<u>11</u>				<u>33,409</u>	<u>35,802</u>
<u>12</u>				<u>34,464</u>	<u>36,973</u>
<u>13</u>					<u>38,173</u>
<u>14</u>					<u>39,379</u>
<u>15 or more</u>					<u>40,403</u>

<u>Years of Service</u>	<u>BA+135</u>	<u>MA</u>	<u>MA+45</u>	<u>MA+90 or PHD</u>
<u>0</u>	<u>26,374</u>	<u>25,687</u>	<u>27,615</u>	<u>28,858</u>
<u>1</u>	<u>27,226</u>	<u>26,467</u>	<u>28,452</u>	<u>29,710</u>
<u>2</u>	<u>28,113</u>	<u>27,282</u>	<u>29,300</u>	<u>30,596</u>
<u>3</u>	<u>29,033</u>	<u>28,110</u>	<u>30,163</u>	<u>31,517</u>
<u>4</u>	<u>29,988</u>	<u>28,973</u>	<u>31,080</u>	<u>32,472</u>
<u>5</u>	<u>30,974</u>	<u>29,870</u>	<u>32,011</u>	<u>33,458</u>
<u>6</u>	<u>31,974</u>	<u>30,801</u>	<u>32,974</u>	<u>34,458</u>
<u>7</u>	<u>33,026</u>	<u>31,742</u>	<u>33,969</u>	<u>35,510</u>
<u>8</u>	<u>34,109</u>	<u>32,739</u>	<u>34,997</u>	<u>36,593</u>
<u>9</u>	<u>35,223</u>	<u>33,744</u>	<u>36,056</u>	<u>37,707</u>
<u>10</u>	<u>36,367</u>	<u>34,804</u>	<u>37,145</u>	<u>38,851</u>
<u>11</u>	<u>37,542</u>	<u>35,893</u>	<u>38,286</u>	<u>40,026</u>
<u>12</u>	<u>38,765</u>	<u>37,027</u>	<u>39,457</u>	<u>41,249</u>
<u>13</u>	<u>40,018</u>	<u>38,197</u>	<u>40,657</u>	<u>42,502</u>
<u>14</u>	<u>41,319</u>	<u>39,404</u>	<u>41,941</u>	<u>43,803</u>
<u>15 or more</u>	<u>42,393</u>	<u>40,429</u>	<u>43,032</u>	<u>44,942</u>

(b) As used in this subsection, the column headings "BA+(N)" refer to the number of credits earned since receiving the baccalaureate degree.

(c) For credits earned after the baccalaureate degree but before the masters degree, any credits in excess of forty-five credits may be counted after the masters degree. Thus, as used in this subsection, the column headings "MA+(N)" refer to the total of:

(i) Credits earned since receiving the masters degree; and

(ii) Any credits in excess of forty-five credits that were earned after the baccalaureate degree but before the masters degree.

(8) For the purposes of this section:

(a) "BA" means a baccalaureate degree.

(b) "MA" means a masters degree.

(c) "PHD" means a doctorate degree.

(d) "Years of service" shall be calculated under the same rules used by the superintendent of public instruction for salary allocations in the 1990-91 school year.

(e) "Credits" means college quarter hour credits and equivalent inservice credits computed in accordance with RCW 28A.415.020.

(9) The salary allocation schedules established in subsection (7) of this section are for allocation purposes only except as provided in RCW 28A.400.200(2).

(10) The superintendent of public instruction, in cooperation with the legislative budget committee, shall conduct a study to verify the accuracy of education credits reported by school districts to the superintendent for purposes of calculating staff-mix ratios used in the 1991-93 biennial operating budget process. The study shall be presented to the fiscal committees of the senate and house of representatives by November 1, 1992.

Sec. 504. 1991 sp.s. c 16 s 504 is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—  
CATEGORICAL PROGRAM SALARY INCREASES**

General Fund Appropriation . . . . . \$ ~~((47,058,000))~~  
42,885,000

The appropriation in this section is subject to the following conditions and limitations:

(1) The incremental fringe benefits factors applied to salary increases in subsection (3) of this section shall be ~~((1.2047 for certificated salaries and 1.1534 for classified salaries in the 1991-92 and 1992-93 school years))~~ the same as those specified in section 503(3) of this act.

(2) Salary increases for each school year for state-supported formula units in the following categorical programs include costs of incremental fringe benefits and shall be distributed by increasing allocation rates for each school year by the amounts specified below:

(a) Transitional bilingual instruction: The rates specified in section 519 of this act shall be increased by \$18.66 per pupil for the 1991-92 school year and by ~~\$(35.87))~~ 32.99 per pupil for the 1992-93 school year.

(b) Learning assistance: The rates specified in section 520 of this act shall be increased by \$14.15 per pupil for the 1991-92 school year and by ~~\$(27.20))~~ 25.12 per pupil for the 1992-93 school year.

(c) Education of highly capable students: The rates specified in section 515 of this act shall be increased by \$11.05 per pupil for the 1991-92 school year and by ~~\$(21.24))~~ 17.59 per pupil for the 1992-93 school year.

~~(d) (Vocational technical institutes: The rates for vocational programs specified in section 507 of this act shall be increased by \$80.05 per full time equivalent student for the 1991-92 school year, and by \$167.21 per full time equivalent student for the 1992-93 school year. A maximum of \$734,000 is~~

~~provided for the 1991-92 fiscal year and a maximum of \$1,685,000 is provided for the 1992-93 fiscal year.~~

(e)) Pupil transportation: The rates provided under section 506 of this act shall be increased by \$.72 per weighted pupil-mile for the 1991-92 school year, and by ~~\$(1.39))~~ 1.28 per weighted pupil-mile for the 1992-93 school year.

(3) The superintendent of public instruction shall distribute salary increases and incremental fringe benefits for state-supported staff unit allocations in the handicapped program (section 509 of this act), in the educational service districts (section 511 of this act), and in the institutional education program (section 514 of this act), in the same manner as salary increases are provided for basic education staff.

Sec. 505. 1991 sp.s. c 16 s 505 is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SCHOOL EMPLOYEE INSURANCE BENEFIT INCREASES**

General Fund Appropriation . . . . . \$ ~~((88,498,000))~~  
84,890,000

The appropriation in this section is subject to the following conditions and limitations:

(1) Allocations for insurance benefits from general fund appropriations provided under section 502 of this act shall be calculated at a rate of \$246.24 per month for each certificated staff unit, and for each classified staff unit adjusted pursuant to section 502(5)(b) of this act.

(2) The appropriation in this section is provided solely to increase insurance benefit allocations for state-funded certificated and classified staff for the 1991-92 school year, effective October 1, 1991, to a rate of \$289.95 per month, and for the 1992-93 school year, effective October 1, 1992, to a rate of ~~\$(321.80))~~ 317.79 as distributed pursuant to this section.

(3) The increase in insurance benefit allocations for basic education staff units under section 502(5) of this act, for handicapped program staff units as calculated under section 509 of this act, for state-funded staff in educational service districts, and for institutional education programs is \$43.71 per month for the 1991-92 school year and an additional ~~\$(31.85))~~ 27.84 per month in the 1992-93 school year.

(4) The increases in insurance benefit allocations for the following categorical programs shall be calculated by increasing the annual state funding rates by the amounts specified in this subsection. Effective October 1 of each school year, the maximum rate adjustments provided on an annual basis under this section are:

(a) For pupil transportation, an increase of \$.40 per weighted pupil-mile for the 1991-92 school year and an additional ~~\$(.29))~~ .25 per weighted pupil-mile for the 1992-93 school year;

(b) For learning assistance, an increase of \$10.92 per pupil for the 1991-92 school year and an additional ~~\$(7.96))~~ 6.96 for the 1992-93 school year;

(c) For education of highly capable students, an increase of \$3.72 per pupil for the 1991-92 school year and an additional ~~\$(2.71))~~ 2.13 per pupil for the 1992-93 school year;

(d) For transitional bilingual education, an increase of \$7.08 per pupil for the 1991-92 school year and an additional ~~\$(5.16))~~ 4.51 per pupil for the 1992-93 school year(;

~~(e) For vocational technical institutes, an increase of \$29.09 per full-time equivalent pupil for the 1991-92 school year and \$21.20 per full-time equivalent pupil for the 1992-93 school year. A maximum of \$240,000 is provided for the 1991-92 fiscal year and \$543,000 is provided for the 1992-93 fiscal year).~~

Sec. 506. 1991 sp.s. c 16 s 506 is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PUPIL TRANSPORTATION**

General Fund Appropriation . . . . . \$ ~~((292,126,000))~~  
299,292,000

The appropriation in this section is subject to the following conditions and limitations:

(1) ~~\$(26,028,000))~~ 26,183,000 is provided solely for distribution to school districts for the remaining months of the 1990-91 school year.

~~(2) ((A maximum of \$134,333,000 may be distributed for pupil transportation operating costs in the 1991-92 school year.~~

~~(3))~~ A maximum of \$873,000 may be expended for regional transportation coordinators.

~~((4))~~ (3) A maximum of \$65,000 may be expended for bus driver training.

~~((5))~~ (4) For eligible school districts, the small-fleet maintenance factor shall be funded at a rate of \$1.65 in the 1991-92 school year and \$1.70 in the 1992-93 school year per weighted pupil-mile.

~~((6))~~ (5) The superintendent shall ensure that, by the 1992-93 school year, school districts in accordance with RCW 28A.160.160(4) are making good faith efforts to alleviate the problem of hazardous walking conditions for students.

~~((7))~~ (6) \$755,000 of the general fund—state appropriation is provided solely to implement chapter 166, Laws of 1991 (Engrossed Substitute Senate Bill No. 5114, school bus safety crossing arms). Moneys provided in this subsection may be expended to reimburse school districts that purchased school bus safety crossing arms during the 1990-91 school year, subject to criteria and rules adopted by the superintendent.

~~((8) \$100,000))~~ (7) \$90,000 is provided solely for the 1992-93 school year for transportation of students enrolled in "choice" programs. Transportation shall be limited to low-income students who are transferring to "choice" programs solely for educational reasons. The superintendent shall provide a report to the legislature concerning the use of these moneys by November 1, 1993.

Sec. 507. 1991 sp.s. c 16 s 507 is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR VOCATIONAL-TECHNICAL INSTITUTES AND ADULT EDUCATION AT VOCATIONAL-TECHNICAL INSTITUTES**

General Fund Appropriation . . . . . \$ ((86,545,000))  
12,345,000

The appropriation in this section is subject to the following conditions and limitations:

~~((1) Funding for vocational programs during the 1991-92 and 1992-93 school years shall be distributed at a rate of \$3,293 per student for a maximum of 12,655 full time equivalent students.~~

~~(2) Funding for adult basic education programs during the 1991-92 and 1992-93 school years shall be distributed at a rate of \$1.62 per hour of student service for a maximum of 288,690 hours.~~

~~(3) \$1,450,000 is provided solely to lease computer equipment, reprogram software and databases, and provide for other initial operating costs necessary to merge the computer systems of the vocational technical institutes into the community and technical college system created under chapter 238 Laws of 1991 (Engrossed Substitute Senate Bill No. 5184, work force training education). The apportionment of this amount among the vocational technical institutes shall be made by the director of the state board for community and technical colleges.)~~  
Funding is provided solely for the July and August 1991 payments to the vocational technical institutes.

Sec. 508. 1991 sp.s. c 16 s 509 is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR HANDICAPPED EDUCATION PROGRAMS**

General Fund—State Appropriation . . . . . \$ ((691,346,000))  
691,264,000

General Fund—Federal Appropriation . . . . . \$ 83,900,000

TOTAL APPROPRIATION . . . . . \$ ((775,246,000))  
775,164,000

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~\$((62,455,000))~~ 62,792,000 of the general fund—state appropriation is provided solely for the remaining months of the 1990-91 school year.

(2) The superintendent of public instruction shall distribute state funds for the 1991-92 and 1992-93 school years in accordance with districts' actual handicapped enrollments and the allocation model established in LEAP Document 13 as developed on June 26, 1991, at 13:02 hours.

(3) A maximum of \$614,000 may be expended from the general fund—state appropriation to fund 5.43 full time equivalent teachers and 2.1 full time equivalent aides at Children's Orthopedic Hospital and Medical Center. This amount is in lieu of money provided through the home and hospital allocation and the handicapped program.

(4) \$192,000 of the general fund—state appropriation is provided solely for the early childhood home instruction program for hearing impaired infants and their families.

(5) \$1,000,000 of the general fund—federal appropriation is provided solely for projects to provide handicapped students with appropriate job and independent living skills, including work experience where possible, to facilitate their successful transition out of the public school system. The funds provided by this subsection shall be from federal discretionary grants.

(6) \$300,000 of the general fund—federal appropriation is provided solely for inservice training, technical assistance, and evaluation of the special services demonstration projects authorized in chapter 265, Laws of 1991 (Engrossed Substitute House Bill No. 1329, special services demonstration projects).

(7) Project funding for special services demonstration projects shall be allocated and disbursed under chapter 265, Laws of 1991 (Engrossed Substitute House Bill No. 1329, special services demonstration projects).

Sec. 509. 1991 sp.s. c 16 s 510 is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR TRAFFIC SAFETY EDUCATION PROGRAMS**

Public Safety and Education Account Appropriation . . . . .	\$	<del>((5,321,000))</del>
		<u>8,358,000</u>
<u>General Fund—State Appropriation</u> . . . . .	\$	<u>2,203,000</u>
<u>TOTAL APPROPRIATION</u> . . . . .	\$	<u>10,561,000</u>

The appropriations in this section ((is)) are subject to the following conditions and limitations:

(1) \$1,086,000 is provided solely for the remaining months of the 1990-91 school year.

(2) Not more than \$596,000 may be expended for regional traffic safety education coordinators.

~~((2))~~ (3) A maximum of \$2,300,000 may be expended in the 1991-92 fiscal year and \$2,425,000 in the 1992-93 fiscal year to provide tuition assistance for traffic safety education for students from low-income families.

(4) The remainder of the appropriation shall be expended to provide up to \$137.16 for other students completing the program. School districts receiving moneys from this appropriation may make refunds to traffic safety students for program fee increases implemented during the 1991-92 school year as a result of funding reductions under section 510, chapter 16, Laws of 1991 sp. sess.

Sec. 510. 1991 sp.s. c 16 s 511 is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR EDUCATIONAL SERVICE DISTRICTS**

General Fund Appropriation . . . . .	\$	<del>((11,070,000))</del>
		<u>10,466,000</u>

The appropriation in this section is subject to the following conditions and limitations:

(1) The educational service districts shall continue to furnish financial services required by the superintendent of public instruction and RCW 28A.310.190 (3) and (4).

(2) \$~~((500,000))~~ 475,000 is provided solely to implement chapter 285, Laws of 1991 (Engrossed Substitute House Bill No. 1813, E.S.D. teacher recruitment coordination).

**Sec. 511.** 1991 sp.s. c 16 s 512 is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR LOCAL EFFORT ASSISTANCE**

General Fund Appropriation . . . . . \$ ~~((144,606,000))~~  
149,244,000

The appropriation in this section (~~is subject to the following conditions and limitations:—\$144,606,000~~) is provided for state matching funds pursuant to RCW 28A.500.010.

**Sec. 512.** 1991 sp.s. c 16 s 513 is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR THE ENUMERATED PURPOSES**

General Fund—Federal Appropriation . . . . . \$ ~~((183,032,000))~~  
178,332,000  
(1) Education Consolidation and Improvement Act . . . . . \$ 178,000,000  
(2) Education of Indian Children . . . . . \$ 332,000  
~~((3) Adult Basic Education . . . . . \$ 4,700,000)~~

**Sec. 513.** 1991 sp.s. c 16 s 514 is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR INSTITUTIONAL EDUCATION PROGRAMS**

General Fund—State Appropriation . . . . . \$ ~~((24,950,000))~~  
24,906,000  
General Fund—Federal Appropriation . . . . . \$ 7,700,000  
TOTAL APPROPRIATION . . . . . \$ ~~((32,650,000))~~  
32,606,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$~~((4,065,000))~~ 4,071,000 of the general fund—state appropriation is provided solely for the remaining months of the 1990-91 school year.

(2) A maximum of \$950,000 of the general fund—state appropriation may be expended for juvenile parole learning centers in the 1991-92 school year and \$950,000 in the 1992-93 school year at a rate not to exceed \$2,351 per full time equivalent student.

(3) State funding provided under this section is based on salaries and other expenditures for a 220-day school year. The superintendent of public instruction

shall monitor school district expenditure plans for institutional education programs to ensure that districts plan for a full-time summer program.

(4) Average staffing ratios for each category of institution, excluding juvenile parole learning centers, shall not exceed the rates specified in the legislative budget notes.

(5) The superintendent of public instruction shall:

(a) Define what constitutes a full time equivalent student;

(b) In cooperation with the secretary of social and health services, define responsibility for the variety of services offered through the common schools and the department of social and health services;

(c) Convene meetings of the parties responsible for the well-being of children in the institutional education programs for purpose of identifying and resolving problems associated with service delivery; and

(d) Report to the appropriate fiscal and policy committees of the legislature on (a), (b), and (c) of this subsection by January 10, 1992.

**Sec. 514.** 1991 sp.s. c 16 s 515 is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PROGRAMS FOR HIGHLY CAPABLE STUDENTS**

General Fund Appropriation . . . . .	\$	<del>((10,398,000))</del>
		<u>9,926,000</u>

The appropriation in this section is subject to the following conditions and limitations:

(1) ~~((945,000))~~ Up to \$975,000 is ~~((provided solely))~~ for distribution to school districts for the remaining months of the 1990-91 school year.

(2) Allocations for school district programs for highly capable students during the 1991-92 ~~((and 1992-93))~~ school year~~((s))~~ shall be distributed at a maximum rate of \$397.16 per student and for the 1992-93 school year shall be distributed at a maximum rate of \$355.77 per student for up to one and one-half percent of each district's full time equivalent enrollment.

(3) A maximum of ~~((520,000))~~ 494,000 is provided to contract for gifted programs to be conducted at Fort Worden state park.

**Sec. 515.** 1991 sp.s. c 16 s 516 is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SCHOOL DISTRICT SUPPORT**

General Fund—State Appropriation . . . . .	\$	<del>((6,155,000))</del>
		<u>5,646,000</u>
General Fund—Federal Appropriation . . . . .	\$	6,085,000
Drug Enforcement and Education Account Appropriation . . . . .	\$	13,509,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<del>((25,749,000))</del>
		<u>25,240,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$~~((282,000))~~ 268,000 of the general fund—state appropriation is provided solely for teacher in-service training in math, science, and computer technology.

(2) \$~~((651,000))~~ 618,000 of the general fund—state appropriation is provided solely for teacher training workshops conducted by the Pacific science center. \$~~((496,000))~~ 472,000 of this amount is for in-service training in science to be provided to approximately ten percent of the kindergarten through eighth grade teachers each year.

(3) \$~~((872,000))~~ 828,000 of the general fund—state appropriation and \$413,000 of the general fund—federal appropriation are provided solely for teacher training in drug and alcohol abuse education and prevention in kindergarten through grade twelve. The amount provided in this subsection includes \$300,000 from license fees collected pursuant to RCW 66.24.320 and 66.24.330 which are dedicated to juvenile drug and alcohol prevention programs under RCW 66.08.180(4).

(4) \$~~((3,000,000))~~ 2,650,000 of the general fund—state appropriation is provided solely for training of paraprofessional classroom assistants and classroom teachers to whom the assistants are assigned.

(5) \$~~((150,000))~~ 142,000 of the general fund—state appropriation is provided solely for school district staff training and materials to implement the architecture and children program.

~~((7))~~ (6) \$3,209,000 of the drug enforcement and education account appropriation is provided solely for matching grants to enhance security in secondary schools. Not more than seventy-five percent of a district's total expenditures for school security in any school year may be paid from a grant under this subsection. The grants shall be expended solely for the costs of employing or contracting for building security monitors in secondary schools during school hours and school events. Of the amount provided in this subsection, at least \$3,000,000 shall be spent for grants to districts that, during the 1988-89 school year, employed or contracted for security monitors in schools during school hours. However, these grants may be used only for increases in school district expenditures for school security over expenditure levels for the 1988-89 school year.

~~((8))~~ (7) \$30,000 of the general fund—federal appropriation is provided solely for inservice training for elementary teachers on innovative methods of encouraging girls and minority students to develop and pursue an interest in math and science.

~~((9))~~ (8) \$~~((1,200,000))~~ 1,140,000 of the general fund—state appropriation is provided solely for support to strengthen school district management.

Sec. 516. 1991 sp.s. c 16 s 517 is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SPECIAL AND PILOT PROGRAMS**

General Fund—State Appropriation . . . . . \$ ~~((62,036,000))~~  
44,147,000

General Fund—Federal Appropriation . . . . .	\$	11,500,000
TOTAL APPROPRIATION . . . . .	\$	<del>((73,536,000))</del>
		<u>55,647,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~\$(2,231,000))~~ 2,119,000 of the general fund—state appropriation is provided solely for a contract with the Pacific science center for travelling van programs and other educational services for public schools.

(2) ~~\$(88,000))~~ 84,000 of the general fund—state appropriation is provided solely for a contract with the Cispus learning center for environmental education programs.

(3) \$2,000,000 of the general fund—federal appropriation is provided solely to fund innovative programs that are targeted to providing special assistance to at-risk students, including multicultural curricula, where appropriate.

(4) ~~\$(2,312,000))~~ 2,196,000 of the general fund—state appropriation is provided solely for the beginning teachers assistance program established under RCW 28A.405.450. Moneys shall be distributed under this subsection at a maximum rate per mentor/beginning teacher team of \$1,780 per year.

(5) ~~\$(204,000))~~ 194,000 of the general fund—state appropriation is provided solely for child abuse education provisions of RCW 28A.300.150 through 28A.300.160.

(6) ~~\$(50,000))~~ 47,500 of the general fund—state appropriation is provided solely to implement chapter 252, Laws of 1991 (Substitute House Bill No. 1885, teacher recruiting).

(7) ~~\$(6,000,000))~~ 5,726,000 of the general fund—state appropriation is provided solely for a complex needs factor. ~~\$(3,333,000))~~ 3,359,000 of this amount shall be provided for the 1991-92 school year to districts according to LEAP Document 30, developed by the legislative evaluation and accountability program committee on June 27, 1991, at 13:40 hours and LEAP Document 30A developed on January 15, 1992, at 12:00 hours. Funds remaining shall be allocated for the 1992-93 school year according to funding ratios established in LEAP Document ((30)) 30A unless the superintendent develops a new complex needs formula and the legislature enacts a new formula. Development of the complex needs formula shall include consideration of elements included in LEAP Document ((30)) 30A, including ratios of students qualifying for free and reduced-price meals, students participating in bilingual education, and the number of different language or dialect programs offered.

(8) ~~\$(900,000))~~ 855,000 of the general fund—state appropriation is provided solely for grants to school districts for programs to employ low-income students in grades ten through twelve as tutors for students in kindergarten through grade nine. School districts receiving these grants shall pay student tutors at least minimum wage. The tutoring shall be conducted after school hours. The school districts shall provide training and supervision of the student tutors.

(9) ~~\$(1,400,000)~~ 1,330,000 of the general fund—state appropriation is provided solely for grants for drop-out prevention and retrieval programs established under chapter 28A.175 RCW.

(10) ~~\$(126,000)~~ 120,000 of the general fund—state appropriation is provided to operate a toll-free telephone number at the Lifeline Institute to assist school districts in youth suicide prevention.

~~(11) ~~\$(1,519,000)~~ of the general fund—state appropriation is provided solely for grants to public or private nonprofit organizations to assist parents of children in headstart or early childhood education and assistance programs who are enrolled in adult literacy classes or tutoring programs under RCW 28A.610.010 through 28A.610.020. Grants provided under this subsection may be used for scholarships, costs of transportation and child care, and other support services. Moneys provided under this subsection may not be used by the superintendent of public instruction for state administrative costs.~~

~~(12) ~~\$9,981,000)~~ \$9,482,000 of the general fund—state appropriation is provided solely for the schools for the twenty-first century pilot programs established under RCW 28A.630.100 through 28A.630.290.~~

~~((13) ~~\$15,000,000)~~ (12) \$14,775,000 of the general fund—state appropriation is provided solely for early intervention and prevention services.~~

~~((b)) (a) The superintendent of public instruction shall distribute funds provided in this subsection equitably to all school districts based on the district's enrollment in kindergarten through grade six. However, the allocations for school districts enrolling fewer than 1,000 full time equivalent students shall be distributed to the educational service district in which the district is located. The educational service district shall use the allocation to provide early intervention and prevention services under a cooperative agreement between the district and the educational service district. Educational service districts shall coordinate the use of staff and resources to serve school districts under this section. School districts and educational service districts may not use the grants to supplant funding from other sources previously provided for counseling or intervention services. School districts and educational service districts accepting moneys under this subsection shall: (i) Develop a district plan to implement this subsection; (ii) document that community-based public and private human service providers, district-level and building-level staff and administrators, and parents participated in developing the plan; and (iii) enter into written agreements with community-based public and/or private human service providers to ensure delivery of appropriate services to students after considering both public and private providers. To the greatest extent possible, the delivery of services to students shall not duplicate other programs, shall maximize the use of community-based service providers, shall be consistent with the applicable children's mental health delivery system developed under chapter 71.36 RCW, shall emphasize the most efficient and cost-effective use of these moneys, and shall be provided on a twelve-month basis. School districts and educational service districts are strongly encouraged to contract with public and/or private~~

community-based human service providers to provide elementary students with prevention and intervention services under the local fair start program.

~~((e))~~ (b) If separate legislation establishing the Fair Start program is enacted by July 31, 1992, (a) of this subsection shall be null and void.

~~((14)) \$4,000,000 of the general fund—state appropriation is provided solely for grants, based on enrollments, to the Seattle and Tacoma school districts for magnet school programs established to encourage racial integration of schools through voluntary student transfers.))~~

(13) \$3,940,000 of the general fund—state appropriation is provided solely for magnet school pilot projects for the purpose of enhancing and evaluating school district programs designed to encourage racial integration of schools through voluntary student transfers. A school district awarded a state magnet grant in 1991-92 shall receive not less than 84.5 percent of the 1991-92 state magnet grant in 1992-93. The superintendent shall expand the number of districts receiving grants in 1992-93 on a competitive basis by including other districts having program sites existing during 1991-92, and shall distribute the available funds according to the number of sites with magnet programs in each district in 1991-92 for which application is made under this subsection. The grants shall be used solely to support the development and implementation of specialized curricula and instructional programs that assist in the elimination, reduction, or prevention of minority group isolation. Placement of students in magnet programs shall not be based on test scores or grades. Grants shall be expended solely for planning and promotional activities; acquisition of books, materials, and equipment needed specifically to implement magnet programs; staff training designed specifically to assist in the development of magnet programs; and certificated staff assigned to instructional programs that are in addition to the school's core basic skills curriculum and that are an integral part of the magnet program. Grants may be used for staff development days only if these days are in addition to district-wide increases in supplemental contract days for certificated instructional staff. The superintendent shall prepare and adopt rules establishing a competitive process and criteria for allocating funds to school districts with magnet programs for use in the 1993-95 biennium. Prior to adoption of the rules, the superintendent shall provide a report to the fiscal committees of the legislature no later than December 1, 1992. The report to the legislature shall include an evaluation of the pilot projects funded during the 1991-93 biennium and recommendations based thereon.

~~((15))~~ (14) \$25,000 of the general fund—state appropriation is provided solely for a program acknowledging the contributions of persons awarded the United States Medal of Honor.

~~((16)) \$50,000~~ (15) \$97,500 of the general fund—state appropriation is provided solely for grants to school districts to develop model secondary school projects that combine academic and vocational education into a single instructional system. The projects shall integrate vocational and academic curriculum, emphasize increased guidance and counseling for students, and include active

participation by employers, community service providers, parents, and community members.

~~((17) \$500,000)~~ (16) \$475,000 of the general fund—state appropriation is provided solely for grants for homeless children education programs. The grant applications shall be submitted jointly by school districts and at least one shelter within the district serving homeless families. The grants are not intended to fund separate instructional programs for homeless children unless the services are necessary to facilitate adjustment into a regular classroom setting. The grants may be used for staffing, for coordinating the transfer of records, for transportation, for student assessment, or for other individualized instruction or assistance.

~~((18))~~ (17) \$50,000 of the general fund—federal appropriation is provided solely for a pilot program for teenage suicide prevention through the Federal Way school district. None of this amount may be used by either the district or the superintendent of public instruction for indirect costs.

~~((19) \$50,000)~~ (18) \$48,000 of the general fund—state and \$50,000 of the general fund—federal appropriation is provided solely for a pilot program for teenage suicide prevention in the Northshore school district.

~~((21) \$2,000,000)~~ (19) \$1,970,000 of the general fund—state appropriation is provided solely for grants to school districts of the second class under RCW 28A.315.230. The superintendent shall provide grants based on full time equivalent enrollment to applicant school districts meeting all of the following criteria:

(a) The median household income of the district is at least twenty percent below the state average;

(b) The number of families receiving aid to families with dependent children exceeds the state-wide average by twenty percent;

(c) The number of persons unemployed exceeds the state-wide average by twenty percent;

(d) The assessed valuation of property for excess levy purposes would require a levy rate of more than two dollars per one thousand dollars of valuation to raise a ten percent levy;

(e) The district does not receive federal impact aid in excess of the maximum amount the district would be eligible to raise with a ten percent levy; and

(f) The district does not receive federal forest moneys in excess of its basic education allocation.

However, if a second class school district is a joint district under RCW 28A.315.350, the criteria under this subsection shall be applied based upon the county which comes closest to meeting the criteria under this subsection.

~~((22) \$500,000)~~ (20) \$475,000 of the general fund—state appropriation is provided solely to implement chapter 258, Laws of 1991 (Substitute Senate Bill No. 5504, student teaching centers).

~~((23) \$100,000)~~ (21) \$95,000 of the general fund—state appropriation is provided solely for a cooperative alternative high school operated jointly by the Willapa Valley, Raymond, and South Bend school districts.

(22) \$68,000 of the general fund—state appropriation is provided solely for assistance to the Blaine school district in establishing a K-2 school at Point Roberts. Prior to receiving this funding, Blaine school district must to the satisfaction of the superintendent of public instruction negotiate with Canadian authorities to obtain remedies to the border crossing delays.

(23) \$25,000 of the general fund—state appropriation is provided solely for the Griffin school district for a 1990-91 school year accounting error.

**Sec. 517.** 1991 sp.s. c 16 s 519 is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR TRANSITIONAL BILINGUAL PROGRAMS**

General Fund Appropriation . . . . . \$ ~~((23,882,000))~~  
29,687,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$2,395,000 is provided solely for the remaining months of the 1990-91 school year.

(2) The superintendent shall distribute funds for the 1991-92 and 1992-93 school years at ~~((a) the rates ((for each year))~~ of \$508.82 and \$505.69, respectively, per eligible student.

(3) For a student served more than twenty-five percent of the school day in a transitional bilingual program, the superintendent of public instruction shall ensure that state basic education funds generated by the student are expended, to the greatest extent practical, in the instruction of that student.

(4) Project funding for special services demonstration projects shall be allocated and disbursed under chapter 265, Laws of 1991 (Engrossed Substitute House Bill No. 1329, special services demonstration projects).

**Sec. 518.** 1991 sp.s. c 16 s 520 is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR THE LEARNING ASSISTANCE PROGRAM**

General Fund Appropriation . . . . . \$ ~~((91,732,000))~~  
92,442,000

The appropriation in this section is subject to the following conditions and limitations:

(1) ~~\$(8,850,000)~~ 8,817,000 is provided solely for the remaining months of the 1990-91 school year.

(2) Funding for school district learning assistance programs serving kindergarten through grade nine shall be distributed during the 1991-92 and 1992-93 school years at a maximum rate of \$426 and \$425 per unit, respectively, as calculated pursuant to this subsection. The number of units for each school district in each school year shall be the sum of: (a) The number of full time

equivalent students enrolled in kindergarten through grade six in the district multiplied by the percentage of the district's students taking the fourth grade basic skills test who scored in the lowest quartile as compared to national norms, and then reduced by the number of students ages eleven and below in the district who are identified as specific learning disabled and are served through programs established pursuant to chapter 28A.155 RCW; and (b) the number of full time equivalent students enrolled in grades seven through nine in the district multiplied by the percentage of the district's students taking the eighth grade basic skills test who scored in the lowest quartile as compared to national norms, and then reduced by the number of students ages twelve through fourteen in the district who are identified as specific learning disabled and are served through programs established pursuant to chapter 28A.155 RCW. In determining these allocations, the superintendent shall use the most recent prior five-year average scores on the fourth grade and eighth grade state-wide basic skills tests.

(3) Project funding for special services demonstration projects shall be allocated and disbursed under chapter 265, Laws of 1991 (Engrossed Substitute House Bill No. 1329, special services demonstration projects).

Sec. 519. 1991 sp.s. c 16 s 521 is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR EDUCATIONAL CLINICS**

General Fund Appropriation . . . . . \$ ((3,584,000))  
3,405,000

The appropriation in this section is subject to the following conditions and limitations: Not more than \$1,792,000 of the general fund appropriation may be expended during fiscal year 1992.

Sec. 520. 1991 sp.s. c 16 s 522 is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—LOCAL EDUCATION PROGRAM ENHANCEMENT FUNDS**

General Fund Appropriation . . . . . \$ ((58,724,000))  
57,710,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$5,605,000 of the general fund appropriation is provided solely for the remaining months of the 1990-91 school year.

(2) School districts receiving moneys pursuant to this section shall expend such moneys to meet educational needs identified by the district within the following program areas:

- (a) Prevention and intervention services in the elementary grades;
- (b) Reduction of class size;
- (c) Early childhood education;
- (d) Student-at-risk programs, including dropout prevention and retrieval, and substance abuse awareness and prevention;
- (e) Staff development and in-service programs;

- (f) Student logical reasoning and analytical skill development;
- (g) Programs for highly capable students;
- (h) Programs involving students in community services;
- (i) Senior citizen volunteer programs; and
- (j) Other purposes that enhance a school district's basic education program including purchase of instructional materials and supplies and other nonemployee-related costs.

Program enhancements funded pursuant to this section do not fall within the definition of basic education for purposes of Article IX of the state Constitution and the state's funding duty thereunder, nor shall such funding as now or hereafter appropriated and allocated constitute levy reduction funds for purposes of RCW 84.52.0531.

(3)(a) Allocation to eligible school districts for the 1991-92 and 1992-93 school years shall be calculated on the basis of average annual full time equivalent enrollment, at an annual rate of up to \$35.26 per pupil. For school districts enrolling not more than one hundred average annual full time equivalent students, and for small school plants within any school district designated as remote and necessary schools, the allocations shall be determined as follows:

- (i) Enrollment of not more than sixty average annual full time equivalent students in grades kindergarten through six shall generate funding based on sixty full time equivalent students;
- (ii) Enrollment of not more than twenty average annual full time equivalent students in grades seven and eight shall generate funding based on twenty full time equivalent students; and
- (ii) Enrollment of sixty or fewer average annual full time equivalent students in grades nine through twelve shall generate funding based on sixty full time equivalent students.

(b) Allocations shall be distributed on a school-year basis pursuant to RCW 28A.510.250.

**Sec. 521.** 1991 sp.s. c 16 s 523 is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR CERTIFICATED INSTRUCTIONAL STAFF—LONGEVITY SALARY INCREMENTS**

General Fund Appropriation . . . . . \$ 48,611,000

The appropriation in this section is subject to the following conditions and limitations:

(1) This appropriation is intended to provide eligible certificated instructional staff an average 3.2 percent increment for an additional year of experience in each school year, based on LEAP Document 1R as developed on March 29, 1990, at 11:00 hours.

(2) The superintendent shall transfer the following amounts to the specified programs:

(a) ~~\$(42,144,000)~~ 42,086,000 to General Apportionment, section 502 of this act;

(b) ~~\$(6,252,000)~~ 6,310,000 to the Handicapped Education Program, section 509 of this act; and

(c) \$215,000 to the Institutional Education Program, section 514 of this act.

(3) Certificated instructional staff salary allocations in the specified programs shall be allocated in accordance with sections 502 and 503 of this act.

## PART VI HIGHER EDUCATION

**Sec. 601.** 1991 sp.s. c 16 s 601 is amended to read as follows:

**HIGHER EDUCATION.** The appropriations in sections 602 through 610 of this act are subject to the following conditions and limitations:

(1) "Institutions of higher education" means the institutions receiving appropriations pursuant to sections 602 through 610 of this act.

~~((3)(a) Student Quality Standard: Each institution and branch campus shall adhere to biennial budgeted enrollment levels. For the 1991-93 fiscal biennium, each institution of higher education shall spend not less than the average biennial amount listed in this subsection per full-time equivalent student, plus or minus two percent. The amount includes total appropriated general fund state operating expenditures, less expenditures for plant maintenance and operation, with the exception of Washington State University, where cooperative extension and agriculture research expenditures are also excluded.~~

University of Washington .....	<del>\$ 9,996</del>
Washington State University .....	<del>\$ 8,084</del>
Eastern Washington University .....	<del>\$ 5,906</del>
Central Washington University .....	<del>\$ 5,932</del>
The Evergreen State College .....	<del>\$ 7,463</del>
Western Washington University .....	<del>\$ 5,694</del>
State Board for Community College Education .....	<del>\$ 3,551</del> )

(2)(a) "Student quality standard" means, for each four-year institution and the community and technical colleges as a whole, the following amount divided by the budgeted enrollment levels specified in (b) of this subsection: The combined operating appropriations under this act from the general fund—state and the institutional operating fees account, less expenditures for plant maintenance and operation, with the exception of Washington State University, where cooperative extension and agriculture research expenditures are excluded, and with the exception of the state board for community and technical colleges, where technical college operations and FTE enrollments, the Seattle vocational institute operations and FTE enrollments, and supplemental funding and enrollments for timber-dependent communities are excluded.

(b) Budgeted Enrollments: Each institution shall enroll to its budgeted biennial average full-time equivalent enrollments, plus four percent or minus two

percent, except each branch campus shall enroll within plus or minus twelve percent. If the estimated 1991-93 average biennial full time equivalent student enrollment of an institution or branch campus (as estimated on April 30, 1993, by the office of financial management using spring enrollment reports submitted by the institutions) varies from the biennial budgeted amount by more than ~~((two))~~ four percent above or two percent below the budgeted amount, or twelve percent above or below the budgeted amount for each branch campus, then an amount equal to the student quality standard ~~((as included in (3)(a) of this subsection per))~~ multiplied by the number of full time equivalent students above or below the ~~((two percent or twelve percent branch campus))~~ variances shall revert to the state general fund. The variance allowance for the state board for community and technical colleges excludes the technical colleges.

	Average 1991-93 Budgeted FTEs
University of Washington	
Main campus . . . . .	29,981
Tacoma branch . . . . .	345
Bothell branch . . . . .	348
Washington State University	
Main campus . . . . .	((15,862))
	<u>15,806</u>
Tri-Cities branch . . . . .	467
Vancouver branch . . . . .	343
Spokane branch . . . . .	((104))
	<u>160</u>
Eastern Washington University . . . . .	7,281
Central Washington University . . . . .	6,361
The Evergreen State College . . . . .	3,159
Western Washington University . . . . .	8,913
State Board for Community <u>and Technical</u> Colleges	
<del>((Education))</del> . . . . .	88,350

(c) Facilities Quality Standard: During the 1991-93 biennium, no institution of higher education may allow its expenditures for plant operation and maintenance to fall more than five percent below the amounts allotted for this purpose.

(3)(a) Each four-year institution of higher education shall reduce the amount of operating fee foregone revenue from tuition waivers by thirteen percent of the fiscal year 1993 projection under the office of financial management tuition and fee model used in the governor's February 1992 forecast.

(b) The state board for community and technical colleges shall reduce the amount of operating fee foregone revenue from tuition waivers, for the community college system as a whole, by thirteen and forty-seven hundredths

percent of the fiscal year 1993 projection under the office of financial management tuition and fee model used in the governor's February 1992 forecast, excluding the adult basic education program.

(4)(a) The amounts specified in (b), (c), and (d) of this subsection are maximum amounts that each institution may spend from the appropriations in sections 602 through 610 of this act for staff salary increases on January 1, 1992, and January 1, 1993, excluding classified staff salary increases, and subject to all the limitations contained in this section.

(b) The following amounts shall be used to provide instruction and research faculty at each four-year institution an average salary increase of 3.9 percent on January 1, 1992, and ~~((3.9))~~ 3.0 percent on January 1, 1993.

	1991-92	1992-93
University of Washington . . . . .	\$2,888,000	<del>((8,086,000))</del> <u>7,391,000</u>
Washington State University . . . . .	\$1,157,000	<del>((3,544,000))</del> <u>3,264,000</u>
Eastern Washington University . . . . .	\$ 435,000	<del>((1,190,000))</del> <u>1,084,000</u>
Central Washington University . . . . .	\$ 393,000	<del>((1,053,000))</del> <u>958,000</u>
The Evergreen State College . . . . .	\$ 185,000	<del>((502,000))</del> <u>459,000</u>
Western Washington University . . . . .	\$ 540,000	<del>((1,446,000))</del> <u>1,317,000</u>

(c) The following amounts shall be used to provide exempt professional staff, academic administrators, academic librarians, counselors, and teaching and research assistants as classified by the office of financial management, at each four-year institution, and the higher education coordinating board an average salary increase of 3.9 percent on January 1, 1992, and ~~((3.9))~~ 3.0 percent on January 1, 1993. In providing these increases, institutions shall ensure that each person employed in these classifications is granted a salary increase of 3.1 percent on January 1, 1992, and ~~((3.4))~~ 2.5 percent on January 1, 1993. The remaining amounts shall be used by each institution to grant salary increases on January 1, 1992, and on January 1, 1993 that address its most serious salary inequities among exempt staff within these classifications.

	1991-92	1992-93
University of Washington . . . . .	\$ 918,000	<del>((2,720,000))</del> <u>2,500,000</u>
Washington State University . . . . .	\$ 625,000	<del>((1,898,000))</del> <u>1,748,000</u>
Eastern Washington University . . . . .	\$ 118,000	<del>((348,000))</del> <u>320,000</u>

Central Washington University . . . . .	\$ 93,000	<del>((275,000))</del> <u>253,000</u>
The Evergreen State College . . . . .	\$ 79,000	<del>((232,000))</del> <u>212,000</u>
Western Washington University . . . . .	\$ 138,000	<del>((407,000))</del> <u>374,000</u>
Higher Education Coordinating Board . . . . .	\$ 25,000	<del>((75,000))</del> <u>69,000</u>

(d) \$4,342,000 for fiscal year 1992 and ~~\$(41,701,000)~~ 10,657,000 for fiscal year 1993 are provided solely for the state board for community and technical colleges ~~((education))~~ to provide faculty and exempt staff for the community college system as a whole excluding the technical colleges, average salary increases of 3.9 percent on January 1, 1992, and ~~((3.9))~~ 3.0 percent on January 1, 1993.

(e) The salary increases authorized under this subsection may be granted to state employees at Washington State University who are supported in full or in part by federal land grant formula funds.

~~((6))~~ (5)(a) The following amounts from the appropriations in sections 602 and 610 of this act, or as much thereof as may be necessary, shall be spent to provide employees classified by the higher education personnel board a 3.6 percent across-the-board salary increase effective January 1, 1992, and an additional ~~((3.6))~~ 3.0 percent across-the-board increase effective January 1, 1993. The amount identified for the state board for community and technical colleges excludes employees of the technical colleges.

	1991-92	1992-93
University of Washington . . . . .	\$1,422,000	<del>((4,316,000))</del> <u>4,068,000</u>
Washington State University . . . . .	\$ 868,000	<del>((2,647,000))</del> <u>2,496,000</u>
Eastern Washington University . . . . .	\$ 214,000	<del>((651,000))</del> <u>613,000</u>
Central Washington University . . . . .	\$ 172,000	<del>((525,000))</del> <u>494,000</u>
The Evergreen State College . . . . .	\$ 131,000	<del>((396,000))</del> <u>374,000</u>
Western Washington University . . . . .	\$ 232,000	<del>((724,000))</del> <u>683,000</u>
State Board for Community <u>and</u> <u>Technical Colleges</u> <del>((Education))</del> . . . . .	\$1,323,000	<del>((4,031,000))</del> <u>3,800,000</u>
Higher Education Coordinating Board . . . . .	\$ 12,000	<del>((36,000))</del> <u>34,000</u>

(b) The salary increases granted in this subsection (~~((6))~~) (5) of this section shall be implemented in compliance and conformity with all requirements of the comparable worth agreement ratified by the 1986 Senate Concurrent Resolution No. 126, where applicable.

(c) No salary increases may be paid under this subsection (~~((6))~~) (5) of this section to any person whose salary has been Y-rated pursuant to rules adopted by the higher education personnel board.

~~((7))~~ (6) The following amounts are provided to fund as much as may be required for salary increases resulting from the higher education personnel board's job classification revision of clerical support staff, as adopted by the board on January 3, 1991, and revised by the board on February 14, 1991. The amount identified for the state board for community and technical colleges excludes employees of the technical colleges.

University of Washington . . . . .	\$	2,386,000
Washington State University . . . . .	\$	1,057,000
Eastern Washington University . . . . .	\$	239,000
Central Washington University . . . . .	\$	198,000
The Evergreen State College . . . . .	\$	265,000
Western Washington University . . . . .	\$	289,000
State Board for Community College Education . . . . .	\$	1,634,000
Higher Education Coordinating Board . . . . .	\$	26,000

Sec. 602. 1991 sp.s. c 16 s 602 is amended to read as follows:

**FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES (~~(EDUCATION)~~)**

General Fund—State Appropriation . . . . . \$ ~~((718,695,000))~~  
733,585,000

Community Colleges Operating Fees Account

<u>Appropriation</u> . . . . .	\$	<u>63,562,000</u>
<u>General Fund—Federal Appropriation</u> . . . . .	\$	<u>4,700,000</u>
<b>TOTAL APPROPRIATION</b> . . . . .	\$	<u>801,847,000</u>

The appropriations in this section (~~(is)~~) are subject to the following conditions and limitations:

(1) (~~At least \$3,640,000 shall be spent on~~) \$3,549,000 of the general fund—state appropriation is provided solely for assessment of student outcomes.

(2) (~~At least \$1,500,000 shall be spent~~) \$1,463,000 of the general fund—state appropriation is provided solely to recruit and retain minorities.

(3) The 1991-93 enrollment increases funded by this appropriation shall be distributed among the community college districts based on the weighted prorated percentage enrollment plan developed by the state board for community and technical colleges (~~(education)~~), and contained in the legislative budget notes.

(4) \$2,204,000 of the general fund—state appropriation is provided solely for 500 supplemental FTE enrollment slots to implement section 17, chapter 315,

Laws of 1991 (Engrossed Substitute Senate Bill No. 5555, timber-dependent communities).

(5) ~~((At least \$1,500,000 shall be spent as))~~ \$1,000,000 of the general fund—state appropriation is provided solely for grants to the community college districts to fund unusually high start-up costs for training programs.

(6) ~~((At least \$75,000 shall be used as payment to the state board for vocational education for the Lower Columbia College job skills program.~~

(7)) In addition to any other compensation adjustments provided in this act, salary increments may be funded by community college districts to the extent that funds are available from staff turnover. A maximum of \$1,000,000 for fiscal year 1992 and \$1,240,000 for fiscal year 1993 of the appropriation in this section may be expended to supplement savings from staff turnover for the payment of faculty salary increments. The state board for community and technical colleges (education) shall issue system-wide guidelines for the payment of salary increments for full time faculty by community college districts and monitor compliance with those guidelines.

(7) \$78,731,000 of the general fund—state appropriation is provided solely for vocational programs and adult basic education at technical colleges. Of this amount, \$7,800,000 of expenditures may be accrued but not disbursed.

(8) \$2,315,000 of the general fund—state appropriation is provided solely for technical college employee salary increases of four percent in fiscal year 1992 and three percent in fiscal year 1993.

(9) \$783,000 of the general fund—state appropriation is provided solely for technical college employees' insurance benefit increases. A maximum of \$307,325 is provided for fiscal year 1992 and \$475,675 is provided for fiscal year 1993.

(10) \$1,414,000 of the general fund—state appropriation is provided solely to lease computer equipment, reprogram software and data bases, and to provide for other initial operating costs necessary to merge the computer systems of the technical colleges into the community and technical college system created under chapter 238, Laws of 1991. The apportionment of this amount among the technical colleges shall be made by the director of the state board for community and technical colleges.

(11) \$1,481,000 of the general fund—state appropriation is provided solely for grants to public or private nonprofit organizations to assist parents of children in headstart or early childhood education and assistance programs who are enrolled in adult literacy classes or tutoring programs under RCW 28A.610.010 through 28A.610.020. Grants provided under this subsection may be used for scholarships, transportation, child care, and other support services.

(12) \$4,700,000 of the general fund—federal appropriation is provided solely for adult basic education and other related purposes as may be defined by federal regulations.

(13) \$3,064,000 of the general fund—state appropriation is provided solely for the Seattle vocational institute.

(14) The state board for community and technical colleges shall reduce spending for the entire system by \$625,000 for travel. These funds are to be used to mitigate enrollment reductions as part of the agency's 2.5 percent allotment reduction.

(15) \$585,000 of the general fund—state appropriation is provided solely for English instruction to non-English speaking immigrants.

**Sec. 603.** 1991 sp.s. c 16 s 603 is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

General Fund Appropriation . . . . .	\$ ((689,120,000))	
		<u>595,020,000</u>
<u>University of Washington Operating Fees Account</u>		
<u>Appropriation</u> . . . . .	\$	<u>75,286,000</u>
Medical Aid Fund Appropriation . . . . .	\$ ((3,625,000))	
		<u>3,818,000</u>
Accident Fund Appropriation . . . . .	\$ ((3,625,000))	
		<u>3,818,000</u>
Death Investigations Account Appropriation . . . . .	\$ ((1,033,000))	
		<u>1,145,000</u>
Oil Spill Administration Account Appropriation . . . . .	\$	229,000
	TOTAL APPROPRIATION . . . . .	\$ ((697,632,000))
		<u>679,316,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~((At least \$9,007,000 shall be spent))~~ \$8,782,000 of the general fund appropriation is provided solely to operate upper-division and graduate level courses offered at the Bothell branch campus. The amount referenced in this subsection does not include amounts authorized for 1991-93 salary increases.

(2) ~~((At least \$7,664,000 shall be spent))~~ \$7,472,000 of the general fund appropriation is provided solely to operate upper-division and graduate level courses offered at the Tacoma branch campus. The amount referenced in this subsection does not include amounts authorized for 1991-93 salary increases.

(3) ~~((At least \$400,000 shall be spent on))~~ \$390,000 of the general fund appropriation is provided solely for assessment of student outcomes.

(4) ~~((At least \$696,000 shall be spent))~~ \$679,000 of the general fund appropriation is provided solely to recruit and retain minorities.

(5) ~~\$((\$75,000))~~ 561,000 is provided solely to operate the Olympic natural resources center.

(6) \$229,000 of the oil spill administration account appropriation is provided solely to implement section 10, chapter 200, Laws of 1991 (Engrossed Substitute House Bill No. 1027, hazardous substance spills).

(7) ~~\$((\$669,000))~~ \$4,255,000 of the general fund appropriation is provided solely ((to add 75 student FTEs to the evening degree program)) for evening

degree program enrollment levels of 337 student FTEs in the first year and 375 student FTEs in the second year.

(8) The University of Washington shall reduce spending by \$630,000 for travel. These funds are to be used to mitigate enrollment reductions planned as part of the agency's 2.5 percent allotment reduction and to improve instruction.

(9) \$40,000 of the general fund appropriation is provided solely for the planning for learning project.

Sec. 604. 1991 sp.s. c 16 s 604 is amended to read as follows:

**FOR WASHINGTON STATE UNIVERSITY**

General Fund Appropriation .....	\$	<del>((381,720,000))</del>
		<u>335,455,000</u>

Washington State University Operating Fees Account

<u>Appropriation</u> .....	\$	<u>36,670,000</u>
<u>TOTAL APPROPRIATION</u> .....	\$	<u>372,125,000</u>

The appropriations in this section ((is)) are subject to the following conditions and limitations:

(1) ~~((At least \$7,917,000 shall be spent))~~ \$7,719,000 of the general fund appropriation is provided solely to operate upper-division and graduate level courses offered at the Tri-Cities branch campus. At least \$500,000 of this amount is provided solely to implement sections 6, 7, and 8, chapter 341, Laws of 1991 (Engrossed Substitute House Bill No. 1426, research and extension programs). The amount referenced in this subsection does not include amounts authorized for 1991-93 salary increases.

(2) ~~((At least \$7,125,000 shall be spent))~~ \$6,947,000 of the general fund appropriation is provided solely to operate upper-division and graduate level courses offered at the Vancouver branch campus. The amount referenced in this subsection does not include amounts authorized for 1991-93 salary increases.

(3) ~~((At least \$7,107,000 shall be spent))~~ \$6,929,000 of the general fund appropriation is provided solely to operate graduate level courses offered at the Spokane branch campus. The amount referenced in this subsection does not include amounts authorized for 1991-93 salary increases.

(4) ~~((At least \$400,000 shall be spent on))~~ \$390,000 of the general fund appropriation is provided solely for assessment of student outcomes.

(5) ~~((At least \$300,000 shall be spent))~~ \$293,000 of the general fund appropriation is provided solely to recruit and retain minorities.

(6) \$60,000 of the general fund appropriation is provided solely for the aquatic animal health program.

(7) \$779,000 of the general fund appropriation is provided solely to operate the international marketing program for agriculture commodities and trade (IMPACT). If House Bill No. 2316 (IMPACT sunset termination) is not enacted by June 30, 1992, the amount provided in this subsection shall lapse.

(8) Washington State University shall reduce spending by \$562,000 for travel. These funds are to be used to mitigate enrollment reductions of planned

as part of the agency's 2.5 percent allotment reduction and to improve instruction.

(9) Funding for the agricultural experimental stations shall not be reduced by more than 2.5 percent from the initial 1991-93 biennial allotted level.

Sec. 605. 1991 sp.s. c 16 s 605 is amended to read as follows:

**FOR EASTERN WASHINGTON UNIVERSITY**

General Fund Appropriation . . . . . \$ ~~((103,396,000))~~  
87,661,000

Eastern Washington University Operating Fees Account

Appropriation . . . . . \$ 12,906,000  
TOTAL APPROPRIATION . . . . . \$ 100,567,000

The appropriations in this section ((is)) are subject to the following conditions and limitations:

- (1) ((At least \$400,000 shall be spent on)) \$390,000 of the general fund appropriation is provided solely for assessment of student outcomes.
- (2) ((At least \$200,000 shall be spent)) \$195,000 of the general fund appropriation is provided solely to recruit and retain minorities.
- (3) Eastern Washington University shall reduce spending by \$216,000 for travel. These funds are to be used to improve instruction.

Sec. 606. 1991 sp.s. c 16 s 606 is amended to read as follows:

**FOR CENTRAL WASHINGTON UNIVERSITY**

General Fund Appropriation . . . . . \$ ~~((88,061,000))~~  
75,863,000

Central Washington University Operating Fees

Account Appropriation . . . . . \$ 9,790,000  
TOTAL APPROPRIATION . . . . . \$ 85,653,000

The appropriations in this section ((is)) are subject to the following conditions and limitations:

- (1) ((At least \$400,000 shall be spent on)) \$390,000 of the general fund appropriation is provided solely for assessment of student outcomes.
- (2) ((At least \$151,000 shall be spent)) \$147,000 of the general fund appropriation is provided solely to recruit and retain minorities.
- (3) Central Washington University shall reduce spending by \$111,000 for travel. These funds are to be used to improve instruction.

Sec. 607. 1991 sp.s. c 16 s 607 is amended to read as follows:

**FOR THE EVERGREEN STATE COLLEGE**

General Fund Appropriation . . . . . \$ ~~((55,374,000))~~  
47,290,000

The Evergreen State College Operating Fees Account

Appropriation . . . . . \$ 6,899,000  
TOTAL APPROPRIATION . . . . . \$ 54,189,000

The appropriations in this section ((is)) are subject to the following conditions and limitations:

(1) ~~((At least \$400,000 shall be spent on))~~ \$390,000 of the general fund appropriation is provided solely for assessment of student outcomes.

(2) ~~((At least \$100,000 shall be spent))~~ \$98,000 of the general fund appropriation is provided solely to recruit and retain minorities.

(3) The Evergreen State College shall reduce spending by \$92,000 for travel. These funds are to be used to improve instruction.

Sec. 608. 1991 sp.s. c 16 s 608 is amended to read as follows:

**FOR WESTERN WASHINGTON UNIVERSITY**

General Fund Appropriation . . . . .	\$	<del>((115,445,000))</del>
		<u>98,377,000</u>

Western Washington University Operating Fees

<u>Account Appropriation</u> . . . . .	\$	<u>13,903,000</u>
<b>TOTAL APPROPRIATION</b> . . . . .	\$	<u>112,280,000</u>

The appropriations in this section ((is)) are subject to the following conditions and limitations:

(1) ~~((At least \$400,000 shall be spent on))~~ \$390,000 of the general fund appropriation is provided solely for assessment of student outcomes.

(2) ~~((At least \$200,000 shall be spent))~~ \$195,000 of the general fund appropriation is provided solely to recruit and retain minorities.

(3) Western Washington University shall reduce spending by \$146,000 for travel. These funds are to be used to improve instruction.

Sec. 609. 1991 sp.s. c 16 s 609 is amended to read as follows:

**FOR THE HIGHER EDUCATION COORDINATING BOARD—  
POLICY COORDINATION AND ADMINISTRATION**

General Fund—State Appropriation . . . . .	\$	<del>((4,633,000))</del>
		<u>4,464,000</u>

General Fund—Federal Appropriation . . . . .	\$	230,000
<b>TOTAL APPROPRIATION</b> . . . . .	\$	<del>((4,863,000))</del>
		<u>4,694,000</u>

The appropriations in this section are provided to carry out the policy coordination, planning, studies, and administrative functions of the board and are subject to the following conditions and limitations:

(1) \$100,000 of the general fund—state appropriation is provided solely to continue the Washington state writing demonstration project to be administered by the board or its designee. Under the project, proposals shall be competitively selected that enhance the skills of writing teachers in grades kindergarten through twelve in Washington public schools. The board shall evaluate the project by September 1, 1992, and recommend to the governor and legislature whether or not it should be continued.

(2) The higher education coordinating board shall implement the following measures regarding tuition and fee waivers, reduced fees, and residency exemptions:

(a) Each state university, regional university, state college, and the community college system shall include a special report on tuition and fee waivers in its biennial budget request.

(b) By December 1, 1991, in cooperation with the house of representatives and senate higher education and fiscal committees, the board shall develop and recommend evaluation criteria. The criteria shall include, but not be limited to, consideration of a financial needs test and a reauthorization requirement. The criteria for space-available waiver programs shall include, but not be limited to, consideration of overall access, demand, and effectiveness in achieving program goals.

~~((c) Using the criteria, the board shall review and evaluate at least half of the existing programs by June 30, 1993, and recommend the continuation, modification, or termination of evaluated programs to the governor, the legislature, and the institutions of higher education.))~~

(3) ~~\$(52,000))~~ 42,000 of the general fund—state appropriation is provided solely to implement sections 7 and 8, chapter 228, Laws of 1991 (Engrossed Substitute Senate Bill No. 5475, higher education services for students with disabilities).

(4) ~~\$(70,000))~~ 63,000 of the general fund—state appropriation is provided solely for a higher education faculty compensation study. By June 1, 1992, the higher education coordinating board, in consultation with the state board for community college education and with the cooperation of the institutions of higher education, shall report to the appropriate committees of the legislature on higher education faculty compensation. The report shall include historical and current information as well as recommendations regarding: (a) Salary increments; (b) salary disparity among institutions and within departments of institutions; and (c) performance-based compensation plans.

(5) ~~\$(230,000))~~ 190,000 of the general fund—state appropriation is provided solely for the purposes of section 5, chapter 322, Laws of 1991 (Engrossed Substitute House Bill No. 1960, health personnel resources plan).

(6) ~~\$(546,000))~~ 538,000 of the general fund—state appropriation is provided solely to implement sections 18 through 21, chapter 315, Laws of 1991 (Engrossed Substitute Senate Bill No. 5555, timber dependent communities).

\*Sec. 610. 1991 sp.s. c 16 s 610 is amended to read as follows:

**FOR THE HIGHER EDUCATION COORDINATING BOARD—  
FINANCIAL AID AND GRANT PROGRAMS**

General Fund—State Appropriation . . . . .	\$	<del>((74,898,000))</del>
		<u>74,767,000</u>
General Fund—Federal Appropriation . . . . .	\$	3,326,000
State Education Grant Account Appropriation . . . . .	\$	40,000

TOTAL APPROPRIATION . . . . . \$ ((78,264,000))  
78,133,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$((1,012,000)) 987,000 of the general fund—state appropriation is provided solely for the displaced homemakers program.

(2) \$((467,000)) 444,000 of the general fund—state appropriation is provided solely for the western interstate commission for higher education.

(3) \$((73,419,000)) 73,336,000 of the general fund—state appropriation is provided solely for student financial aid, including all administrative costs. Of this amount:

~~(a) ((\$66,639,000 is provided solely for the state need grant and state work study programs. Not less than \$24,200,000 shall be expended for state work study grants. Any state need grant moneys not awarded by April 1 of each year may be transferred to the state work study program for distribution.))~~  
\$66,766,000 is provided solely for the state need grant and state work study programs. Of this amount: (i) Not less than \$24,200,000 shall be expended for the state work study grants; (ii) \$1,430,000 is attributable to the tuition and fee revenue increase in fiscal year 1993 and the state need grant awarded to any individual from these funds shall not exceed the amount received by a student attending a state research university; and (iii) any state need grant moneys not awarded by April 1 of each year may be transferred to the state work study program for distribution.

(b) \$2,000,000 is provided solely for educational opportunity grants.

(c) \$150,000 is provided solely for the health professional loan repayment program.

(d) \$234,000 of the general fund—state appropriation is provided solely to implement chapter 255, Laws of 1991 (Second Substitute Senate Bill No. 5022, teacher excellence awards).

(e) A maximum of \$((350,000)) 181,000 may be expended to increase the financial aid administrative budget, excluding the four percent state work study program administrative allowance provision.

\*Sec. 610 was partially vetoed, see message at end of chapter.

Sec. 611. 1991 sp.s. c 16 s 611 is amended to read as follows:

**FOR THE JOINT CENTER FOR HIGHER EDUCATION**

General Fund Appropriation . . . . . \$ ((613,000))  
598,000

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely to carry out the administrative and fiscal responsibilities of the joint center for higher education pursuant to chapter 205, Laws of 1991 (House Bill No. 2198, joint center for higher education).

Sec. 612. 1991 sp.s. c 16 s 612 is amended to read as follows:

**FOR THE COMPACT FOR EDUCATION**

General Fund Appropriation . . . . . \$ ((101,000))  
98,000

Sec. 613. 1991 sp.s. c 16 s 613 is amended to read as follows:

**~~FOR THE ((STATE BOARD FOR VOCATIONAL EDUCATION))~~  
WORKFORCE TRAINING AND EDUCATION COORDINATING BOARD**

General Fund—State Appropriation . . . . . \$ ((4,043,000))  
3,921,000  
 General Fund—Federal Appropriation . . . . . \$ 33,067,000  
**TOTAL APPROPRIATION . . . . . \$ ((37,110,000))**  
36,988,000

Sec. 614. 1991 sp.s. c 16 s 615 is amended to read as follows:

**FOR THE HIGHER EDUCATION PERSONNEL BOARD**

Higher Education Personnel Board Service Fund

Appropriation . . . . . \$ ((2,405,000))  
2,283,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$2,000 is provided solely for salary increases for staff of the higher education personnel board resulting from the higher education personnel board's job classification revision of clerical support staff.

(2) \$((60,000)) 58,000 is provided solely for a 3.6 percent across-the-board salary increase effective January 1, 1992, and an additional ((3.6)) 3.0 percent across-the-board salary increase effective January 1, 1993, for classified and exempt staff of the higher education personnel board.

Sec. 615. 1991 sp.s. c 16 s 616 is amended to read as follows:

**FOR WASHINGTON STATE LIBRARY**

General Fund—State Appropriation . . . . . \$ ((14,495,000))  
13,963,000  
 General Fund—Federal Appropriation . . . . . \$ 4,671,000  
 General Fund—Private/Local Appropriation . . . . . \$ 46,000  
**TOTAL APPROPRIATION . . . . . \$ ((19,212,000))**  
18,680,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$((2,463,516)) 2,439,516 of the general fund appropriation, of which \$54,000 is from federal funds, are provided solely for a contract with the Seattle public library for library services for the blind and physically handicapped.

(2) \$((100,000)) 97,500 of the general fund—state appropriation is provided solely to contract for provision of compiled business data regarding the Pacific rim region. Contracts shall be limited to Washington state libraries that comprise the Pacific rim business information service.

Sec. 616. 1991 sp.s. c 16 s 617 is amended to read as follows:

**FOR THE WASHINGTON STATE ARTS COMMISSION**

General Fund—State Appropriation . . . . .	\$	((4,706,000))
		<u>4,620,000</u>
General Fund—Federal Appropriation . . . . .	\$	900,000
TOTAL APPROPRIATION . . . . .	\$	((5,606,000))
		<u>5,520,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$200,000 of the general fund—state appropriation is provided solely for a state-wide stabilization program for arts organizations that have annual budgets exceeding \$200,000. The grants authorized in this subsection shall be made to individual arts organizations. No portion of this amount may be expended for a grant without equal matching funds from nonstate sources. No organization may receive a grant without a written contract. No money may be paid under the contract unless the grantee has operated without a deficit during the contract period, which shall be for at least one year, beginning no earlier than January 1, 1992. The general fund—state appropriation in this section and the amount provided in this subsection shall each be reduced by the amount expended prior to the effective date of this act under section 220(4), chapter 16, Laws of 1991 sp.s.

(2) The arts commission shall enter into an interagency agreement with the department of community development enabling near-term administration of the arts stabilization program by the department of community development and transfer of full administrative responsibility to the arts commission by January 1, 1993.

Sec. 617. 1991 sp.s. c 16 s 618 is amended to read as follows:

**FOR THE WASHINGTON STATE HISTORICAL SOCIETY**

General Fund Appropriation . . . . .	\$	((1,278,000))
		<u>1,306,000</u>

Sec. 618. 1991 sp.s. c 16 s 619 is amended to read as follows:

**FOR THE EASTERN WASHINGTON STATE HISTORICAL SOCIETY**

General Fund Appropriation . . . . .	\$	((922,000))
		<u>871,000</u>

Sec. 619. 1991 sp.s. c 16 s 620 is amended to read as follows:

**FOR THE STATE CAPITOL HISTORICAL ASSOCIATION**

General Fund Appropriation . . . . .	\$	((1,117,000))
		<u>1,049,000</u>

State Capitol Historical Association Museum

Account Appropriation . . . . .	\$	135,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>((1,252,000))</b>
		<u>1,184,000</u>

Sec. 620. 1991 sp.s. c 16 s 621 is amended to read as follows:

**FOR THE STATE SCHOOL FOR THE DEAF**

General Fund Appropriation—State . . . . .	\$	((12,450,000))
		<u>12,040,000</u>
General Fund Appropriation—Federal . . . . .	\$	235,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>((12,685,000))</b>
		<u>12,275,000</u>

Sec. 621. 1991 sp.s. c 16 s 622 is amended to read as follows:

**FOR THE STATE SCHOOL FOR THE BLIND**

General Fund Appropriation—State . . . . .	\$	((6,657,000))
		<u>6,402,000</u>
General Fund Appropriation—Federal . . . . .	\$	68,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>((6,725,000))</b>
		<u>6,470,000</u>

NEW SECTION. Sec. 622. WASHINGTON INSTITUTE OF APPLIED TECHNOLOGY. 1991 sp.s. c 16 s 614 is repealed.

**PART VII  
SPECIAL APPROPRIATIONS**

Sec. 701. 1991 sp.s. c 16 s 701 is amended to read as follows:

**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR GENERAL FUND BOND DEBT**

General Fund Appropriation . . . . .	\$	((600,303,000))
		<u>590,703,000</u>

This appropriation is for deposit into the accounts listed in section 801 of this act.

Sec. 702. 1991 sp.s. c 16 s 706 is amended to read as follows:

**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES**

State Convention and Trade Center Appropriation . . . . .	\$	8,926
Excess Earnings Account Appropriation . . . . .	\$	750,000
State/Local Improvements Revolving Account Appropriation . . . . .	\$	3,574
State/Local Improvements Revolving Account Waste Disposal Facilities Appropriation . . . . .	\$	13,388
State Building Construction Account		

Appropriation . . . . .	\$	44,715,566
State/Local Improvements Revolving Account Water		
Supply Facilities Appropriation . . . . .	\$	2,680
Motor Vehicle Fund Appropriation . . . . .	\$	1,542,000
Urban Arterial Trust Account Appropriation . . . . .	\$	552,496
Labor and Industries Construction Appropriation . . . . .	\$	583,115
TOTAL APPROPRIATION . . . . .	\$	48,171,745

Total Bond Retirement and Interest

<u>Appropriations contained in sections 701 through 706, chapter 16, Laws of 1991 sp. sess., as amended by this act . . . . .</u>		
	\$	<del>((1,009,464,782))</del>
		<u>999,865,814</u>

Sec. 703. 1991 sp.s. c 16 s 707 is amended to read as follows:

**FOR THE GOVERNOR—FOR TRANSFER TO THE TORT CLAIMS REVOLVING FUND**

General Fund Appropriation . . . . .	\$	<del>((9,532,000))</del>
		<u>8,163,000</u>
Motor Vehicle Fund Appropriation . . . . .	\$	<del>((8,942,000))</del>
		<u>7,738,000</u>
Wildlife Fund Appropriation . . . . .	\$	<del>((106,000))</del>
		<u>83,000</u>
<del>((Accident Fund Appropriation . . . . .</del>	<del>\$</del>	<del>4,000</del>
<del>Ferry System Revolving)) <u>Marine Operating</u></del>		
Account Appropriation . . . . .	\$	<del>((4,744,000))</del>
		<u>4,455,000</u>
Liquor Revolving Fund Appropriation . . . . .	\$	<del>((378,000))</del>
		<u>348,000</u>
Lottery Administrative Account . . . . .	\$	<del>((50,000))</del>
		<u>47,000</u>
Resource Management Cost Account Appropriation . . . . .	\$	<del>((980,000))</del>
		<u>881,000</u>
Public Service Revolving Account Appropriation . . . . .	\$	<del>((48,000))</del>
		<u>43,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((24,784,000))</del>
		<u>21,758,000</u>

\*Sec. 704. 1991 sp.s. c 16 s 708 is amended to read as follows:

**FOR THE GOVERNOR—EMERGENCY FUND**

General Fund Appropriation . . . . .	\$	<del>((1,500,000))</del>
		<u>862,000</u>

*The appropriation in this section is for the governor's emergency fund, for the critically necessary work of any agency.*

\*Sec. 704 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 705. A new section is added to 1991 sp.s. c 16 to read as follows:

**FOR THE GOVERNOR—EMERGENCY FTE FUND**

General Fund—State Appropriation . . . . . \$ 1,521,000

The appropriation in this section is subject to the following conditions and limitations: The appropriation shall be used solely for providing the cost of salaries and benefits for agencies that, in order to protect public safety, to protect against the loss of federal certification or loss of critical federal funds, or to carry out essential and critical functions of state government, demonstrate a critical need to restore FTEs that are lost as a consequence of this act.

Sec. 706. 1991 sp.s. c 16 s 709 is amended to read as follows:

**FOR THE GOVERNOR—TORT DEFENSE SERVICES**

General Fund Appropriation . . . . . \$ ((1,542,000))  
1,503,000

Special Fund Agency Tort Defense Services

Revolving Fund Appropriation . . . . . \$ 850,000

**TOTAL APPROPRIATION . . . . . \$ ((2,392,000))**  
2,353,000

The appropriations in this section are subject to the following conditions and limitations: To facilitate payment of tort defense services from special funds, the state treasurer is directed to transfer sufficient moneys from each special fund to the special fund tort defense services revolving fund, in accordance with schedules provided by the office of financial management. The governor shall distribute the moneys appropriated in this section to agencies to pay for tort defense services.

Sec. 707. 1991 sp.s. c 16 s 710 is amended to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT—BELATED CLAIMS**

- (1) There is appropriated to the office of financial management for payment of supplies and services furnished in previous biennia, from the General

Fund . . . . . \$ ((800,000))  
762,000

- (2) The following sums, or so much thereof as shall severally be found necessary, are hereby appropriated and authorized to be expended out of the several funds indicated, for the period from the effective date of this act to June 30, 1993, in order to reimburse the general fund for expenditures from belated claims, to be disbursed on vouchers approved by the office of financial management:

Archives and Records Management Account . . . . . \$ ((562))

	<u>871</u>
Winter Recreational Program Account . . . . . \$	75
Snowmobile Account . . . . . \$	226
Flood Control Assistance Account . . . . . \$	1,354
Aquatic Lands Enhancement . . . . . \$	((6))
	<u>110</u>
State Investment Board Expense Account . . . . . \$	1,995
State Toxics Control Account . . . . . \$	671
State Emergency Water Projects Revolving Account . . . . . \$	16
<u>Charitable, Educational Penal (CEP), and Reformatory Institutions (RI) Account . . . . . \$</u>	<u>19,384</u>
State and Local Improvement Revolving Account— Waste Disposal Facilities . . . . . \$	384
Local Toxics Control Account . . . . . \$	((3,626))
	<u>51,879</u>
Litter Control Account . . . . . \$	((173))
	<u>299</u>
State Patrol Highway Account . . . . . \$	((29,500))
	<u>120,300</u>
State Wildlife Fund . . . . . \$	((31,700))
	<u>31,900</u>
<u>Highway Safety Account . . . . . \$</u>	<u>597</u>
Motor Vehicle Fund . . . . . \$	((42,708))
	<u>46,932</u>
High Capacity Transportation Account . . . . . \$	7,110
Public Service Revolving Account . . . . . \$	3,038
Insurance Commissioner's Regulatory Account . . . . \$	2,079
<u>Water Quality Account . . . . . \$</u>	<u>88,565</u>
State Treasurer's Service Fund . . . . . \$	((37))
	<u>546</u>
<u>Drug Enforcement and Education Account . . . . . \$</u>	<u>400</u>
Legal Services Revolving Fund . . . . . \$	24,362
Municipal Revolving Account . . . . . \$	6,249
Department of Personnel Service Fund . . . . . \$	1,238
State Auditing Services Revolving Account . . . . . \$	2,878
Liquor Revolving Fund . . . . . \$	((21,372))
	<u>22,597</u>
<u>Convention and Trade Center Operations Account . . . \$</u>	<u>4,037</u>
Department of Retirement Systems Expense Fund . . \$	((1,234))
	<u>2,415</u>
Accident Fund . . . . . \$	3,034
Medical Aid Fund . . . . . \$	3,034

**Sec. 708.** 1991 sp.s. c 16 s 711 is amended to read as follows:  
**FOR SUNDRY CLAIMS** The following sums, or so much thereof as may be necessary, are appropriated from the general fund, unless otherwise indicated, for relief of various individuals, firms, and corporations for sundry claims. These appropriations are to be disbursed on vouchers approved by the director of general administration, except as otherwise provided, as follows:

(1) Pay'n Save Drug Stores, Inc., in settlement of medical assistance pharmacy billings during the 1989-91 bien-nium: PROVIDED, That the department of social and health services shall seek reimbursement from federal funds to the maximum extent permitted by federal law	\$ 8,111.92
(2) State Auditor, for payment of weed district assessments against state lands pursuant to RCW 17.04.180	\$ 1,715.72
(3) <u>City of Tacoma, in settlement of all claims per Pierce County Superior Court, Cause No. 86-2-09014-8</u>	<u>\$ 758,052.07</u>
(4) <u>Charles Bauleke, for payment of claim number SCJ-91-13</u>	<u>\$ 3,347</u>
(5) <u>Carol Berg, for payment of claim number SCJ-91-18</u>	<u>\$ 5,120.22</u>
(6) <u>Denny Flatz, for payment of claim number SCJ-91-21</u>	<u>\$ 6,603.87</u>
(7) <u>Cynthia A. Fonken, for payment of claim numbers SCJ-91-17 and SCJ-91-15</u>	<u>\$ 6,815.93</u>
(8) <u>Wesley A. Grow, for payment of claim number SCJ-90-16</u>	<u>\$ 2,143</u>
(9) <u>Larry Harris, for payment of claim number SCJ-91-20</u>	<u>\$ 2,379</u>
(10) <u>Steve Allen Rice, for payment of claim number SCJ-91-25</u>	<u>\$ 4,031.11</u>

**Sec. 709.** 1991 sp.s. c 16 s 712 is amended to read as follows:

**FOR THE GOVERNOR—COMPENSATION—SALARY AND INSURANCE BENEFITS**

General Fund—State Appropriation	\$ ((115,019,000))
	<u>106,280,000</u>
General Fund—Federal Appropriation	\$ ((17,626,000))
	<u>16,278,000</u>
Special Fund Salary and Insurance Contribution	
Increase Revolving Fund Appropriation	\$ ((109,009,000))
	<u>109,008,000</u>
<b>TOTAL APPROPRIATION</b>	<b>\$ ((241,654,000))</b>

231,566,000

The appropriations in this section, or so much thereof as may be necessary, shall be expended solely for the purposes designated in this section and are subject to the conditions and limitations specified in this section.

(1) (~~(\$62,500,000)~~) \$57,979,000 of the general fund—state appropriation, ~~\$(16,500,000)~~ 15,700,000 of the general fund—federal appropriation, and ~~\$(41,800,000)~~ 39,700,000 of the special fund salary and insurance contribution increase revolving fund appropriation are provided solely for a 3.6 percent across-the-board salary increase effective January 1, 1992, and an additional ~~((3.6))~~ 3.0 percent across-the-board salary increase effective January 1, 1993, for all classified and exempt employees under the state personnel board and commissioned officers of the Washington state patrol.

(2) \$3,100,000 of the general fund—state appropriation, \$735,000 of the general fund—federal appropriation, and \$107,000 of the special fund salary and insurance contribution are provided solely to:

(a) Grant a 3.1 percent salary increase effective January 1, 1992, and an additional 3.6 percent salary increase effective January 1, 1993, to registered nurses and related job classes requiring licensure as a registered nurse; and

(b) Increase shift differential pay for registered nurses and related job classes requiring licensure as a registered nurse from \$1.00 per hour to \$1.50 per hour for evening shift and from \$1.50 per hour to \$2.50 per hour for night shift.

The salary increases granted in this subsection shall be in addition to any increase granted under subsection (1) of this section, and shall be granted only to employees classified under the state personnel board.

(3) (~~(\$860,000)~~) \$779,000 of the general fund—state appropriation and \$235,000 of the general fund—federal appropriation are provided solely to grant a five-range, or approximately 12.5 percent, salary increase effective July 1, 1991, to the psychologist 5 and psychologist 6 job classes (classes 6816 and 6820) to address problems with recruitment and retention.

(4) (~~(\$121,000)~~) \$75,000 of the general fund—state appropriation, \$8,000 of the general fund—federal appropriation, and \$4,030,000 of the special fund salary and insurance contribution increase revolving fund appropriation are provided for a four range, or approximately ten percent, salary increase effective July 1, 1991, for the transportation technician 2, transportation engineer 2, transportation engineer 5, and right-of-way agent 2 job classes, and all job classes directly indexed to one of those four benchmark job classes.

(5) (~~(\$759,000)~~) \$719,000 of the general fund—state appropriation, \$147,000 of the general fund—federal appropriation, and \$873,000 of the special fund salary and insurance contribution increase revolving fund appropriation are provided for a two-range, or approximately 5 percent, salary increase effective January 1, 1992, for the environmental engineer 2, architect 1, and civil engineer 2 job classes, and all job classes directly indexed to one of those three benchmark job classes.

The salary increase granted in this subsection shall be in addition to any increase granted under subsection (1) of this section.

(6) The governor shall allocate to state agencies (~~(\$15,000,000)~~) \$14,910,000 from the general fund—state appropriation, and \$15,000,000 from the special fund salary and insurance contribution increase revolving fund appropriation to fulfill the 1991-93 obligations of the comparable worth agreement ratified by 1986 Senate Concurrent Resolution No. 126. The amounts allocated under this subsection are for employees classified under both the state personnel board and the higher education personnel board systems.

(7) The salary increases granted in this section shall be implemented in compliance and conformity with all requirements of the comparable worth agreement ratified by the 1986 Senate Concurrent Resolution No. 126, where applicable.

(8)(a) The monthly contributions for insurance benefit premiums shall not exceed \$289.95 per eligible employee for fiscal year 1992, and ~~\$(321.80))~~ 317.79 for fiscal year 1993.

(b) The monthly contributions for the margin in the self-insured medical and dental plans and for the operating costs of the health care authority shall not exceed \$8.36 per eligible employee for fiscal year 1992, and ~~\$(6.34))~~ 6.41 for fiscal year 1993.

(c) Any returns of funds to the health care authority resulting from favorable claims experienced during the 1991-93 biennium shall be held in reserve within the state employees insurance account until appropriated by the legislature.

(d) Funds provided under this section, including funds resulting from dividends or refunds, shall not be used to increase employee insurance benefits over the level of services provided on the effective date of this act. Contributions by any county, municipal, or other political subdivision to which coverage is extended after the effective date of this act shall not receive the benefit of any surplus funds attributable to premiums paid prior to the date on which coverage is extended.

(9) To facilitate the transfer of moneys from dedicated funds and accounts, the state treasurer is directed to transfer sufficient moneys from each dedicated fund or account to the special fund salary and insurance contribution increase revolving fund in accordance with schedules provided by the office of financial management.

(10) In calculating individual agency allocations for this section, the office of financial management shall calculate the allocation of each subsection separately. The separate allocations for each agency may be combined under a single appropriation code for improved efficiency. The office of financial management shall transmit a list of agency allocations by subsection to the senate committee on ways and means and the house of representatives committee on appropriations.

(11) No salary increase may be paid under this section to any person whose salary has been Y-rated pursuant to rules adopted by the state personnel board.

(12) A maximum of ~~\$(7,342,000)~~ 7,079,000 of the special fund salary and insurance contribution increase revolving fund appropriation in this section may be expended for salary and benefit increases for ferry workers consistent with the 1991-93 transportation appropriations act.

(13) The general fund—state appropriation has been reduced by \$2,875,000, the general fund—federal appropriation has been reduced by \$548,000, and the special fund salary and insurance contribution increase revolving fund appropriation has been reduced by \$1,401,000 as a result of the revised public employees' and teachers' retirement system contribution rates provided in Substitute House Bill No. 2693 or Substitute Senate Bill No. 6286 (adjusting pension contribution rates). The office of financial management shall reduce allocations for individual state agencies and institutions of higher education accordingly.

(14) \$39,000 of the general fund—state appropriation is provided solely for the Washington state patrol to implement Substitute House Bill No. 2693 or Substitute Senate Bill No. 6286 (adjusting pension contribution rates).

Sec. 710. 1991 sp.s. c 16 s 714 is amended to read as follows:

**FOR THE DEPARTMENT OF RETIREMENT SYSTEMS—CONTRIBUTIONS TO RETIREMENT SYSTEMS**

The appropriations in this section are subject to the following conditions and limitations: The appropriations shall be made on a quarterly basis.

(1) There is appropriated for state contributions to the law enforcement officers' and fire fighters' retirement system:

	FY 1992	FY 1993
General Fund Appropriation . . . . .	\$76,000,000	<del>\$(81,500,000)</del>
		<u>58,125,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>\$(157,500,000)</del>
		<u>134,125,000</u>

(2) There is appropriated for contributions to the judicial retirement system:

	FY 1992	FY 1993
General Fund Appropriation . . . . .	\$3,371,000	3,371,000
TOTAL APPROPRIATION . . . . .	\$6,742,000	

The appropriation in this subsection is subject to the following conditions and limitations: \$92,000 is provided solely to implement chapter 159, Laws of 1991 (Substitute House Bill No. 1721, judicial retirement system).

(3) There is appropriated for contributions to the judges retirement system:

	FY 1992	FY 1993
General Fund Appropriation . . . . .	\$506,000	506,000
TOTAL APPROPRIATION . . . . .	\$1,012,000	

The appropriation in this subsection is subject to the following conditions and limitations: \$2,000 is provided solely to implement chapter 159, Laws of 1991 (Substitute House Bill No. 1721 judicial retirement system).

Sec. 711. 1991 sp.s. c 16 s 715 is amended to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT—CONTRIBUTIONS TO RETIREMENT SYSTEMS**

	FY 1992	FY 1993
General Fund—State Appropriation . . . . .	\$1,295,000	<del>(\$3,255,000)</del> <u>1,014,000</u>
Special Retirement Contribution Increase		
Revolving Fund Appropriation . . . . .	\$ 900,000	<del>(\$2,100,000)</del> <u>570,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b><del>(\$7,550,000)</del></b> <b><u>3,779,000</u></b>

The appropriations in this section are subject to the following conditions and limitations:

(1) In addition to any cost of living adjustments provided under RCW 41.32.575, 41.32.487, 41.40.325, or 41.40.1981, on February 1, 1992, the department of retirement systems shall also pay an additional adjustment to any retiree of plan I of the public employees retirement system or plan I of the teachers retirement system whose state retirement benefit has a purchasing power of less than 60 percent of the purchasing power of ~~((the benefit))~~ the retiree's ((received at age 65)) age sixty-five allowance. Each such retiree shall be given a one-time increase sufficient, when combined with any other adjustment received on July 1, 1991, to restore the purchasing power of the retiree's state retirement benefit to 60 percent of the purchasing power of the ~~((benefit received by the))~~ retiree's ((at age 65)) age sixty-five allowance. This increase shall be calculated using the formulas and definitions contained in RCW 41.32.575 and 41.40.325 ~~((but without regard to))~~ except that: (a) In calculating the increase to be paid from May 1, 1992, through June 30, 1993, to members who retired after age 65, "Index A" shall be the index for the calendar year prior to the year the member retired; and (b) the limitations imposed by RCW 41.32.575(2)(b) and RCW 41.40.325(2)(b)((, and)) do not apply. The increase provided in this subsection shall be effective for the remainder of the 1991-93 biennium.

(2) ~~\$(4,450,000))~~ 2,209,000 of the general fund—state appropriation and ~~\$(3,000,000))~~ 1,470,000 of the special retirement contribution increase revolving fund appropriation, or as much thereof as may be necessary, shall be distributed to state agencies to increase state contributions to the public employees retirement system to implement subsection (1) of this section.

(3) \$100,000 of the general fund—state appropriation, or as much thereof as may be necessary, shall be distributed to state agencies to increase state contributions to the teachers retirement system to implement subsection (1) of this section.

**Sec. 712.** 1991 sp.s. c 16 s 716 is amended to read as follows:  
**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—RETIREMENT CONTRIBUTIONS**

General Fund Appropriation . . . . .	\$	<del>(\$7,450,000)</del>
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8,200,000

The appropriation in this section is subject to the following conditions and limitations:

(1) In addition to any cost-of-living adjustments provided under RCW 41.32.575, 41.32.487, 41.40.325, or 41.40.1981, on February 1, 1992, the department of retirement systems shall also pay an additional adjustment to any retiree of plan I of the public employees' retirement system or plan I of the teachers' retirement system whose state retirement benefit has a purchasing power of less than 60 percent of the purchasing power of ~~((the benefit))~~ the retiree's ~~((received at age 65))~~ age sixty-five allowance. Each such retiree shall be given a one-time increase sufficient, when combined with any other adjustment received on July 1, 1991, to restore the purchasing power of the retiree's state retirement benefit to 60 percent of the purchasing power of the ~~((benefit received by the))~~ retiree's ~~((at age 65))~~ age sixty-five allowance. This increase shall be calculated using the formulas and definitions contained in RCW 41.32.575 and 41.40.325 ~~((but without regard to))~~ except that: (a) In calculating the increase to be paid from May 1, 1992, through June 30, 1993, to members who retired after age 65, "Index A" shall be the index for the calendar year prior to the year the member retired; and (b) the limitations imposed by RCW 41.32.575(2)(b) and RCW 41.40.325(2)(b) ~~((and))~~ do not apply. The increase provided in this subsection shall be effective for the remainder of the 1991-93 biennium.

(2) \$5,550,000 for the teachers' retirement system and ~~\$(1,900,000))~~ 1,050,000 for the public employees' retirement system shall be distributed to local school districts and educational service districts to increase state retirement system contributions to implement subsection (1) of this section.

(3) \$1,300,000 for the teachers' retirement system and \$300,000 for the public employees' retirement system shall be distributed to local school districts and educational service districts to increase state retirement system contributions to implement Engrossed Substitute House Bill No. 2947 (early retirement). If the bill is not enacted by June 30, 1992, the amount provided in this subsection shall lapse.

**PART VIII  
OTHER TRANSFERS AND APPROPRIATIONS**

Sec. 801. 1991 sp.s. c 16 s 801 is amended to read as follows:

**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR GENERAL OBLIGATION DEBT SUBJECT TO THE STATUTORY DEBT LIMIT**

Fisheries Bond Redemption Fund 1977 Appropriation . . .	\$	1,370,000
Water Pollution Control Facilities Bond Redemption Fund 1967 Appropriation . . . . .	\$	1,844,000

State Building and Higher Education Construction		
Bond Redemption Fund 1967 Appropriation . . . . .	\$	1,902,000
State Building (Expo 74) Bond Redemption Fund 1973A		
Appropriation . . . . .	\$	376,000
State Building Bond Redemption Fund 1973		
Appropriation . . . . .	\$	3,796,000
State Higher Education Bond Redemption Fund 1973		
Appropriation . . . . .	\$	4,387,000
State Building Authority Bond Redemption Fund		
Appropriation . . . . .	\$	9,408,000
Community College Capital Improvement Bond		
Redemption Fund 1972 Appropriation . . . . .	\$	7,528,000
State Higher Education Bond Redemption Fund 1974		
Appropriation . . . . .	\$	1,189,000
Waste Disposal Facilities Bond Redemption Fund		
Appropriation . . . . .	\$	57,907,000
Water Supply Facilities Bond Redemption Fund		
Appropriation . . . . .	\$	11,105,058
Recreation Improvements Bond Redemption Fund		
Appropriation . . . . .	\$	6,021,890
Social and Health Services Facilities 1972 Bond		
Redemption Fund Appropriation . . . . .	\$	3,712,694
Outdoor Recreation Bond Redemption Fund 1967		
Appropriation . . . . .	\$	3,967,392
Indian Cultural Center Construction Bond		
Redemption Fund 1976 Appropriation . . . . .	\$	124,027
Fisheries Bond Redemption Fund 1976 Appropriation . . .	\$	761,536
Higher Education Bond Redemption Fund 1975		
Appropriation . . . . .	\$	2,164,887
State Building Bond Retirement Fund 1975		
Appropriation . . . . .	\$	426,060
Social and Health Services Bond Redemption Fund		
1976 Appropriation . . . . .	\$	9,467,557
Emergency Water Projects Bond Retirement Fund 1977		
Appropriation . . . . .	\$	2,624,875
Higher Education Bond Redemption Fund 1977		
Appropriation . . . . .	\$	16,559,408
Salmon Enhancement Bond Redemption Fund 1977		
Appropriation . . . . .	\$	3,883,552
Fire Service Training Center Bond Retirement Fund		
1977 Appropriation . . . . .	\$	739,795

State General Obligation Bond Retirement Bond 1979

Appropriation . . . . .	\$	491,009,053
TOTAL APPROPRIATION . . . . .	\$	((642,277,149))
		<u>642,274,784</u>

The total expenditures from the state treasury under the appropriations in this section and in section 701 of this act shall not exceed the total appropriation in this section.

\*Sec. 802. 1991 sp.s. c 16 s 804 is amended to read as follows:

**FOR THE STATE TREASURER—TRANSFERS**

General Government Special Revenue Fund—State Treasurer's Service Account: For transfer to the general fund on or before ((July 20)) <u>June 30</u> , 1993, an amount up to (( <del>\$11,000,000</del> )) <u>\$16,627,000</u> in excess of the cash requirements in the State Treasurer's Service Account for fiscal year 1994, for credit to the fiscal year in which earned . . . . .	\$	((11,000,000))
		<u>16,627,000</u>

<i>General Fund—State: For transfer to the Natural Resources Fund—Water Quality Account . .</i>	\$	(( <del>12,753,000</del> ))
		<u>3,202,022</u>

General Fund—State: For transfer to the Flood Control Assistance Account . . . . .	\$	3,700,000
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Public Facilities Construction: Loan and Grant Revolving Fund: For transfer to the General Fund . . . . .	\$	631,400
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Water Quality Account: For transfer to the water pollution revolving fund. Transfers shall be made at intervals coinciding with deposits of federal capitalization grant money into the revolving fund. The amounts transferred shall not exceed the match required for each federal deposit . . . . .	\$	14,500,000
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Disability Accommodation Revolving Account: For transfer to the General Fund . . . . .	\$	190,000
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Local Toxics Control Account: For transfer to the general fund for reimbursement of expenses paid by the general fund in support of grants to local governments for water quality, remedial actions, and solid and hazardous waste planning purposes . . . . .	\$	2,003,000
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<u>State Employees' Insurance Account: For transfer to the general fund (Northwestern National Life Insurance Refund)</u> . . . . .	\$	<u>8,310,000</u>
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<u>Department of Personnel Service Fund: For transfer to the general fund</u> . . . . .	\$	<u>820,000</u>
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<u>Flood Control Assistance Account: For transfer to</u>		
<u>the general fund</u> . . . . .	\$	<u>4,000,000</u>
<u>Natural Resources Fund—Water Quality Account:</u>		
<u>For transfer to the general fund</u> . . . . .	\$	<u>3,202,022</u>
<u>Trust Land Purchase Account: For transfer to</u>		
<u>the general fund</u> . . . . .	\$	<u>18,575,000</u>
<u>Motor Transport Account:</u>		
<u>For transfer to the general fund</u> . . . . .	\$	<u>947,000</u>

\*Sec. 802 was partially vetoed, see message at end of chapter.

**PART IX  
MISCELLANEOUS**

NEW SECTION. **Sec. 901.** A new section is added to 1991 sp.s. c 16 to read as follows:

**APPLICABILITY OF OTHER PROVISIONS.** This act is subject to the provisions, definitions, conditions, and limitations of chapter 16, Laws of 1991 sp. sess., as amended by this act.

NEW SECTION. **Sec. 902.** A new section is added to 1991 sp.s. c 16 to read as follows:

**SUPERSESION OF GOVERNOR’S ORDER.** The allotment reductions ordered by the Governor in Executive Order 91-09 issued November 22, 1991 are superseded by this act and shall have no effect inconsistent with this act.

\*NEW SECTION. **Sec. 903.** A new section is added to 1991 sp.s. c 16 to read as follows:

**MINIMIZATION OF ESSENTIAL REQUIREMENT LEVELS FOR THE 1993-95 BIENNIUM.** *It is the intent of the legislature that in making FTE reductions in response to appropriations amended by this act, and in order to minimize the impact on essential requirement level estimates for the 1993-95 biennium, agencies shall not achieve FTE reductions by delaying hiring or temporarily reducing employment, but instead shall make permanent employment reductions. It is the intent of the legislature to use this principle in calculating essential requirement levels for the 1993-95 biennium. The office of financial management shall enclose a copy of this section as part of its instructions to agencies on revising allotments to conform with this act. This section does not apply to the department of corrections.*

\*Sec. 903 was vetoed, see message at end of chapter.

NEW SECTION. **Sec. 904.** A new section is added to 1991 sp.s. c 16 to read as follows:

**WORKLOAD AND EXPENDITURE REPORTING REQUIREMENTS.** The director of the office of financial management shall report to the chairs of the house committee on appropriations and the senate committee on ways and means no later than December 1, 1992, on the following items:

(1) The number of teachers and state employees retiring under the provisions of Substitute House Bill No. 2947 (early retirement), the related 1991-93 biennial savings for salaries and benefits, and the related 1991-93 biennial cost to the pension systems.

(2) The actual and estimated increased 1991-93 federal earnings realized as a result of section 217(2) of this act.

**NEW SECTION. Sec. 905.** A new section is added to chapter 43.33A RCW to read as follows:

**INVESTMENT ACCOUNTING.** The state investment board shall account for and report on the investments authorized by this chapter in the manner prescribed by the office of financial management under chapter 43.88 RCW.

After approval of the director of financial management, all positions, reports, documents, and office equipment along with any appropriation necessary for carrying out the functions and duties transferred shall, on July 1, 1992, be transferred from the state treasurer's office to the state investment board. All employees assigned to such classified positions to be transferred, are assigned, without any loss of rights, to the state investment board.

*\*Sec. 906. 1991 sp.s. c 16 s 909 is amended to read as follows:*

**SAVINGS RECOVERY ACCOUNT.** (1) *The savings recovery account is hereby established in the state treasury.*

(2) *The director of the office of financial management shall identify savings realized by affected state agencies as a result of:*

(a) *The implementation of the recommendations of the motor pool review team of the governor's commission on efficiency and accountability in government;*

(b) *The implementation of the furniture acquisition study by the governor's commission on efficiency and accountability in government;*

(c) *The state employees' suggestion award and incentive pay program under chapter 41.60 RCW;*

(d) *Reduced rates charged by the department of information services resulting from staff reductions and efficiencies in the delivery of services;* and

(e) *Other specifically identified management efficiencies.*

(3) *Periodically during the 1991-93 fiscal biennium, and by June 30, 1993, the director of financial management shall withhold from agency appropriations and deposit into the savings recovery account at least (\$3,572,000) \$8,660,000 as a result of implementation of the recommendations, suggestions, and efficiencies listed in subsection (2) of this section. The office of financial management shall report to the fiscal committees of the legislature by January 1, 1992, and January 1, 1993, on the amounts and sources of moneys deposited into the savings recovery account.*

*\*Sec. 906 was vetoed, see message at end of chapter.*

**Sec. 907.** RCW 70.47.030 and 1991 sp.s. c 13 s 68 and 1991 sp.s. c 4 s 1 are each reenacted and amended to read as follows:

The basic health plan trust account is hereby established in the state treasury. All nongeneral fund-state funds collected for this program shall be deposited in the basic health plan trust account and may be expended without further appropriation. Moneys in the account shall be used exclusively for the purposes of this chapter, including payments to participating managed health care systems on behalf of enrollees in the plan and payment of costs of administering the plan. After July 1, (~~(1991)~~) 1993, the administrator shall not expend or encumber for an ensuing fiscal period amounts exceeding ninety-five percent of the amount anticipated to be spent for purchased services during the fiscal year.

**Sec. 908.** RCW 70.47.060 and 1991 sp.s. c 4 s 2 and 1991 c 3 s 339 are each reenacted and amended to read as follows:

The administrator has the following powers and duties:

(1) To design and from time to time revise a schedule of covered basic health care services, including physician services, inpatient and outpatient hospital services, and other services that may be necessary for basic health care, which enrollees in any participating managed health care system under the Washington basic health plan shall be entitled to receive in return for premium payments to the plan. The schedule of services shall emphasize proven preventive and primary health care~~(,)~~ and shall include all services necessary for prenatal, postnatal, and well-child care~~(, and shall)~~. However, for the period ending June 30, 1993, with respect to coverage for groups of subsidized enrollees, the administrator shall not contract for prenatal or postnatal services that are provided under the medical assistance program under chapter 74.09 RCW except to the extent that such services are necessary over not more than a one-month period in order to maintain continuity of care after diagnosis of pregnancy by the managed care provider, or except to provide any such services associated with pregnancies diagnosed by the managed care provider before July 1, 1992. The schedule of services shall also include a separate schedule of basic health care services for children, eighteen years of age and younger, for those enrollees who choose to secure basic coverage through the plan only for their dependent children. In designing and revising the schedule of services, the administrator shall consider the guidelines for assessing health services under the mandated benefits act of 1984, RCW 48.42.080, and such other factors as the administrator deems appropriate.

(2) To design and implement a structure of periodic premiums due the administrator from enrollees that is based upon gross family income, giving appropriate consideration to family size as well as the ages of all family members. The enrollment of children shall not require the enrollment of their parent or parents who are eligible for the plan.

(3) To design and implement a structure of nominal copayments due a managed health care system from enrollees. The structure shall discourage

inappropriate enrollee utilization of health care services, but shall not be so costly to enrollees as to constitute a barrier to appropriate utilization of necessary health care services.

(4) To design and implement, in concert with a sufficient number of potential providers in a discrete area, an enrollee financial participation structure, separate from that otherwise established under this chapter, that has the following characteristics:

(a) Nominal premiums that are based upon ability to pay, but not set at a level that would discourage enrollment;

(b) A modified fee-for-services payment schedule for providers;

(c) Coinsurance rates that are established based on specific service and procedure costs and the enrollee's ability to pay for the care. However, coinsurance rates for families with incomes below one hundred twenty percent of the federal poverty level shall be nominal. No coinsurance shall be required for specific proven prevention programs, such as prenatal care. The coinsurance rate levels shall not have a measurable negative effect upon the enrollee's health status; and

(d) A case management system that fosters a provider-enrollee relationship whereby, in an effort to control cost, maintain or improve the health status of the enrollee, and maximize patient involvement in her or his health care decision-making process, every effort is made by the provider to inform the enrollee of the cost of the specific services and procedures and related health benefits.

The potential financial liability of the plan to any such providers shall not exceed in the aggregate an amount greater than that which might otherwise have been incurred by the plan on the basis of the number of enrollees multiplied by the average of the prepaid capitated rates negotiated with participating managed health care systems under RCW 70.47.100 and reduced by any sums charged enrollees on the basis of the coinsurance rates that are established under this subsection.

(5) To limit enrollment of persons who qualify for subsidies so as to prevent an overexpenditure of appropriations for such purposes. Whenever the administrator finds that there is danger of such an overexpenditure, the administrator shall close enrollment until the administrator finds the danger no longer exists.

(6) To adopt a schedule for the orderly development of the delivery of services and availability of the plan to residents of the state, subject to the limitations contained in RCW 70.47.080.

In the selection of any area of the state for the initial operation of the plan, the administrator shall take into account the levels and rates of unemployment in different areas of the state, the need to provide basic health care coverage to a population reasonably representative of the portion of the state's population that lacks such coverage, and the need for geographic, demographic, and economic diversity.

Before July 1, 1988, the administrator shall endeavor to secure participation contracts with managed health care systems in discrete geographic areas within at least five congressional districts.

(7) To solicit and accept applications from managed health care systems, as defined in this chapter, for inclusion as eligible basic health care providers under the plan. The administrator shall endeavor to assure that covered basic health care services are available to any enrollee of the plan from among a selection of two or more participating managed health care systems. In adopting any rules or procedures applicable to managed health care systems and in its dealings with such systems, the administrator shall consider and make suitable allowance for the need for health care services and the differences in local availability of health care resources, along with other resources, within and among the several areas of the state.

(8) To receive periodic premiums from enrollees, deposit them in the basic health plan operating account, keep records of enrollee status, and authorize periodic payments to managed health care systems on the basis of the number of enrollees participating in the respective managed health care systems.

(9) To accept applications from individuals residing in areas served by the plan, on behalf of themselves and their spouses and dependent children, for enrollment in the Washington basic health plan, to establish appropriate minimum-enrollment periods for enrollees as may be necessary, and to determine, upon application and at least annually thereafter, or at the request of any enrollee, eligibility due to current gross family income for sliding scale premiums. An enrollee who remains current in payment of the sliding-scale premium, as determined under subsection (2) of this section, and whose gross family income has risen above twice the federal poverty level, may continue enrollment unless and until the enrollee's gross family income has remained above twice the poverty level for six consecutive months, by making payment at the unsubsidized rate required for the managed health care system in which he or she may be enrolled. No subsidy may be paid with respect to any enrollee whose current gross family income exceeds twice the federal poverty level or, subject to RCW 70.47.110, who is a recipient of medical assistance or medical care services under chapter 74.09 RCW. If a number of enrollees drop their enrollment for no apparent good cause, the administrator may establish appropriate rules or requirements that are applicable to such individuals before they will be allowed to re-enroll in the plan.

(10) To determine the rate to be paid to each participating managed health care system in return for the provision of covered basic health care services to enrollees in the system. Although the schedule of covered basic health care services will be the same for similar enrollees, the rates negotiated with participating managed health care systems may vary among the systems. In negotiating rates with participating systems, the administrator shall consider the characteristics of the populations served by the respective systems, economic

circumstances of the local area, the need to conserve the resources of the basic health plan trust account, and other factors the administrator finds relevant.

(11) To monitor the provision of covered services to enrollees by participating managed health care systems in order to assure enrollee access to good quality basic health care, to require periodic data reports concerning the utilization of health care services rendered to enrollees in order to provide adequate information for evaluation, and to inspect the books and records of participating managed health care systems to assure compliance with the purposes of this chapter. In requiring reports from participating managed health care systems, including data on services rendered enrollees, the administrator shall endeavor to minimize costs, both to the managed health care systems and to the administrator. The administrator shall coordinate any such reporting requirements with other state agencies, such as the insurance commissioner and the department of health, to minimize duplication of effort.

(12) To monitor the access that state residents have to adequate and necessary health care services, determine the extent of any unmet needs for such services or lack of access that may exist from time to time, and make such reports and recommendations to the legislature as the administrator deems appropriate.

(13) To evaluate the effects this chapter has on private employer-based health care coverage and to take appropriate measures consistent with state and federal statutes that will discourage the reduction of such coverage in the state.

(14) To develop a program of proven preventive health measures and to integrate it into the plan wherever possible and consistent with this chapter.

(15) To provide, consistent with available resources, technical assistance for rural health activities that endeavor to develop needed health care services in rural parts of the state.

**\*Sec. 909. RCW 70.146.080 and 1991 sp.s. c 16 s 923 is amended to read as follows:**

***Within thirty days after June 30, 1987, and within thirty days after each succeeding fiscal year thereafter, the state treasurer shall determine the tax receipts deposited into the water quality account for the preceding fiscal year. If the tax receipts deposited into the account in each of the fiscal years 1988 and 1989 are less than forty million dollars, the state treasurer shall transfer sufficient moneys from general state revenues into the water quality account to bring the total receipts in each fiscal year up to forty million dollars.***

***For the biennium ending June 30, 1991, if the tax receipts deposited into the water quality account and the earnings on investment of balances credited to the account are less than ninety million dollars, the treasurer shall transfer sufficient moneys from general state revenues into the water quality account to bring the total revenue up to ninety million dollars. The determination and transfer shall be made by July 31, 1991 but during the 1991-93 biennium the***

legislature may subsequently direct the treasurer to transfer up to that same amount back to the general fund.

*For fiscal year ((1992)) 1993 and thereafter, if the tax receipts deposited into the water quality account for each fiscal year are less than forty-five million dollars, the treasurer shall transfer sufficient moneys from general state revenues into the water quality account to bring the total revenue up to forty-five million dollars. Determinations and transfers shall be made by July 31 for the preceding fiscal year.*

\*Sec. 909 was vetoed, see message at end of chapter.

*\*Sec. 910. RCW 86.26.007 and 1991 sp.s. c 13 s 24 are each amended to read as follows:*

*The flood control assistance account is hereby established in the state treasury. At the beginning of each biennium the state treasurer shall transfer from the general fund to the flood control assistance account an amount of money which, when combined with money remaining in the account from the previous biennium, will equal four million dollars. During the 1991-93 biennium the legislature may direct the transfer of amounts from the account to the general fund. Moneys in the flood control assistance account may be spent only after appropriation for purposes specified under this chapter.*

\*Sec. 910 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 911. SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 912. EMERGENCY CLAUSE. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

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Passed the House March 12, 1992.

Passed the Senate March 12, 1992.

Approved by the Governor April 2, 1992, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 2, 1992.

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

"I am returning herewith, without my approval as to sections 111 (page 5, line 8), 117 (page 8, lines 20-23), 124 (page 10, line 26), 125, 127, 128, 129(3), 136(5), 141(6), 142(3), 154, 201 (page 26, lines 6 and 7), 203(3), 205(1)(g), 205(2)(c), 210(10), 210(11), 211(5), 211(6), 222 (page 58, lines 10 and 11), 222 (page 61, lines 15 through 18), 222(3), 222(32), 223, 227, 229 (page 72, lines 23 and 24), 303 (page 83, lines 14 and 15), 303 (page 83, line 18), 307 (page 91, lines 19 and 20), 307(9), 311 (page 96, lines 3 and 4), 610(3)(a), 704, 802 (page 194, lines 15-17), 802 (page 195, lines 17, 18, 19 and 20), 903, 906, 909 and 910, Engrossed Substitute House Bill No. 2470 entitled:

"AN ACT Relating to fiscal matters."

My reasons for vetoing these sections are as follows:

Section 111, page 5, line 8, Court of Appeals

This section reduces the appropriation for the Court of Appeals by \$371,000 from the level included in section 111, chapter 16, Laws of 1991, 1st special session, and includes language (also present in sections 109 (Supreme Court) and 113 (Administrator for the Courts)) that allows the Supreme Court, the Court of Appeals, and the Administrator for the Courts, by mutual agreement to utilize their state General Fund appropriations "to make efficient and effective use of available financial resources within the entire judicial branch." I am convinced that the total state General Fund appropriations to these agencies is insufficient to allow the performance of the essential functions of these agencies. I have vetoed only the appropriation in this section, restoring \$371,000

in appropriations to be used, pursuant to the retained proviso language, to meet the financial requirements of the three judicial agencies.

Section 117, page 8, lines 20-23, Gratuity Tracking System (Public Disclosure Commission)

The proviso in this section requires the agency to expend \$25,000 to implement a gratuity tracking system. I accept the legislature's decision to reduce the appropriation to the agency by \$122,000. Because this reduction is \$25,000 greater than my recommendation, I have vetoed this proviso and directed the agency to determine how much, if any, of its appropriation can be made available for this system.

Shellfish Litigation

Section 124, page 10, line 26 (Attorney General)

Section 125, page 12, (Attorney General)

Section 311, page 96, lines 3 and 4 (Department of Fisheries)

The General Fund-State appropriation for the Attorney General includes \$915,000 for legal costs related to tribal shellfish litigation. I have returned the Attorney General's General Fund-State appropriation to the \$6.3 million originally provided by section 124, chapter 16, Laws of 1991, 1st special session.

Section 125 provides \$915,000 in the Attorney General's budget for shellfish litigation expenses. While resolution of the issue of tribal shellfish rights is important, it is unlikely that the full \$915,000 will be required for litigation expenses this biennium. Placing this appropriation directly in the Attorney General's budget greatly reduces the ability of the other members of the state shellfish caucus to participate and influence the litigation decisions of the Attorney General. Members of the State Shellfish Caucus include the Department of Fisheries, Department of Health, State Parks and Recreation Commission, Department of Natural Resources, as well as the Attorney General. It is for these reasons that I have vetoed section 125.

In order to restore litigation funding to the Department of Fisheries, I have also vetoed the Department's General Fund-State appropriation. This will provide \$4,771,000 in additional appropriation authority to the agency. I have directed the Department to place \$3,856,000 in reserve and use \$450,000 to cover the costs of shellfish litigation for this biennium. The remaining \$465,000 will be used by the Department to cover additional litigation costs and the cost of the mediation process begun by the U.S. Fish and Wildlife Service.

Section 127, pages 12 and 13, Office of Financial Management

This section reduces the Office of Financial Management's total appropriation by \$4,090,000 and requires the Office of Financial Management to absorb the \$300,000 cost of the Commission on Student Learning. These changes impose an unmanageable 13.9 percent reduction in the state's central financial management agency, substantially weakening its ability to support the development and monitor the implementation of budgets and substantive policy in a period when constant vigilance regarding revenues and expenditures will be needed. My veto of this section restores \$4,090,000 in appropriation authority. I have directed that \$1,218,000 of that restored appropriation be placed in reserve, thus imposing the same state General Fund percentage reduction on the Office of Financial Management (7.4 percent before providing for the Commission on Student Learning) that the supplemental budget imposed on the legislature. My veto also eliminates the increased Savings Recovery Account appropriation to the Office of Financial Management, consistent with my veto of the increase in revenue to the account provided in section 906.

Section 128, page 13, Revolving Fund (Office of Administrative Hearings)

This section reduces funding for the Office of Administrative Hearings by \$293,000. Much of the hearings workload handled by the agency is nondiscretionary and supported by nonstate General Fund sources. A reduction in funding will not reduce the demand for hearings services nor limit the number of hearings agencies need. It would only create more need for interagency agreements as a way to fund hearing services in excess of the appropriation. This veto allows the agency to bill for hearings services up to the level of its original appropriation without the need to use resources to create interagency agreements.

Section 129(3), page 14, Data Processing Revolving Fund (Department of Personnel)

This subsection reduces expenditure allotment authority from Fund 419, the Data Processing Revolving Fund, by the Department of Personnel. This reduction in expenditure authority would significantly decrease the Department's ability to develop ad hoc management reports, meet agency requests for software enhancements, and modify the payroll system to meet new requirements. In addition, this language represents an unprecedented intrusion on the Governor's authority to control expenditures from nonappropriated funds through the allotment process as established in RCW 43.88.110.

Section 136(5), page 17, Study of Nonprofit Homes (Department of Revenue)

This subsection provisos \$57,400 solely for the implementation of Substitute House Bill No. 2639 (Study of Non-Profit Homes for the Aged) from the Department's existing General Fund-State. While this study would yield information concerning the equity of tax laws as applied to homes for the aged, there were no additional funds provided to conduct the study. I have vetoed the proviso in order to give the Department flexibility. I have directed the Department to undertake a study which satisfies the essential requirements of Substitute House Bill No. 2639, within existing resources, without compromising other necessary revenue collection functions.

Section 141(6), page 20, Facility Support for Tenants of the Labor and Industries and the Natural Resources Buildings (Department of General Administration)

Subsection 6 provides \$849,000 of the General Administration Facilities and Services Revolving Fund appropriation for maintenance services to the Department of Labor and Industries and the Department of Natural Resources, subject to negotiations to determine the levels and prices of services. The levels and prices of facility and support services are negotiated between the Department of General Administration and the Office of Financial Management in order to provide a reasonable and equitable level of service among all state agencies. Allowing agencies to negotiate their own service levels and rates would create administrative confusion and subject agencies with less flexibility in funding to substandard service. I have vetoed this proviso and have directed the Department of General Administration to ensure that \$849,000 of the Facilities and Services Revolving Fund appropriation is employed solely in support of all of the tenants of the Department of Labor and Industries and the Department of Natural Resources buildings.

Section 142(3), page 21, Reduced Expenditures in the Data Processing Revolving Fund (Department of Information Services)

This subsection reduces by 2.5 percent the agencies' expenditures on information technology provided by the Department of Information Services, reduces the Department of Information Services' administrative and operations personnel by 21 FTEs, and directs the \$950,000 saved from the reduced staffing level to be placed in the Savings Recovery Account. I have vetoed this subsection because no savings will result from reducing the Department of Information Services staff. Agency demand for computer services creates the need for the positions, and it is the agency use of the positions which generates the billing for the services rendered. I have also vetoed section 906, which adds "savings" from these staff reductions as a revenue source to the Savings Recovery Account. I have asked the Office of Financial Management to work with agencies and the Department of Information Services to attempt to reduce agency computer service expenditures by 2.5 percent.

Section 154, page 25, Repealer Clause for Sections 101 through 152 of Chapter 16, Laws of 1991 Special Session

Engrossed Substitute House Bill No. 2470 amends appropriations originally made for the 1991-93 Biennium in 1991 special session, chapter 16, the biennial operating budget. The longstanding tradition of the legislature has been to draft supplemental appropriation measures, such as this one, in amendatory form. Thus, the legislature historically has set forth the original appropriations and amendments to them. This historical practice not only reflects the true nature of such measures, it also clearly identifies and makes visible to each member of the legislature intended changes in original biennial appropriation levels. In Part I of Engrossed Substitute House Bill No.

2470, the legislature has abandoned this longstanding practice by repealing numerous original biennial appropriations and replacing them with new appropriations.

As the Governor of this state and a former legislator, I strongly oppose the drafting method employed by the legislature in Part I. It does not provide a clear representation of proposed amendments to biennial appropriation levels and thus, does a disservice to citizens of the state and to the legislative process in which this office participates.

Moreover, the veto authority granted to the Governor by the Constitution of this state is intended to allow the Governor to object to changes in laws, including appropriation measures. By use of this untoward drafting mechanism, the legislature has attempted to thwart the very purpose of the constitutional veto authority of the Governor. Absent veto of section 154, which purports to repeal numerous sections in the 1991-93 biennial operating budget, I would have little choice but to accept the appropriations set forth in Part I of this enactment. The alternative, vetoing any or all of the appropriations in Part I of this enactment, would leave affected offices and agencies wholly without appropriations.

For these reasons, I have vetoed section 154, thereby preventing the repeal of the original appropriations in the biennial operating budget, 1991 special session, chapter 16, identified specifically in section 154 of this enactment.

For reasons fully explained elsewhere in this message, I also have vetoed certain appropriations made in Part I of this enactment. Where I have done so, the appropriation for the affected agency or office will be the original biennial appropriation for that agency or office, appearing in 1991 special session laws, chapter 16. Where I have not vetoed an appropriation contained in Part I of this enactment, the appropriation in Part I will constitute the biennial appropriation for the affected agency or office.

Section 201, page 26, lines 6 and 7, Lease Increases (Children and Family Services, Department of Social and Health Services)

This subsection provides the General Fund-State funding for Children and Family Services within the Department of Social and Health Services. The section eliminates \$2.1 million General Fund-State monies necessary to fund existing leases of local and regional Children and Family Services offices. These lease payments are unavoidable and, if left unfunded, must be paid with existing funds. A reduction of Child Protective Services/Child Welfare Services caseworkers and/or cuts in contracted services would be necessary to pay the unfunded leases. Therefore, I have directed the Department to allot \$2.1 million to fund these mandatory leases. Of the \$11,087,000 General Fund-State in additional appropriation authority, I have directed the Department to place \$8,987,000 in reserve.

Section 203(3), page 33, Civil Commitment Center (Mental Health, Department of Social and Health Services)

This subsection provides funds for the Civil Commitment Center operated within the Special Offenders Unit at the Monroe Reformatory. I believe the funds appropriated are insufficient to meet the Center's programmatic needs and may compromise the facility's ability to provide legally mandated treatment. The veto of this subsection will provide \$569,000 in additional appropriation authority. I have directed the Department of Social and Health Services to place \$273,000 in reserve and use the remaining \$296,000 to adequately fund the Civil Commitment Center.

Section 205(1)(g), pages 37 and 38, Medicaid Tax Expenditures (Developmental Disabilities, Department of Social and Health Services)

This subsection provides appropriations to fund prospective rate increases for intermediate care facilities for the mentally retarded to cover the Medicaid share of the tax levied in Engrossed Substitute House Bill No. 2967. I have vetoed this proviso to avoid potential legal entanglements with the Health Care Financing Administration. This action will not jeopardize the provisions of Engrossed Substitute House Bill No. 2967.

Section 205(2)(c), page 38, Medicaid Tax Expenditures (Developmental Disabilities, Department of Social and Health Services)

This subsection provides appropriations to fund prospective rate increases for intermediate care facilities for the mentally retarded to cover the Medicaid share of the

tax levied in Engrossed Substitute House Bill No. 2967. I have vetoed this proviso to avoid potential legal entanglements with the Health Care Financing Administration. This action will not jeopardize the provisions of Engrossed Substitute House Bill No. 2967.

Section 210(10), pages 43 and 44, Personal Care Program (Long Term Care, Department of Social and Health Services)

This subsection directs the Department of Social and Health Services to transfer eligible clients from the chore services program to the personal care program. The clients who are currently served within chore services receive care from family members, which is not permissible under the federally-matched personal care program. Although the subsection provides for geographic exceptions, it fails to recognize the importance of family care for those with developmental disabilities, cultural needs, and situations in which spouses provide care. Although this veto does not restore funding cuts, the Department should not be required to transfer all of these chore services clients without regard for individual circumstances.

Section 210(11), page 44, Nursing Home Study (Long Term Care, Department of Social and Health Services)

This subsection directs the Department of Social and Health Services to analyze and identify any exceptional fiscal needs of nursing facilities whose Medicaid-paying clients number greater than 90 percent, and subsequently report the findings to the legislature. This directive creates an unnecessary and burdensome workload, especially in light of the additional staffing cuts imposed by this budget.

Section 211(5), page 45, State Supplementary Income Payments (Income Assistance, Department of Social and Health Services)

This subsection reduces the state supplement of federal Supplemental Security Income payments to 71,000 blind, disabled, and aged people. I believe the legislature did not intend to reduce the supplemental benefits provided to these most vulnerable citizens. Therefore, I have directed the Department of Social and Health Services to allocate these funds according to the policy currently in existence.

Section 211(6), page 46, Public Assistance Job Training (Income Assistance, Department of Social and Health Services)

This subsection directs the Department of Social and Health Services to implement a pilot community work experience program for clients in the General Assistance-Unemployable program. I support a community work experience program that incorporates vocational rehabilitation, job preparedness services, and medical treatment. The legislature did not, however, fund the \$1.5 million to implement the pilot program as the budget document implies. Consequently, I have vetoed this subsection and have directed the Department to implement a pilot community work experience program to the extent possible within available funds.

Section 222, page 58, lines 10 and 11, and, page 61, lines 15 through 18, General Fund-State Appropriation (Department of Community Development)

I have vetoed section 222, lines 10 and 11, the General Fund-State appropriation for the Department of Community Development, in order to aid the implementation of the Growth Management Act. Funding for the Growth Management Hearings Boards was reduced to such a degree that the Boards would not be implemented until February, 1993. The success of the Growth Management provisions enacted in 1990 and 1991 depends on these new Hearings Boards playing an effective role. The ability of these Boards to resolve disputes fairly and in a timely fashion will be critical to the success of growth management. The \$1,036,000 freed up by this veto plus the \$750,000 already included in the budget, will allow implementation of the Boards beginning May 15. The veto of section 222, lines 15 through 18, expands the spending limits for the Boards to the original level and allows the Department to spend the amount necessary to implement the Boards in May.

The reduction in funds provided to assist local government planning activities is unjustified and short-sighted. When the legislature passed growth management legislation in 1990 and again in 1991, it was clear that we were giving local governments a difficult job with a tough time line and that adequate funding was essential. I am directing the

Department to use the amount that remains in the base budget, \$1.5 million, for grants to local governments.

Section 222(3), page 59, Mortgage Assistance (Department of Community Development)

I have vetoed the new language which restricts the Department to spending no more than 5 percent on administration. The effect of the 5 percent restriction is to further reduce the Department's budget. The proviso language fails to recognize the cost of delivering service.

Section 222(32), page 67, Wetlands Notification and Mapping (Department of Community Development)

The veto of this section is technical in nature. The appropriation is contingent on passage of Substitute Senate Bill No. 6255, Wetlands Notification. Since Senate Bill No. 6255 did not pass, this appropriation will lapse. I have vetoed this proviso to avoid confusion.

Section 223, page 67, Human Rights Commission

This section provides \$4,021,000 General Fund-State for the Human Rights Commission, \$271,000 less than the General Fund-State appropriation provided in section 221, chapter 16, Laws of 1991, 1st special session. This will result in a 33 percent reduction in travel for this agency. The ability for the Commissioners to meet in different locations to address discrimination issues and for staff to investigate complaints is too severely hampered by a cut of this magnitude. I have vetoed this section to allow the agency to restore \$26,000 for travel (a 20 percent reduction). I have requested that the balance of the restored appropriation, \$245,000, be placed in reserve.

Section 227, page 71, Indeterminate Sentence Review Board

Reductions to personal service contracts and travel will impair the Indeterminate Sentence Review Boards ability to provide statutorily mandated service levels. The only manner for the Board to accomplish these reductions would be to eliminate one Board member. While recent actions by the Board will likely reduce the Board's size in the ensuing biennium, it is not prudent, nor cost effective, at this time.

The Board has initiated two different proposals to reduce the number of parolees returning to prison. The Board has a greater than anticipated workload in order to successfully implement these proposals. Delays in this implementation could result in additional prison populations and higher operational costs to the Department of Corrections which will far exceed the amount saved in the Board's appropriation.

Of the \$229,000 restored, I have directed the Board to place \$168,000 in reserve. The additional \$61,000 restores the Board to the level recommended in my original supplemental budget request.

Section 229, page 72, lines 23 and 24, Women, Infants, and Children Program (Department of Health)

The supplemental General Fund-State appropriation for the Department of Health includes a reduction of \$2,552,000 for the Women, Infants, and Children program. This program provides food and nutritional counseling to needy families throughout the state. The \$2,552,000, combined with newly available federal funds, will result in an additional 12,300 persons per month being served. Beyond serving more clients, restoration of this cut will enable us to take immediate advantage of anticipated additional increases in federal funding and will further my goal to improve the health of Washington's children. Children lose without adequate state support for the Women, Infants, and Children program support.

In order to restore these funds, I have vetoed the supplemental appropriation. Of the \$10,803,000 in additional appropriation authority, I have directed the Department of Health to place \$8,251,000 in reserve and use the remaining \$2,552,000 for the Women, Infants, and Children program.

Section 303, page 83, lines 14 and 15, General Fund-State Appropriation (Department of Ecology)

I have vetoed this subsection in order to restore funding to the Department of Ecology's Water Resources Program. The Water Resources Program has continued to

make progress in addressing the backlog of water rights applications and in the formulation of a statewide policy for water resources administration through the Chelan Agreement. The reductions to the Department's budget would have reduced enforcement activity and crippled the Water Resources Program's ability to continue addressing the water rights application backlog. In addition, it would seriously curtail efforts in the development of a statewide water resources policy.

The veto of this subsection will increase the Department of Ecology's appropriation authority by \$7,515,000. This will enable the Department to restore \$785,000 to the Water Resources Program. I have directed the Department of Ecology to place the remaining \$6,730,000 in reserve.

Section 303, page 83, line 18, Flood Control Assistance Account (Department of Ecology)

Section 802, page 195 lines 17 and 18, General Fund transfer to Flood Control Assistance Account (Treasurer's Transfer)

Section 910, pages 205 and 206, Flood Control Assistance Account (Department of Ecology)

These sections transfer funds for the Flood Control Assistance Program from the Flood Control Assistance Account to the General Fund. Funding for this program is transferred from the operating budget to the capital budget, with an appropriation from the State Building Construction Account. While I am supportive of providing grant dollars to local communities for flood mitigation plans and projects, \$2.65 million is clearly for operating activities and should be funded from the operating budget. The proviso in section 12(9), page 70, of the capital budget precludes spending any of the appropriated funds from the State Building Construction Account on operating activities. Without funds for operating costs, the Department would not be able to provide planning grants or technical assistance to local communities, nor would the Department be able to administer the grants for flood mitigation projects which are eligible under the proviso. Without the ability to administer the grants, there would be no state oversight of the expenditure of these grant dollars.

The Department would be faced with one of two options: either redirect General Fund dollars from other programs or eliminate the Flood Control Assistance Program. Given the severity of the reductions to the Department of Ecology's budget, this program would be eliminated. Therefore, I have vetoed these sections in order to restore \$4 million to the Flood Control Assistance Account and continue this important program.

Section 307, page 91, lines 19 and 20, General Fund-State Appropriation (Department of Trade and Economic Development)

I have vetoed the General Fund-State appropriation for the Department in order to address serious shortfalls created by this budget. Of the additional \$3,671,000 in appropriation authority created by this veto, I have directed the Department of Trade and Economic Development to spend \$810,000 on timber programs, \$200,000 on tourism, and to place the remaining \$2,661,000 in reserve. The restoration of \$610,000 in the value-added program will allow continuation of the concentrated effort to increase value-added manufacturing capacity that is necessary as small wood products manufacturers are threatened with closure.

I have also directed expenditure of \$200,000 for restoration of full funding for the Timber Team Office. The Timber Team serves an important function as the central coordination point for diverse state programs which assist timber dependent communities. In addition, the Timber Team coordinates this administration's position and represents the state's interest in federal timber supply and endangered species issues. Almost 40 percent of the Timber Team budget represents pass-through funding required to replace a small portion of federal cutbacks in dislocated worker programs. It is unacceptable to eliminate the Timber Team six months before the close of the biennium. Strategically, this would put the state in a poor position to respond to federal actions that critically affect the state and would hamper coordination efforts vital to good service delivery.

Finally, I have directed the expenditure of \$200,000 to partially offset reductions to the Department's tourism program. At a time when many of our communities are struggling to strengthen and diversify their economies, adequate support for tourism development is a practical requirement. The Department will use these additional

resources to bolster cooperative marketing and regional tourism assessments which are the cornerstones of its strategic plan for tourism development.

Section 307(9), pages 93 and 94, Business Network Grants (Department of Trade and Economic Development)

While I believe that business network grants that build capacity are an excellent way to provide the advantages of larger scale timber firms to many small manufacturing concerns, I have vetoed the language that requires the Department of Trade and Economic Development to spend \$500,000 to that end. The language does not give the Department the flexibility necessary to determine the viability of networks for value-added manufacturing given Washington's forest products manufacturing industry makeup. However, I have asked the Department of Trade and Economic Development to intensify efforts to pursue business network grants as an important element for promoting value-added manufacturing. I have directed the Department to spend the majority of available grant funds on business networks, if feasible.

Section 311, page 96, lines 3 and 4, Shellfish Litigation (Department of Fisheries)

As discussed previously, I have vetoed the General Fund-State appropriation revision in the Department of Fisheries in order to restore shellfish litigation funds. This veto has the effect of adding \$4,771,000 in appropriation authority. I have directed the Department to place \$3,856,000 of this amount in reserve, and use \$450,000 to cover the costs of shellfish litigation. The remaining \$465,000 will be used to cover additional litigation costs and the cost of the mediation process begun by the U.S. Fish and Wildlife Service.

Section 610(3)(a), page 171, Financial Aid and Grant Program (Higher Education Coordinating Board)

This subsection caps the state need grant award to students of private schools. The cap is equal to the amount of an award receivable by a student of a state research university. However, the cap applies only to the grants from the increment of \$1,430,000 available for need grant awards due to the 1993 tuition increase.

I have vetoed this subsection because it creates an inequity of financial aid benefits between private school students receiving need grants from the state need grant base budget and students receiving need grant from the 1993 need grant increment due to the tuition increase. In addition, a cap on such a small portion of the state need grant unnecessarily complicates the administration of the state financial aid program. This veto frees up \$127,000 of appropriation, which will be placed in reserve.

Section 704, pages 178-179, Governor's Emergency Fund

This section reduces the appropriation for emergency uses to \$862,000 for the biennium. The \$1.5 million appropriation provided in the original budget was \$500,000 below the \$2 million initially appropriated for emergency purposes in each of several previous biennial budgets. This reduction, combined with allocations already made, would leave an Emergency Fund balance of \$140,400, with 15 months remaining in the biennium. The inability to respond to emergency situations (like fires, floods, windstorm damage, major equipment failure, etc.) imposed by this reduction is unacceptable. This veto restores \$638,000 in appropriation authority to the Emergency Fund. This veto also restores the 2.5 percent allotment reduction to preserve an Emergency Fund balance at \$778,400. This is still a small balance with so much of the biennium still before us.

Section 802, page 194, lines 15, 16 and 17 (Treasurer's Transfers)

Section 802, page 195, lines 19 and 20 (Treasurer's Transfers)

Section 909, page 204 and 205, Water Quality Account (Department of Ecology)

These sections reduce the transfer of General Fund dollars to the Water Quality Account by \$12,753,000. Washington state is facing increasing threats to one of its most vital resources, the state's waters. If we are to continue to make progress toward protecting Washington's surface and ground waters, it is essential that a consistent and reliable funding level be available. The Water Quality Account is a primary source of funding for local governments in addressing water quality issues. Solutions to tough pollution problems require planning, prevention, and intervention strategies, which may take years to implement. In order to dedicate sizable portions of their own resources to these strategies, local governments need to know that state funding will continue at levels

that will enable them to achieve mandated state and federal water pollution requirements. Therefore, I have vetoed these sections in order to restore the statutory funding level to the Water Quality Account.

Section 903, page 196, Minimization of the Essential Requirements Level for the 1993-95 Biennium

Section 903 requires agencies (with the exception of the Department of Corrections) to make 1991-93 FTE reductions permanent, rather than assuming the positions will be funded in 1993-95. The purpose of this section is to minimize the growth of the state's budget base for the 1993-95 Biennium. While it is likely that I will consider this requirement when my 1993-95 budget is developed, I want to preserve the Governor's flexibility for the construction of its budget.

Furthermore, from a practical standpoint, it appears that this section was constructed in isolation without knowledge of the program implications of denying agencies the ability to use temporary or deferred hiring to achieve their FTE budget reductions. There may be some programs in state government that cannot provide an appropriate level of service if held to this requirement.

Section 906, pages 197 and 198, Savings Recovery Account

This amendatory section increases the amounts to be withheld from agency appropriations deposited in the Savings Recovery Account by \$5,088,000 and it includes "savings" from the Department of Information Services' rate reductions resulting from staff reductions as a source of Savings Recovery Account revenue. I have vetoed this section for two reasons. First, all but \$950,000 of the \$5,088,000 in increased revenue to the account would be drawn from savings of Efficiency Commission, Brainstorm, and Teamwork Incentive Program projects presently retained by agencies as a partial incentive to participate in such projects. The incentives and benefits to the participating agencies for the extra effort involved in the projects are stripped away by this action with the probable consequence that these worthwhile efforts will disappear. Second, staff reductions in the Department of Information Services do not create rate reductions. These proprietary positions are used to provide customers needed computing related services for which the customers are then billed. Vacated positions provide no service which can be billed, thus there can be no savings.

For these reasons, I have vetoed sections 111 (page 5, line 8), 117 (page 8, lines 20-23), 124 (page 10, line 26), 125, 127, 128, 129(3), 136(5), 141(6), 142(3), 154, 201 (page 26, lines 6 and 7), 203(3), 205(1)(g), 205(2)(c), 210(10), 210(11), 211(5), 211(6), 222 (page 58, lines 10 and 11), 222 (page 61, lines 15 through 18), 222(3), 222(32), 223, 227, 229 (page 72, lines 23 and 24), 303 (page 83, lines 14 and 15), 303 (page 83, line 18), 307 (page 91, lines 19 and 20), 307(9), 311 (page 96, lines 3 and 4), 610(3)(a), 704, 802 (page 194, lines 15-17), 802 (page 195, lines 17, 18, 19 and 20), 903, 906, 909 and 910, of Engrossed Substitute House Bill No. 2470.

With the exception of sections 111 (page 5, line 8), 117 (page 8, lines 20-23), 124 (page 10, line 26), 125, 127, 128, 129(3), 136(5), 141(6), 142(3), 154, 201 (page 26, lines 6 and 7), 203(3), 205(1)(g), 205(2)(c), 210(10), 210(11), 211(5), 211(6), 222 (page 58, lines 10 and 11), 222 (page 61, lines 15 through 18), 222(3), 222(32), 223, 227, 229 (page 72, lines 23 and 24), 303 (page 83, lines 14 and 15), 303 (page 83, line 18), 307 (page 91, lines 19 and 20), 307(9), 311 (page 96, lines 3 and 4), 610(3)(a), 704, 802 (page 194, lines 15-17), 802 (page 195, lines 17, 18, 19 and 20), 903, 906, 909 and 910, Engrossed Substitute House Bill No. 2470 is approved."

CHAPTER 233

[Engrossed Substitute House Bill 2552]

CAPITAL BUDGET, SUPPLEMENTAL 1991-1993

Effective Date: 4/2/92

AN ACT Relating to the capital budget; amending 1991 sp.s. c 14 ss 6, 7, 10, 13, 16, 18, 20, 26, 30, 34, 35, 44, 47, 54, and 59 (uncodified); adding new sections to chapter 14, Laws of 1991 sp.s.; creating new sections; making appropriations and authorizing expenditures for the capital improvements; and declaring an emergency.

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

PART 1

GENERAL GOVERNMENT

NEW SECTION. Sec. 1. A new section is added to chapter 14, Laws of 1991 sp.s. to read as follows:

**FOR THE OFFICE OF THE SECRETARY OF STATE**

- (1) Central Washington Archives: To design a regional archives facility at Central Washington University in Ellensburg (93-2-001)

The appropriation in this subsection is subject to the following conditions and limitations: No moneys may be spent until preplanning documents have been reviewed and approved by the office of financial management under section 33 of this act.

**Appropriation:**

St Bldg Constr Acct .....	\$	360,000
Prior Biennia (Expenditures) .....	\$	17,500
Future Biennia (Projected Costs) .....	\$	3,909,500
TOTAL .....	\$	4,287,000

Sec. 2. 1991 sp.s. c 14 s 6 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT**

- (1) Local jail facilities (88-2-001)

**Reappropriation:**

St Bldg Constr Acct .....	\$	308,000
Prior Biennia (Expenditures) .....	\$	2,692,000
Future Biennia (Projected Costs) .....	\$	0
TOTAL .....	\$	3,000,000

- (2) For environmental cleanup related to underground storage tanks (92-5-003)

The appropriation in this subsection is subject to the following conditions and limitations:

(a) The moneys provided in this subsection shall be allocated to the agencies and institutions of the state for removal, replacement, and environmental cleanup projects related to underground storage tanks.

(b) No moneys appropriated in this subsection or in any subsection specifically referencing this subsection may be expended unless the office of financial management, in consultation with the department of general administration, has reviewed and approved the cost estimates for the project. Projects to replace underground storage tanks shall conform with guidelines to minimize the risk of environmental contamination and reduce unnecessary duplication of tanks. The guidelines shall be adopted by the department of general administration and shall provide for consideration of environmental risks associated with tank installations, interagency agreements for sharing fueling facilities, and the feasibility of alternative fueling systems.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	<del>(3,729,000)</del>
		<u>4,755,000</u>
CEP & RI Acct . . . . .	\$	390,000
For Dev Acct . . . . .	\$	37,000
Res Mgmt Cost Acct . . . . .	\$	<u>118,000</u>
Subtotal Appropriation . . . . .	\$	<del>((4,274,000))</del>
		<u>5,300,000</u>
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	<u>0</u>
TOTAL . . . . .	\$	<del>((4,274,000))</del>
		<u>5,300,000</u>

(3) For asbestos removal or abatement projects

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The moneys provided in this subsection shall be allocated to agencies and institutions of the state for asbestos removal or abatement projects.

~~((e))~~ (b) Moneys may be allocated for an asbestos removal or abatement project only to the extent that the project is necessary to eliminate or reduce a hazard to human health and the project is completed in compliance with asbestos project standards adopted by the department of general administration. The department of general administration shall adopt standards to restrict the amount of asbestos removal to the minimum amount necessary.

~~((d))~~ (c) Subsections (3)(b) ~~((and (e)))~~ of this section do not apply to moneys reappropriated in this

act for projects for which, before the effective date of this act, the design has been completed, bids have been requested, or a contract has been entered into.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	4,919,000
CEP & RI Acct . . . . .	\$	25,000
Subtotal Reappropriation . . . .	\$	4,944,000

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	9,588,000
CEP & RI Acct . . . . .	\$	540,000
Subtotal Appropriation . . . . .	\$	10,128,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	14,448,000

- (4) Higher education: Branch campuses site acquisition and development (90-5-002)

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The appropriations in this subsection are provided solely for the acquisition of land and/or construction of facilities for branch campuses recommended by the higher education coordinating board, and shall be allocated to appropriate public institutions of higher education upon approval of the board.

(b) Allocations from the appropriation in this subsection for land acquisition in the Spokane area shall be subject to the provisions of chapter 205, Laws of 1991 (House Bill No. 2198) and approval by the higher education coordinating board.

(c) No facility may be constructed on the Spokane riverfront property, other than the Spokane Intercollegiate Research and Technology Institute (SIRTI) building, until a master plan for facilities that incorporates the SIRTI building and provides for maximum joint use of facilities, is completed by the joint center board and approved by the higher education coordinating board.

~~((e))~~ (d) Any allocations made from the appropriation in this subsection for construction projects costing more than \$4,000,000 shall not be expended on design documents or construction until project preplanning documents have been reviewed and approved by

the office of financial management under section 59  
 ((of this act)), chapter 14, Laws of 1991 sp.s.

**Reappropriation:**

St Bldg Constr Acct ..... \$ 31,301,667

**Appropriation:**

St Bldg Constr Acct ..... \$ 31,000,000

Prior Biennia (Expenditures) ..... \$ 0

Future Biennia (Projected Costs) ..... \$ 109,000,000

TOTAL ..... \$ 171,301,667

- (5) Capital plan improvements: To develop state-wide capital cost standards, planning guidelines and policies, and internal rent strategies

The appropriation in this subsection is subject to the following conditions and limitations: The office of financial management shall establish state-wide guidelines to minimize funding of state agency staffing and overhead costs from capital budget appropriations. The guidelines shall provide for uniform agency reporting of staffing and overhead costs charged to capital funds and accounts, including engineering and architectural services provided through the department of general administration. The office of financial management shall report to the fiscal committees of the legislature by January 1, 1993, on the guidelines established pursuant to this subsection.

**Appropriation:**

St Bldg Constr Acct ..... \$ 282,000

Prior Biennia (Expenditures) ..... \$ 0

Future Biennia (Projected Costs) ..... \$ 0

TOTAL ..... \$ 282,000

Sec. 3. 1991 sp.s. c 14 s 7 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

- (1) Life and safety projects: To improve life and safety deficiencies and correct code violations on the capitol campus (88-1-006)

**Reappropriation:**

Cap Bldg Constr Acct ..... \$ 23,000

Prior Biennia (Expenditures) ..... \$ 90,000

Future Biennia (Projected Costs) ..... \$ 0

TOTAL ..... \$ 113,000

- (2) Minor works: To complete minor works and other projects, including inadequate building systems (88-2-008), Northern State facility repairs (90-1-012), boiler plant structural repairs (90-1-016), building exterior repairs (90-2-006), mechanical system repairs (90-2-009), and building interior repairs (90-2-010)

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	2,621,000
Prior Biennia (Expenditures) . . . . .	\$	6,178,000
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>8,799,000</b>

- (3) Capitol Campus minor works: To complete minor works and other projects on the Capitol Campus, including boiler plant structural repairs (88-1-003), sidewalk and street repairs (90-2-005), building exterior repairs (90-2-006), and Capitol Lake shoreline repairs (90-3-013)

**Reappropriation:**

Cap Bldg Constr Acct . . . . .	\$	1,278,000
Prior Biennia (Expenditures) . . . . .	\$	1,587,000
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>2,865,000</b>

- (4) Burien criminal justice training center: To complete renovations to the Burien criminal justice training center (90-3-025)

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	5,000,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>5,000,000</b>

- (5) Natural Resources Building: To complete construction of the Natural Resources Building (90-5-003)

**Reappropriation:**

East Cap Constr Acct . . . . .	\$	45,400,000
Prior Biennia (Expenditures) . . . . .	\$	27,600,000
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>73,000,000</b>

- (6) Remodel of the John A. Cherberg Building (88-2-040)

The reappropriation in this subsection is subject to the following conditions and limitations: The project shall include review and development of program requirements for current and future facilities needs,

including furnishings and equipment, for the Washington State Senate whose offices are currently located in the Institutions, Legislative, and John A. Cherberg Buildings. The project shall also include review and redesign, as necessary, of the proposed John A. Cherberg Building remodel, including construction and the acquisition of all furnishings and equipment required.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	3,000,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>3,000,000</b>

- (7) Northern State Multi-Service Center: To complete the design for and to construct a sixteen-bed evaluation and treatment facility at the Northern State Multi-Service Center to provide care for the mentally ill consistent with chapter 71.24 RCW (90-5-027)

The reappropriation in this subsection is subject to the following conditions and limitations:

(a) No moneys from this reappropriation may be expended for construction until the department secures a lease with a county or a group of counties for use of the facility. The lease shall provide for payment to the department for all operations and management costs associated with the facility and a space rental charge. In establishing the space rental charge, the department shall consider fair market rent or lease rates charged for comparable facilities used by regional support networks.

(b) No moneys from this reappropriation may be expended for ~~((furnishings or))~~ equipment with a useful life expectancy of less than twenty years.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	1,700,000
Prior Biennia (Expenditures) . . . . .	\$	50,000
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>1,750,000</b>

- (8) Olympia Archives Storage Building: To complete design and construction of the archives storage building at Olympia Airdustrial Park (90-4-024)

**Reappropriation:**

St Bldg Constr Acct .....	\$ 1,800,000
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**Appropriation:**

St Bldg Constr Acct .....	\$ 671,000
Prior Biennia (Expenditures) .....	\$ 215,000
Future Biennia (Projected Costs) .....	\$ 0
TOTAL .....	\$ 2,686,000

- (9) Small and emergency repairs: For unexpected small and emergency repairs on the Capitol Campus, and at other general administration facilities throughout the state (92-1-001) (92-2-002)

**Appropriation:**

Cap Bldg Constr Acct .....	\$ 645,000
St Bldg Constr Acct .....	\$ 261,000
Subtotal Appropriation .....	\$ 906,000
Prior Biennia (Expenditures) .....	\$ 0
Future Biennia (Projected Costs) .....	\$ 2,571,000
TOTAL .....	\$ 3,477,000

- (10) Underground storage tanks: To remove and replace underground storage tanks on the Capitol Campus and at the Northern State multi-service center (92-1-005)

The appropriation in this subsection may be expended only after compliance with section 6(2) (~~of this act~~), chapter 14, Laws of 1991 sp.s.

**Appropriation:**

St Bldg Constr Acct .....	\$ 140,000
Prior Biennia (Expenditures) .....	\$ 0
Future Biennia (Projected Costs) .....	\$ 1,371,000
TOTAL .....	\$ 1,511,000

- (11) Highway-Licenses Building: To complete the design for and to renovate the Highway-Licenses Building on the Capitol Campus (88-5-011) (92-2-003)

The new appropriation in this subsection is subject to the following conditions and limitations:

- (a) No moneys may be spent for construction until the department of general administration develops a space rental charge to be assessed to agencies occupying the building being renovated with this appropriation. The space rental charge shall be sufficient to

fully reimburse the annual debt service costs of the new appropriation in this subsection, and shall be assessed until the department has developed and implemented space rental charges for facilities owned by the department on a state-wide basis.

(b) No moneys may be spent until preplanning documents have been reviewed and approved by the office of financial management under section 59 (~~of this act~~), chapter 14, Laws of 1991 sp.s.

(c) \$133,000 is provided solely to plan for and manage the temporary relocation and housing of tenants of the building renovated with this appropriation.

**Reappropriation:**

Cap Purch & Dev Acct . . . . .	\$	150,000
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**Appropriation:**

St Bldg Constr Acct . . . . .	\$	22,438,000
Prior Biennia (Expenditures) . . . . .	\$	350,000
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>22,938,000</b>

- (12) General Administration Building: To preplan renovation of the General Administration Building (92-2-005)

The appropriation in this subsection shall not be expended for design documents until the project predesign documents have been reviewed and approved by the office of financial management under section 33 of this act.

**Appropriation:**

Cap Bldg Constr Acct . . . . .	\$	1,200,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	22,101,000
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>23,301,000</b>

- (13) Minor works preplanning: To develop preplans and studies of minor works projects on the Capitol Campus (92-2-026)

**Appropriation:**

Cap Bldg Constr Acct . . . . .	\$	750,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>750,000</b>

- (14) Capitol Lake: To develop a dredging plan and dredge Capitol Lake, to repair lake dam gates, and to repair shoreline areas damaged by erosion (92-2-015) (92-3-019)

\$200,000 of the appropriation in this subsection is provided solely to develop a management plan and to implement projects to reduce sedimentation and other pollution in the Deschutes river watershed. Eligible projects shall include, but are not limited to, stream corridor conservation, bank stabilization, agricultural soil conservation, silvicultural soil conservation, and sedimentation and pollution monitoring. When implementing this subsection, the department shall coordinate with the departments of natural resources, ecology, fisheries, wildlife, and transportation, and with affected local governments and Indian tribes.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	3,125,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	3,125,000

- (15) Minor works: For minor works, repair, and improvement projects on the Capitol Campus and at other facilities owned by the department, including campus high voltage loop improvements, plaza garage elevator repairs, Capitol Campus control system improvements, Governor's Mansion structural repairs, utilities and grounds improvements, interior and exterior building repairs, ~~((and))~~ building mechanical and electrical system improvements, employment security building elevator renovations, and heating, ventilation, and electrical repairs to the Legislative Building (92-2-008) (92-2-009) (92-2-013) (92-2-014) (92-2-016) (92-2-017) (92-2-018) (92-2-020) (92-2-024) (94-2-014)

**Appropriation:**

Cap Bldg Constr Acct . . . . .	\$ ((7,889,000))	
		<u>4,467,000</u>
St Bldg Constr Acct . . . . .	\$ ((2,595,000))	
		<u>6,567,000</u>
Subtotal Appropriation . . . . .	\$ ((10,484,000))	
		<u>11,034,000</u>
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	<u>13,188,000</u>
TOTAL . . . . .	\$ ((23,672,000))	
		<u>24,222,000</u>

- (16) Northern State facility repairs: To repair the boiler and steam distribution system, trim trees, and repair roofing at the Northern State multi-service center (92-2-021)

**Appropriation:**

CEP & RI Acct . . . . .	\$	280,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	<u>1,278,000</u>
TOTAL . . . . .	\$	1,558,000

- (17) State facilities planning: To develop designs and plans to accommodate agency housing needs in Thurston county (92-5-100) (92-5-101) (92-5-108) (92-5-102)

Of the appropriation in this subsection:

(a) \$750,000 is provided (~~solely~~) to develop master plans for satellite campuses to be located in the cities of Lacey and Tumwater, and a facility plan, developed in consultation with the city of Olympia, which includes mixed use in the downtown Olympia area. The plans shall provide for the siting of consumer services within walking distance of the major areas of concentration of state employees;

(b) \$300,000 is provided (~~solely~~) to develop a facility implementation strategy for Thurston county. The implementation strategy shall include, but not be limited to, identification of agency space requirements and opportunities for co-location with other agencies, and an organizational process for developing specific project proposals and establishing implementation timelines;

(c) \$250,000 is provided (~~solely~~) to develop a master plan for light industrial facility needs in Thurston county; and

(d) \$200,000 is provided (~~solely~~) for a geotechnical and hydrological survey of the Capitol Campus.

The (~~master~~) plans and implementation strategy developed under this subsection shall incorporate transportation management and housing density principles designed to reduce commuter congestion and reliance on single-occupancy automobiles.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	1,500,000
Prior Biennia (Expenditures) . . . . .	\$	500,000
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	2,000,000

- (18) Thurston county landbank: To purchase(~~option, or otherwise control~~) in fee simple, or acquire purchase options on, real property adjacent to, or in close proximity to, the department of ecology headquarters building in the city of Lacey or the department of labor and industries headquarters building in the city of Tumwater for future state facilities (92-5-000)

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	8,000,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	8,000,000

- (19) Heritage Park: To acquire property and begin planning for a park between the Capitol Campus and Budd Inlet (92-5-105)

The appropriation in this subsection may not be spent to acquire the property parcel located in Olympia south of Seventh Avenue and approximately two and seven-tenths acres in size if such property parcel is sold to a party other than the state after January 1, 1991, and the state's acquisition price is substantially greater than the acquisition price paid by the other party.

The department shall report to the fiscal committees of the house of representatives and the senate by December 15, 1991, on the status of property acquisitions and plans for the park. The report shall also

describe the status of any projects being developed by local governments or other state agencies that affect the design or development of the park. Any expenditure made under this appropriation shall conform to the capital campus master plan.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	6,700,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	13,800,000
TOTAL . . . . .	\$	20,500,000

- (20) Condition assessment: To develop a prototype condition assessment methodology, assess the condition of facilities owned by the department of general administration, and prepare a facility maintenance strategy that emphasizes preventative maintenance (92-2-007)

The appropriations in this subsection may not be spent until a detailed scope of work consistent with the recommendations of the capital forum has been reviewed and approved by the office of financial management.

**Appropriation:**

Cap Bldg Constr Acct . . . . .	\$	591,000
St Bldg Constr Acct . . . . .	\$	500,000
Subtotal Appropriation . . . . .	\$	1,091,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	1,091,000

- (21) Ventilation system repair: John L. O'Brien Building

To replace existing heating, ventilation, and air conditioning system

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	650,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	650,000

- (22) Office Building #2 air handling system: To upgrade the air supply system by rebuilding the existing system, changing the emergency diesel exhaust system and investigating energy savings to reduce operating and maintenance costs (93-2-025)

**Appropriation:**

<u>St Bldg Constr Acct</u> . . . . .	\$	<u>1,000,000</u>
<u>Prior Biennia (Expenditures)</u> . . . . .	\$	<u>0</u>
<u>Future Biennia (Projected Costs)</u> . . . . .	\$	<u>0</u>
<u>TOTAL</u> . . . . .	\$	<u>1,000,000</u>

(23) Puyallup land acquisition: To reimburse the city of Puyallup for storm drainage improvements to land purchased by the state for a Pierce College extension (88-3-031)

**Appropriation:**

<u>St Bldg Constr Acct</u> . . . . .	\$	<u>221,000</u>
<u>Prior Biennia (Expenditures)</u> . . . . .	\$	<u>0</u>
<u>Future Biennia (Projected Costs)</u> . . . . .	\$	<u>0</u>
<u>TOTAL</u> . . . . .	\$	<u>221,000</u>

(24) Library for the Blind and Physically Handicapped: To acquire and begin renovating, or to acquire a purchase option on, space for the Washington library for the blind and physically handicapped (92-5-001)

The appropriation in this subsection is subject to the following conditions and limitations:

(a) The facility acquired with this appropriation shall be operated, managed, and maintained by the Seattle public library; and

(b) The office of financial management, in consultation with the department of general administration, the Washington state library, and the Seattle public library, shall: (i) Study the benefits and costs associated with Seattle public library ownership compared to state ownership of the library facility; and (ii) develop contractual conditions for any potential transfer of ownership of the library facility to the Seattle public library. Based on the results of the study in this subsection, and after notifying the appropriate fiscal committees of the legislature, the office of financial management may authorize the transfer of ownership of the library facility from the department of general administration to the Seattle public library.

**Appropriation:**

<u>St Bldg Constr Acct</u> . . . . .	\$	<u>1,900,000</u>
<u>Prior Biennia (Expenditures)</u> . . . . .	\$	<u>0</u>
<u>Future Biennia (Projected Costs)</u> . . . . .	\$	<u>1,400,000</u>
<u>TOTAL</u> . . . . .	\$	<u>3,300,000</u>

(25) Co-location and consolidation of state facilities: To identify the current locations of major concentrations of state facilities in the state and to determine where state facilities can be co-located and consolidated (92-5-004)

The appropriation in this subsection is subject to the following conditions and limitations:

(a) The department shall prepare policy recommendations and cost estimates for opportunities to co-locate and consolidate state facilities, including a comparison of the benefits and costs of purchasing or leasing such facilities and an analysis of private sector impacts; and

(b) The appropriation shall not be spent until a detailed scope of work has been reviewed and approved by the office of financial management.

**Appropriation:**

<u>St Bldg Constr Acct</u> . . . . .	\$	<u>225,000</u>
<u>Prior Biennia (Expenditures)</u> . . . . .	\$	<u>0</u>
<u>Future Biennia (Projected Costs)</u> . . . . .	\$	<u>0</u>
<b><u>TOTAL</u></b> . . . . .	<b>\$</b>	<b><u>225,000</u></b>

(26) Land acquisition: To purchase in fee simple, or acquire purchase options on, real property for a data center and office building for the department of information services

The appropriation in this subsection is subject to the following conditions and limitations: The real property acquisition under this subsection shall be in conformance with the capitol campus master plan, as recommended by the capitol campus design advisory committee and approved by the state capitol committee.

**Appropriation:**

<u>Data Processing Bldg Constr Acct</u> \$	<u>2,100,000</u>
<u>Prior Biennia (Expenditures)</u> . . . . .	\$ <u>0</u>
<u>Future Biennia (Projected Costs)</u> . . . . .	\$ <u>0</u>
<b><u>TOTAL</u></b> . . . . .	<b>\$ <u>2,100,000</u></b>

**NEW SECTION. Sec. 4.** A new section is added to chapter 14, Laws of 1991 sp.s. to read as follows:

**FOR THE DEPARTMENT OF INFORMATION SERVICES**

(1) Data center and office building: To plan for and design a new data center and office building (93-2-001)

The appropriation in this subsection shall not be expended for building design until:

(a) The site has been recommended by the capitol campus design advisory committee and approved by the state capitol committee; and

(b) The project predesign documents have been reviewed and approved by the office of financial management under section 33 of this act. During the review and approval of predesign and design documents for this project, the office of financial management shall ensure that the sizing and design of the data center minimizes construction costs, provides for flexible facility use, and is consistent with the state's long-term requirements for centralized mainframe-based computing.

**Appropriation:**

<b>Data Processing Bldg Constr Acct</b>	<b>\$</b>	<b>1,184,000</b>
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>58,400,000</u>
<b>TOTAL</b>	<b>\$</b>	<b>59,584,000</b>

**PART 2  
HUMAN SERVICES**

**Sec. 5.** 1991 sp.s. c 14 s 10 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT**

For the purposes of this section, "capital cost" means land acquisition and project design and construction. All projects funded in this section, except those under subsection (5) of this section, shall comply with section 54 (~~of this act~~), chapter 14, Laws of 1991 sp.s.

- (1) Development loan fund (88-2-002)

The appropriation in this subsection shall be used for loans in timber-dependent communities as defined in Engrossed Substitute House Bill No. 1341.

**Appropriation:**

<b>WA St Dev Loan Acct</b>	<b>\$</b>	<b>2,000,000</b>
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>0</u>
<b>TOTAL</b>	<b>\$</b>	<b>2,000,000</b>

- (2) Grays Harbor dredging (88-3-006)

The appropriation in this subsection is subject to the following conditions and limitations:

(a) The appropriation is provided solely for the state's share of costs for Grays Harbor dredging, dike construction, bridge relocation, and related expenses.

(b) Expenditure of moneys from this appropriation is contingent on the authorization of \$40,000,000 and an initial appropriation of at least \$13,000,000 from the United States army corps of engineers and the authorization of at least \$10,000,000 from the local government for the project. Up to \$3,500,000 of the local government contribution for the first year on the project may be composed of property, easements, rent adjustments, and other expenditures specifically for the purposes of this appropriation if approved by the army corps of engineers. State funds shall be disbursed at a rate not to exceed one dollar for every four dollars of federal funds expended by the army corps of engineers and one dollar from other nonstate sources.

(c) Expenditure of moneys from this appropriation is contingent on a cost-sharing arrangement and the execution of a local cooperation agreement between the Port of Grays Harbor and the army corps of engineers pursuant to Public Law 99-662, the federal water resources development act of 1986, whereby the corps of engineers will construct the project as authorized by that federal act.

(d) The Port of Grays Harbor shall make the best possible effort to acquire additional project funding from nonstate public grants and/or other governmental sources other than those in (b) of this subsection. Any money, up to \$10,000,000 provided from such sources other than those in (b) of this subsection, shall be used to reimburse or replace state building construction account money. In the event the project cost is reduced, any resulting reduction or reimbursement of nonfederal costs realized by the Port of Grays Harbor shall be shared proportionally with the state.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	6,840,318
Prior Biennia (Expenditures) . . . . .	\$	3,159,682
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	10,000,000

- (3) Housing capital programs: To construct, acquire, and rehabilitate low-income housing (88-5-015)

The appropriation in this subsection is subject to the following conditions and limitations:

(a) \$8,000,000 is provided solely for the affordable housing program. The department may not approve a request for assistance under this subsection for projects located in cities and counties that do not have an affordable housing needs assessment approved by the department. The department shall by rule establish the content of the affordable housing needs assessment and criteria for the approval of the affordable housing needs assessment.

(b) \$8,000,000 is provided solely for the low-income weatherization program under chapter 70.164 RCW.

(c) \$34,000,000 is provided solely for the housing assistance program. Effective July 1, 1992, the department may not approve loan or grant requests for projects under this subsection that are inconsistent with the city's or county's and state's comprehensive housing affordability strategy, as required under Title I, section 105, of the National Affordable Housing Act of 1990.

(d) The Washington housing trust fund appropriation is provided solely for the department to contract with the University of Washington college of architecture for: (i) A study of regulatory impediments to affordable housing; (ii) a study on various innovative design techniques that can be used to increase housing density; (iii) a recommendation to the legislature for a new building code and associated regulations that will substantially reduce the cost of housing. No indirect costs of the contracting agent may be paid from this appropriation.

**Reappropriation:**

St Bldg Constr Acct . . . . . \$ 10,000,000

**Appropriation:**

St Bldg Constr Acct . . . . . \$ 50,000,000

Washington Housing Trust Fund . \$ 150,000

Subtotal Appropriation . . . . . \$ 50,149,500

Prior Biennia (Expenditures) . . . . . \$ 8,000,000

Future Biennia (Projected Costs) . . . . . \$ 100,000,000

TOTAL . . . . . \$ 168,149,500

(4) Columbia county courthouse (89-4-004)

The appropriations in this subsection are provided solely to repair and restore the Columbia county courthouse and shall be matched by at least \$100,000 in private donations and local funds from Columbia county.

**Reappropriation:**

St Bldg Constr Acct ..... \$ 600,000

**Appropriation:**

St Bldg Constr Acct ..... \$ 60,000

Prior Biennia (Expenditures) ..... \$ 0

Future Biennia (Projected Costs) ..... \$ 0

TOTAL ..... \$ 660,000

(5) Public works trust fund (90-2-001)

The appropriation in this subsection is subject to the following conditions and limitations:

(a) \$7,000,000 of the appropriation ((in this subsection)) is provided solely for the purposes of chapter 314, Laws of 1991, (Engrossed Substitute House Bill No. 1341, timber-dependent communities); and

(b) \$150,000 of the appropriation is provided solely for the department to conduct a study of local government public works needs. The department shall coordinate this study with the complementary needs assessments on water quality and drinking water being conducted by the departments of health and ecology. The department shall report the findings of the study to the house of representatives capital facilities and financing committee and senate ways and means committee by January 1, 1993.

**Reappropriation:**

Public Works Assist ..... \$ 85,734,000

**Appropriation:**

Public Works Assist ..... \$ ((88,491,000))  
88,641,000

Prior Biennia (Expenditures) ..... \$ 54,534,447

Future Biennia (Projected Costs) ..... \$ 231,877,000

TOTAL ..... \$ ((460,636,447))  
460,786,447

- (6) Seventh Street Hoquiam Theatre (90-2-008)

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	250,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>250,000</b>

- (7) Tall ships tourist attraction: To design and construct a tall ship tourist attraction

The reappropriation in this subsection is subject to the following conditions and limitations:

(a) The reappropriation is provided solely to contract with the Grays Harbor Historical Seaport Authority to design and construct a tall ship tourist attraction.

(b) The reappropriation shall be matched by at least \$513,105 from nonstate sources provided solely for capital costs of the project. The match may include cash and in-kind contributions, but may not include cash or in-kind contributions used to match other state monies provided to the Grays Harbor Historical Seaport Authority.

(c) The department shall ensure that the state's interest is protected by requiring that if the tall ship tourist attraction is sold or its use is changed, the Grays Harbor Historical Seaport Authority shall return to the state of Washington an amount equal to the state's total contribution to the project.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	513,105
Prior Biennia (Expenditures) . . . . .	\$	486,895
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>1,000,000</b>

- (8) Port of Klickitat dredge spoils: For site preparation and transport and deposit of Columbia river dredge spoils (90-2-013)

The reappropriation in this subsection is subject to the following conditions and limitations:

(a) The port of Klickitat shall sign an agreement to repay the reappropriation plus simple interest at three percent in eight annual installments beginning July 1, 1993; and

(b) Expenditure of money from this reappropriation is contingent on at least \$300,000 from port district funds being provided for the project.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	250,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	250,000

(9) Historic community theaters (90-5-014)

The reappropriation in this subsection is provided solely for grants to preserve historic community theatres. No portion of the reappropriation in this subsection may be spent unless an equal amount from nonstate sources is provided for the same purposes. No more than \$50,000 of the reappropriation shall be expended for renovation of the Admiral Theatre in west Seattle.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	250,000
Prior Biennia (Expenditures) . . . . .	\$	250,000
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	500,000

(10) Emergency management building minor works (92-2-009)

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	180,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	180,000

(11) Columbia river dredging: For completing a study on the feasibility of deepening the navigation channel from Astoria to Vancouver (92-5-006)

Expenditure of this appropriation is contingent on \$1,200,000 from the federal government and \$600,000 from the state of Oregon being appropriated for the same purpose.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	600,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	600,000

- (12) Building for the arts: For grants to local performing arts and art museum organizations for facility improvements or additions (92-5-100)

The appropriation in this subsection is subject to the following conditions and limitations:

(a) Grants are limited to the following projects:

	Estimated Total Capital Cost	State Grant	State Portion
Seattle Children's Theatre	\$ 8,000,000	\$ 1,200,000	15%
Admiral Theatre (Bremerton)	\$ 4,261,000	\$ 639,000	15%
Spokane Symphony	\$ 1,500,000	\$ 225,000	15%
Pacific Northwest Ballet	\$ 7,500,000	\$ 1,125,000	15%
Seattle Symphony	\$ 54,000,000	\$ 8,100,000	15%
Seattle Repertory Theatre	\$ 4,000,000	\$ 600,000	15%
Intiman Theatre	\$ 800,000	\$ 120,000	15%
Broadway Theatre District (Tacoma)	<del>(\$ 8,400,000)</del>	<del>\$ 1,260,000</del>	15%
	<u>\$ 11,800,000</u>	<u>\$ 1,770,000</u>	
Allied Arts of Yakima	\$ 500,000	\$ 75,000	15%
Spokane Art School	\$ 454,000	\$ 68,000	15%
Seattle Art Museum	<u>\$ 4,862,500</u>	<u>\$ 729,000</u>	15%
Total	<del>\$ (94,277,500)</del>	<del>\$ 14,141,000</del>	
	<u>97,677,500</u>	<u>\$ 14,651,000</u>	

(b) The state grant may provide no more than fifteen percent of the estimated total capital cost or actual total capital cost of the project, whichever is less. The remaining portions of project capital costs shall be a match from nonstate sources. The match may include cash and land value.

(c) State funding shall be distributed to projects in the order in which matching requirements have been met.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$ <del>(10,738,900)</del>
	<u>11,248,900</u>
Prior Biennia (Expenditures) . . . . .	\$ 0
Future Biennia (Projected Costs) . . . . .	\$ 3,402,100
TOTAL . . . . .	\$ <del>((14,141,000))</del>
	<u>14,651,000</u>

- (13) Columbia Gorge interpretive center: For construction of a facility in Stevenson with exhibits, classrooms, and a research library (92-5-101)

The appropriation in this subsection shall be matched by at least \$5,000,000 from nonstate sources provided for capital costs of the project. The match may include cash, land value, and other in-kind contributions.

**Appropriation:**

St Bldg Constr Acct .....	\$	5,000,000
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) .....	\$	0
TOTAL .....	\$	5,000,000

- (14) Seattle Center redevelopment: For upgrading the Coliseum (including engineering and other studies to determine renovation alternatives for the Coliseum), the International Fountain mall, Memorial Stadium, the Center House, the Pacific Arts Center, the Opera House, and central plant; converting the northwest rooms to a conference and exhibit facility; adding parking; renovating and developing open space areas; making improvements to mechanical, electrical, and other high-priority building systems; and making general improvements to the site, including but not limited to signs, fountains, portable stages, and fencing

The appropriation in this subsection shall be matched by moneys from nonstate sources sufficient to pay at least seventy-five percent of the total capital costs of these projects.

**Appropriation:**

St Bldg Constr Acct .....	\$	8,500,000
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) .....	\$	0
TOTAL .....	\$	8,500,000

- (15) Spokane Food Bank: For construction of a freezer/cooler

**Appropriation:**

St Bldg Constr Acct .....	\$	125,000
Prior Biennia (Expenditures) .....	\$	150,000
Future Biennia (Projected Costs) .....	\$	0
TOTAL .....	\$	275,000

- (16) Carolyn Downs Family Medical Center: To construct a new medical facility on the Odessa Brown Children's Clinic campus

The appropriation in this subsection shall be matched by at least \$2,050,000 provided from nonstate sources for capital costs of this project.

**Appropriation:**

St Bldg Constr Acct .....	\$	500,000
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) .....	\$	0
TOTAL .....	\$	500,000

- (17) Nordic Heritage Museum: For building acquisition and improvements (90-2-007)

The reappropriation in this section is contingent on the expenditure for the same purpose of at least two dollars from nonstate sources for each dollar spent from this reappropriation.

**Reappropriation:**

St Bldg Constr Acct .....	\$	200,000
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) .....	\$	0
TOTAL .....	\$	200,000

- (18) Thorp Grist Mill: Restoration (90-5-010)

The reappropriation in this section is contingent on the expenditure for the same purpose of at least two dollars from nonstate sources for each dollar spent from this reappropriation.

**Reappropriation:**

St Bldg Constr Acct .....	\$	10,000
Prior Biennia (Expenditures) .....	\$	20,000
Future Biennia (Projected Costs) .....	\$	0
TOTAL .....	\$	30,000

- (19) Bremerton naval heritage redevelopment project

The reappropriation in this section is subject to the following conditions and limitations:

(a) This reappropriation is provided solely for capital improvements to the naval destroyer U.S.S. Turner Joy, in conjunction with the Bremerton naval heritage redevelopment project.

(b) No portion of this reappropriation may be expended unless an equal amount from nonstate and nonfederal sources is expended for the same purpose.

(c) Prior to the expenditure of this reappropriation, the recipient of the grant shall prepare and submit to the director of community development, for the director's

approval, a financial plan that identifies the revenue sources for the completion of the project and for the long-term operation of the project.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	190,000
Prior Biennia (Expenditures) . . . . .	\$	66,000
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>256,000</b>

(20) Marine science center construction

The reappropriation in this section is subject to the following conditions and limitations:

(a) This reappropriation is provided solely for a grant to the city of Poulsbo for construction of a marine science center to be operated by educational service district no. 114.

(b) Expenditure of this reappropriation is contingent on site acquisition and at least \$300,000 of construction costs contributed from nonstate sources.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	498,000
Prior Biennia (Expenditures) . . . . .	\$	2,500
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>500,000</b>

(21) A Contemporary Theater (90-1-006)

The reappropriation in this section is subject to the following conditions and limitations:

(a) This reappropriation is provided solely for the construction of a new theater in Seattle.

(b) No portion of this reappropriation may be expended unless at least \$9,000,000 from nonstate sources, including the value of land, is provided for the same purpose.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	1,000,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>1,000,000</b>

(22) Liberty Theater: To restore and rehabilitate Liberty Theater in Walla Walla

The reappropriation in this section is subject to the following conditions and limitations:

(a) Expenditure of moneys from this reappropriation is contingent on the expenditure for the same purpose of at least one dollar from nonstate sources, including in-kind contributions, for each four dollars spent from this reappropriation.

(b) The reappropriation is provided solely for a grant to a nonprofit corporation for rehabilitation and restoration of the historic Liberty Theater building in Walla Walla.

(c) The owner of the building shall grant to the state an historic preservation easement prior to the expenditure of any funds from this reappropriation.

(d) The nonprofit corporation shall submit to the director of community development, for the director's approval, a financial plan for the long-term operation of the building.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	200,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	200,000

- (23) Yakima county: For construction and expansion of jail facilities in Yakima county

The reappropriation in this subsection may not exceed eighty percent of the total capital cost of the project. The remaining portion of project capital costs shall be a match from nonstate sources.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	2,400,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	2,400,000

- (24) Resource Center for the Handicapped: To acquire ~~((the building))~~ and improve the facilities in which the center currently operates

The appropriation in this subsection is subject to the following conditions and limitations:

~~(((a) The appropriation may be used only to purchase the facility declared surplus by the Shoreline school district in which the center operates a program as of the effective date of this section; and~~

(b)) No expenditure shall be made until an equal amount of ~~((private, nongovernmental))~~ nonstate moneys dedicated to the purchase of the facility have been raised. The matching money may include lease-purchase payments made by the center prior to the effective date of this section.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	((1,500,000))
		<u>1,200,000</u>
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	<u>0</u>
TOTAL . . . . .	\$	((1,500,000))
		<u>1,200,000</u>

- (25) Columbia river waterfront: Planning and coordinating existing and future land use, park, transportation, historical, and utility improvements along the shoreline of the Columbia river between the flushing channel and the Interstate 205 bridge

The appropriation in this subsection shall be matched by at least \$100,000 from nonstate sources provided for the same purpose.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	100,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	<u>0</u>
TOTAL . . . . .	\$	100,000

- (26) Asian Resource Center: To construct an Asian Resource Center in Seattle

This appropriation shall be matched by at least \$600,000 in cash provided from nonstate sources.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	150,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	<u>0</u>
TOTAL . . . . .	\$	150,000

- (27) Pike Place Market: For a grant to the city of Seattle (the "city") for the Pike Place Market preservation and development authority (the "authority") to acquire the interests of what is known as the urban group partnerships (the "partnerships") in eleven properties located in the Pike Place Market historical district (the "district")

(a) No portion of the appropriation in this subsection may be expended until the ~~((city))~~ authority certifies to the department that:

(i) The settlement proposal agreement dated June 6, 1991, concerning the properties in the district is confirmed, including but not limited to provisions that:

(A) The partnerships will receive not more than a total of \$2,250,000 under the agreement;

(B) All rights, clear title, and interest in the market property will be relinquished by the partnerships and conveyed to the authority; and

(C) All pending litigation and related disputes will be dismissed with prejudice or otherwise finally resolved;

~~(ii) ((The city has amended the authority's charter to preclude any future sales of interests in authority properties in the district that could result in loss of authority management responsibilities;~~

~~((iii)))~~ The authority has executed and recorded a conservation easement, which has been approved by the department, providing protection for the character-defining features of the district. The term of the easement shall extend until the year 2012 or until the bonds sold to provide for this appropriation are retired, whichever is later. The easement shall inure to the benefit of the state.

(b) No portion of the appropriation in this subsection may be expended until:

(i) The authority has executed an agreement with the department on behalf of the state to preclude any future sales of interest in the authority properties in the district that could result in loss of authority management responsibilities, except for reasonable encumbrances necessary for market-related purposes such as (A) repair, renovation, rehabilitation, or improvement of Pike Place Market historical district properties; (B) furthering a public market purpose as defined in the authority charter, the Pike Place Market historical district ordinance, the Pike Place Market urban renewal plan, or other applicable Seattle or state law; (C) fulfilling a requirement of federal, state, or city law; or (D) such other market-related purpose, as approved by the mayor. Such agreement shall expire when the authority's char-

ter is amended as provided in (b)(ii) of this subsection;  
or

(ii) The city amends the authority's charter to preclude any future sales of the interests in authority properties in the district that could result in loss of authority management responsibilities, except for reasonable encumbrances necessary for market-related purposes such as (A) repair, renovation, rehabilitation, or improvement of Pike Place Market historical district properties; (B) furthering a public market purpose as defined in the authority charter, the Pike Place Market historical district ordinance, the Pike Place Market urban renewal plan, or other applicable Seattle or state law; (C) fulfilling a requirement of federal, state, or city law; or (D) such other market-related purpose, as approved by the mayor. However, should the authority's council or its constituency fail to recommend such amendments to the mayor by June 1, 1992, or if the council and its constituency recommend different amendments, the mayor shall, in his sole discretion, promulgate charter amendments as he deems necessary to fulfill the requirements of this subsection (27)(b)(ii).

(c) The appropriation in this subsection shall be matched by at least \$750,000 provided from nonstate sources for the same purpose as this appropriation.

**Appropriation:**

St Bldg Constr Acct .....	\$	1,500,000
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) .....	\$	0
TOTAL .....	\$	1,500,000

(28) Keyport Naval Undersea Museum: To complete an auditorium in the museum

**Appropriation:**

St Bldg Constr Acct .....	\$	300,000
Prior Biennia (Expenditures) .....	\$	500,000
Future Biennia (Projected Costs) .....	\$	0
TOTAL .....	\$	800,000

- (29) **Marcus Whitman Statue:** To provide a duplicate casting of the official statue of Marcus Whitman and to erect this statue in Walla Walla county

**Appropriation:**

St Bldg Constr Acct	..... \$	53,000
Prior Biennia (Expenditures)	..... \$	0
Future Biennia (Projected Costs)	..... \$	0
<b>TOTAL</b>	..... \$	<b>53,000</b>

- (30) **Mystic Lake flood assistance:** For mitigation of development-induced flooding of the lake

**Appropriation:**

St Bldg Constr Acct	..... \$	53,000
Prior Biennia (Expenditures)	..... \$	0
Future Biennia (Projected Costs)	..... \$	0
<b>TOTAL</b>	..... \$	<b>53,000</b>

- (31) **Maritime Museum:** For exhibit, architecture, and facility planning for a maritime museum on the Seattle waterfront

**Appropriation:**

St Bldg Constr Acct	..... \$	200,000
Prior Biennia (Expenditures)	..... \$	0
Future Biennia (Projected Costs)	..... \$	0
<b>TOTAL</b>	..... \$	<b>200,000</b>

- (32) **Tacoma educational enrichment center**

The appropriation in this subsection shall be matched by a contribution of at least \$2,200,000 provided from the Tacoma school district or other local government entity for capital costs of this project. The appropriation in this subsection is provided to the Tacoma school district for a facility to be operated under contract by the metropolitan park district of Tacoma. No funds may be expended until a facility plan has been jointly approved by the Tacoma school district and the metropolitan park district.

**Appropriation:**

St Bldg Constr Acct	..... \$	2,200,000
Prior Biennia (Expenditures)	..... \$	0
Future Biennia (Projected Costs)	..... \$	0
<b>TOTAL</b>	..... \$	<b>2,200,000</b>

- (33) Meeker Mansion: For acquisition of property adjacent to the Ezra Meeker mansion in Puyallup

The appropriation in this subsection is subject to the following conditions and limitations:

(a) The appropriation shall be matched by at least ~~\$(200,000))~~ 100,000 provided from the Ezra Meeker Historical Society for land acquisition and development.

~~(b) ((None of the appropriation may be spent until the Ezra Meeker Historical Society demonstrates to the satisfaction of the department that it will be able to raise \$200,000 through pledges and contributions.~~

(e)) The department shall consult with the Washington State Historical Society before expending any portion of this appropriation.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	200,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	<u>200,000</u>

- (34) Almira and Coulee-Hartline school districts: To make improvements to the Coulee-Hartline facility needed for a cooperative high school program with the Almira school district

The appropriation in this subsection is subject to the following conditions and limitations:

(a) No moneys may be expended until the boards of directors of the two school districts have provided to the department written confirmation that the moneys will be used solely to upgrade the Hartline facility for the purpose of implementing a cooperative high school district under chapter 28A.340 RCW;

(b) The appropriation shall be matched by at least \$100,000 provided by the Almira and Coulee-Hartline school districts for capital costs of the project.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	240,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	<u>240,000</u>

- (35) Yakima criminal justice facility: For a grant to the city of Yakima for the construction of a new criminal justice facility

The appropriation in this subsection is subject to the following conditions and limitations:

(a) Before receiving the grant, the city shall demonstrate to the satisfaction of the department an ability to complete the construction of the facility and fund its operation.

(b) The grant may not exceed sixty-six percent of the total project capital costs as determined by the department. The remaining portion of project capital costs shall be a match provided from nonstate sources.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	3,000,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	<u>3,000,000</u>

- (36) Bonney Lake Park: For a grant to the city of Bonney Lake for the acquisition and development of such facilities as it deems necessary for a park at Bonney Lake

The appropriation in this subsection shall be matched by at least \$35,000 from nonstate sources provided for the same purpose.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	35,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	<u>35,000</u>

- (37) Snohomish county drainage district number 6: To purchase drainage district number 6 and construct a cross-levee on it, in order to decrease damaging flooding of adjacent lands and to reestablish wetlands

The appropriation in this subsection shall be matched by at least \$585,000 provided from nonstate sources for capital costs of this project.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	350,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	<u>350,000</u>

- (38) Tears of Joy Theatre: For construction of an international puppetry center in Vancouver

The appropriation in this subsection shall be matched by at least \$1,950,000 from nonstate sources provided for capital costs of the project. The match may include cash, land value, and other in-kind contributions.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	1,950,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	1,950,000

- (39) Flood control structures: Repair of damage from November 1990 floods

The appropriation in this subsection is provided solely for the local share of matching funds required for federal assistance to repair flood control structures damaged in the November 1990 floods. Local government jurisdictions in the following counties may receive up to 36.5% of the required local match, or the amount listed below, whichever is less:

Chelan county	\$	48,707
Clallam county		7,954
Grays Harbor county		2,755
Island county		656
Jefferson county		4,647
King county		209,337
Kitsap county		9,737
Kittitas county		30,914
Lewis county		14,802
Mason county		1,732
Pacific county		3,528
Pierce county		65,671
San Juan county		492
Skagit county		416,903
Snohomish county		188,005
Whatcom county		229,160
TOTAL		1,235,000

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	1,235,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	1,235,000

(40) Fire Training Center: For emergency repairs (93-2-001)

Appropriation:

<u>St Bldg Constr Acct</u> . . . . .	\$	<u>50,000</u>
<u>Prior Biennia (Expenditures)</u> . . . . .	\$	<u>0</u>
<u>Future Biennia (Projected Costs)</u> . . . . .	\$	<u>0</u>
<u>TOTAL</u> . . . . .	\$	<u>50,000</u>

(41) Columbia River Renaissance: For a grant to the city of Vancouver to provide public access, park, and trails along the Columbia river

The appropriation in this subsection shall be matched by an equal amount of money from nonstate sources for the same purpose.

Appropriation:

<u>St Bldg Constr Acct</u> . . . . .	\$	<u>1,800,000</u>
<u>Prior Biennia (Expenditures)</u> . . . . .	\$	<u>100,000</u>
<u>Future Biennia (Projected Costs)</u> . . . . .	\$	<u>0</u>
<u>TOTAL</u> . . . . .	\$	<u>1,900,000</u>

(42) Pacific Science Center: For building renovation and repairs and for acquisition and renovation of exhibits

Each dollar expended from the appropriation in this subsection shall be matched by at least three dollars from nonstate sources expended for the same purpose.

Appropriation:

<u>St Bldg Constr Acct</u> . . . . .	\$	<u>1,061,000</u>
<u>Prior Biennia (Expenditures)</u> . . . . .	\$	<u>0</u>
<u>Future Biennia (Projected Costs)</u> . . . . .	\$	<u>0</u>
<u>TOTAL</u> . . . . .	\$	<u>1,061,000</u>

(43) Tri-Cities Trade, Recreation and Agriculture Center

The appropriation in this subsection may be used only for capital development of an arena multi-purpose facility and adjacent recreation space in the city of Pasco. This appropriation shall be matched by at least one million eight hundred thousand dollars provided from nonstate sources.

Appropriation:

<u>St Bldg Constr Acct</u> . . . . .	\$	<u>1,800,000</u>
<u>Prior Biennia (Expenditures)</u> . . . . .	\$	<u>0</u>
<u>Future Biennia (Projected Costs)</u> . . . . .	\$	<u>0</u>
<u>TOTAL</u> . . . . .	\$	<u>1,800,000</u>

(44) Whatcom Museum: For building and exhibit acquisition, repair, and renovation

Expenditures from the appropriation in this subsection shall not exceed fifteen percent of the total estimated capital costs of the project. The remaining portions of the project costs shall be a match from nonstate sources. The match may include cash and land value received after January 1, 1990.

**Appropriation:**

<u>St Bldg Constr Acct</u> .....	\$	<u>300,000</u>
<u>Prior Biennia (Expenditures)</u> .....	\$	<u>0</u>
<u>Future Biennia (Projected Costs)</u> .....	\$	<u>0</u>
<u>TOTAL</u> .....	\$	<u>300,000</u>

(45) Martin Luther King Jr. Memorial: For development of a public park around the memorial in Seattle. Development includes but is not limited to street curbs, sidewalks, lighting, a parking lot, and landscaping

Each dollar expended from the appropriation in this subsection shall be matched by at least one dollar from other sources expended for the same purpose.

**Appropriation:**

<u>St Bldg Constr Acct</u> .....	\$	<u>100,000</u>
<u>Prior Biennia (Expenditures)</u> .....	\$	<u>0</u>
<u>Future Biennia (Projected Costs)</u> .....	\$	<u>0</u>
<u>TOTAL</u> .....	\$	<u>100,000</u>

(46) Challenger Learning Center — Museum of Flight

The appropriation in this subsection is subject to the following conditions and limitations:

(a) The appropriation is provided solely for support of science education at the Challenger learning center at the museum of flight; and

(b) Each dollar expended from the appropriation in this subsection shall be matched by at least one dollar from nonstate sources for the same purpose.

**Appropriation:**

<u>St Bldg Constr Acct</u> .....	\$	<u>800,000</u>
<u>Prior Biennia (Expenditures)</u> .....	\$	<u>0</u>
<u>Future Biennia (Projected Costs)</u> .....	\$	<u>0</u>
<u>TOTAL</u> .....	\$	<u>800,000</u>

(47) Science Hall, Washington State Constitutional Convention site in Walla Walla

The appropriation in this subsection is provided solely for a grant to the Downtown Walla Walla Foundation for facade restoration and preservation of Science Hall, the site of the 1878 constitutional convention. The appropriation in this subsection shall be matched by an equal amount of nonstate moneys.

**Appropriation:**

<u>St Bldg Constr Acct</u> . . . . .	\$	<u>75,000</u>
<u>Prior Biennia (Expenditures)</u> . . . . .	\$	<u>0</u>
<u>Future Biennia (Projected Costs)</u> . . . . .	\$	<u>0</u>
<u>TOTAL</u> . . . . .	\$	<u>75,000</u>

***\*NEW SECTION. Sec. 6. A new section is added to chapter 14, Laws of 1991 sp.s. to read as follows:***

*(1) The department of community development shall issue grants to counties from moneys transferred to the department from the department of ecology under section 12(11) of this act to implement a property owner wetland notification program based on existing or upgraded wetland maps. Counties shall be eligible for these grant funds if they agree to provide notice by mail, either prior to the adoption of regulations adopted pursuant to RCW 36.70A.060 or prior to the final adoption of regulations under RCW 36.70A.120, to property owners that can reasonably be determined by the maps to be affected by the wetland regulations. Adequate notification shall be provided to other interested persons affected by these regulations. Grants shall be issued so as to maximize county participation and notification.*

*(2) The department of community development shall develop, in consultation with county assessors and the department of revenue, recommended guidelines for valuing property affected by development regulations protecting critical areas. The department shall convene a task force including, but not limited to, assessors, property owners, technical experts, and local government officials to develop these guidelines and to provide recommendations for better coordination of land-use information and property tax administration. County assessors are encouraged to use the guidelines in the next property revaluation. \$25,000 of the moneys transferred to the department of community development from the department of ecology under section 12(11) of this act may be used for the purpose of this subsection (2).*

*\*Sec. 6 was vetoed, see message at end of chapter.*

***NEW SECTION. Sec. 7. A new section is added to chapter 14, Laws of 1991 sp.s. to read as follows:***

**FOR THE DEPARTMENT OF LABOR AND INDUSTRIES**

- (1) Child care center: For planning and design of a child care facility for state employees (93-5-005)

The appropriation in this subsection is subject to the following conditions and limitations:

(a) The appropriation shall not be expended until the site has been recommended by the capitol campus design advisory committee and approved by the state capitol committee; and

(b) The operations of the child care facility shall be managed by the state employees who will utilize the facility.

**Appropriation:**

St Bldg Constr Acct .....	\$	70,000
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) .....	\$	830,000
TOTAL .....	\$	900,000

Sec. 8. 1991 sp.s. c 14 s 13 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

- (1) Rainier: Renovate Evergreen Center (79-1-017)

**Reappropriation:**

St Bldg Constr Acct .....	\$	200,000
DSHS Constr Acct .....	\$	119,477
Subtotal Reappropriation ....	\$	319,477
Prior Biennia (Expenditures) .....	\$	4,230,523
Future Biennia (Projected Costs) .....	\$	0
TOTAL .....	\$	4,550,000

- (2) Referendum 37: For handicapped facilities construction pursuant to chapter 43.99C RCW (79-3-001)

\$9,529 of the appropriation may be used by Yakima county for improvements at the Community Center for the Deaf to permit increased service level to handicapped clients. This amount may be expended only if the final application for the project is submitted to the department by December 31, 1991, and approved by March 31, 1992.

**Reappropriation:**

<del>((Hndep Fac Constr Acct .....</del>	<del>\$</del>	<del>253,531))</del>
<u>St Bldg Constr Acct .....</u>	<u>\$</u>	<u>88,556</u>
Prior Biennia (Expenditures) .....	\$	33,371
Future Biennia (Projected Costs) .....	\$	0
TOTAL .....	\$	((286,902))
		<u>121,927</u>

(3)	Child study center: Construct high school on the grounds of Western State Hospital (88-1-318)		
	<b>Reappropriation:</b>		
	St Bldg Constr Acct .....	\$	130,000
	Prior Biennia (Expenditures) .....	\$	0
	Future Biennia (Projected Costs) .....	\$	0
	TOTAL .....	\$	130,000
(4)	Western State Hospital: Sanitary sewer (88-2-400)		
	<b>Reappropriation:</b>		
	St Bldg Constr Acct .....	\$	200,000
	Prior Biennia (Expenditures) .....	\$	2,109,238
	Future Biennia (Projected Costs) .....	\$	0
	TOTAL .....	\$	2,309,238
(5)	Echo Glen: Renovate eleven living units at Echo Glen Children's Center (90-1-210)		
	<b>Reappropriation:</b>		
	St Bldg Constr Acct .....	\$	2,600,000
	Prior Biennia (Expenditures) .....	\$	364,000
	Future Biennia (Projected Costs) .....	\$	0
	TOTAL .....	\$	2,964,000
(6)	Emergency capital repairs (90-1-007)		
	<b>Reappropriation:</b>		
	CEP & RI Acct .....	\$	25,000
	Prior Biennia (Expenditures) .....	\$	444,578
	Future Biennia (Projected Costs) .....	\$	0
	TOTAL .....	\$	469,578
(7)	Western State Hospital: Ward renovations, phase 4 (90-1-312)		
	<b>Reappropriation:</b>		
	St Bldg Constr Acct .....	\$	6,000,000
	Prior Biennia (Expenditures) .....	\$	192,000
	Future Biennia (Projected Costs) .....	\$	0
	TOTAL .....	\$	6,192,000

- (8) Eastern State Hospital: Ward renovations, phase 2  
(90-1-339)

**Reappropriation:**

St Bldg Constr Acct	..... \$	<del>(2,000,000)</del>
		<u>467,784</u>
Prior Biennia (Expenditures)	..... \$	2,510,400
Future Biennia (Projected Costs)	..... \$	<u>0</u>
TOTAL	..... \$	<u>((4,510,400))</u>
		<u>2,978,184</u>

- (9) Minor capital renewal: Utilities and facilities  
(90-2-001), roads and grounds (90-2-002), roofs  
(90-2-003), fire and safety (90-1-004), and hazardous  
substances (90-1-005)

**Reappropriation:**

CEP & RI Acct	..... \$	850,000
St Bldg Constr Acct	..... \$	<u>450,000</u>
Subtotal Reappropriation	.... \$	1,300,000
Prior Biennia (Expenditures)	..... \$	2,633,393
Future Biennia (Projected Costs)	..... \$	<u>0</u>
TOTAL	..... \$	<u>4,733,725</u>

- (10) Small repairs and improvements (90-2-008)

**Reappropriation:**

CEP & RI Acct	..... \$	50,000
Prior Biennia (Expenditures)	..... \$	140,000
Future Biennia (Projected Costs)	..... \$	<u>0</u>
TOTAL	..... \$	<u>190,000</u>

- (11) Minor projects: Bureau of alcohol (90-2-010)

**Reappropriation:**

CEP & RI Acct	..... \$	350,000
Prior Biennia (Expenditures)	..... \$	92,400
Future Biennia (Projected Costs)	..... \$	<u>0</u>
TOTAL	..... \$	<u>442,400</u>

- (12) Minor projects: Juvenile rehabilitation division  
(90-2-020)

**Reappropriation:**

CEP & RI Acct	..... \$	200,000
St Bldg Constr Acct	..... \$	<u>25,000</u>
Subtotal Reappropriation	.... \$	225,000
Prior Biennia (Expenditures)	..... \$	285,781
Future Biennia (Projected Costs)	..... \$	<u>0</u>
TOTAL	..... \$	<u>510,781</u>

- (13) Minor projects: Mental health division (90-2-030) and (90-2-032)

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	200,000
CEP & RI Acct . . . . .	\$	65,000
Subtotal Appropriation . . . . .	\$	265,000
Prior Biennia (Expenditures) . . . . .	\$	460,000
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>725,000</b>

- (14) Snohomish county: Mental health evaluation and treatment facility (90-2-033)

The reappropriation in this subsection is subject to the following conditions and limitations:

(a) The reappropriation is provided solely for a mental health evaluation and treatment facility in Snohomish county.

(b) No moneys from the reappropriation may be expended until the department enters into an agreement with Snohomish county or a group of counties for the facility. The payments under the agreement shall be either at least equal to the facility component of the state average rate-per-patient day paid by the department to community mental health providers for comparable services, or at least equal to the amount of this reappropriation amortized over fifteen years.

(c) No moneys from the reappropriation may be expended before adoption of a plan to provide mental health services through a regional support network as required by chapter 205, Laws of 1989.

(d) Other counties or regions that adopt plans for mental health services as required by chapter 205, Laws of 1989, shall be eligible for application to the state for future evaluation and treatment facility moneys under the same conditions as are provided in subsections (a) and (b) of this subsection, as long as no applicant receives appropriated moneys from state sources exceeding one million dollars.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	800,000
Prior Biennia (Expenditures) . . . . .	\$	200,000
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>1,000,000</b>

- (15) Minor projects: Developmental disabilities division  
(90-2-040)

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	250,000
Prior Biennia (Expenditures) . . . . .	\$	484,222
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	734,222

- (16) Minor capital renewal, mental health (90-2-060)

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	500,000
Prior Biennia (Expenditures) . . . . .	\$	500,000
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	1,000,000

- (17) Child care facilities (90-2-300)

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	350,000
Prior Biennia (Expenditures) . . . . .	\$	250,000
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	600,000

- (18) Eastern State: Electrical distribution system (90-2-345)

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	600,000
Prior Biennia (Expenditures) . . . . .	\$	771,600
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	1,371,600

- (19) Lakeland Village: Steam plant replacement (90-2-425)

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	3,000,000
Prior Biennia (Expenditures) . . . . .	\$	1,063,000
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	4,063,000

- (20) Preplanning (90-4-009)

The new appropriation in this subsection is provided solely for preplanning activities for the Administration Building at Lakeland Village, the security housing and treatment unit at Green Hill, and the vocational educational and administration buildings at Maple Lane.

	<b>Reappropriation:</b>	
	CEP & RI Acct .....	\$ 50,000
	<b>Appropriation:</b>	
	CEP & RI Acct .....	\$ 273,300
	Prior Biennia (Expenditures) .....	\$ 141,400
	Future Biennia (Projected Costs) .....	\$ 0
	TOTAL .....	\$ 464,700
(21)	Maple Lane: To add twenty-four new level 2 security beds (90-5-001)	
	<b>Reappropriation:</b>	
	St Bldg Constr Acct .....	\$ 1,100,000
	Prior Biennia (Expenditures) .....	\$ 156,000
	Future Biennia (Projected Costs) .....	\$ 0
	TOTAL .....	\$ 1,256,000
(22)	Echo Glen: (( <del>Perimeter fence</del> )) <u>Security improvements</u> (90-5-002)	
	<b>Reappropriation:</b>	
	St Bldg Constr Acct .....	\$ ((850,000))
		<u>500,000</u>
	Prior Biennia (Expenditures) .....	\$ 106,000
	Future Biennia (Projected Costs) .....	\$ 0
	TOTAL .....	\$ ((956,000))
		<u>606,000</u>
(23)	Fircrest: Food bank facility (90-5-011)	
	<b>Reappropriation:</b>	
	St Bldg Constr Acct .....	\$ 700,000
	Prior Biennia (Expenditures) .....	\$ 88,000
	Future Biennia (Projected Costs) .....	\$ 0
	TOTAL .....	\$ 788,000
(24)	Minor capital renewal fire safety (92-1-004), utilities and facilities (92-2-001), roads and grounds (92-2-002), and roofs (92-2-003)	
	<b>Appropriation:</b>	
	CEP & RI Acct .....	\$ 3,284,000
	Prior Biennia (Expenditures) .....	\$ 0
	Future Biennia (Projected Costs) .....	\$ 7,136,000
	TOTAL .....	\$ 10,420,000

- (25) Environmental: For minor works projects, including asbestos abatement, PCBs and other hazardous substances, and for planning functions pertaining to environmental/capital proposals (92-1-005)

**Appropriation:**

CEP & RI Acct . . . . .	\$	359,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	664,000
TOTAL . . . . .	\$	1,023,000

- (26) Emergency and unanticipated projects: For emergency and unanticipated repairs to equipment, facilities, and infrastructures at state institutions (92-1-007)

**Appropriation:**

CEP & RI Acct . . . . .	\$	250,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	538,100
TOTAL . . . . .	\$	788,100

- (27) Underground storage tanks: To test, replace, and/or remove underground storage tanks state-wide (92-1-060)

**Appropriation:**

CEP & RI Acct . . . . .	\$	145,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	618,000
TOTAL . . . . .	\$	673,000

- (28) Western State Hospital: To complete phase 5 of 7 phases, including ward renovations, hospital administration and support spaces, and patient treatment areas (92-1-314)

The appropriation in this subsection shall not be expended until project preplanning documents have been reviewed and approved by the office of financial management under section 59 (~~(of this act)~~), chapter 14, Laws of 1991 sp.s.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	13,669,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	13,669,000

- (29) Eastern State Hospital: To complete phase 3 of 5 phases, including ward treatment areas, hospital support space, and necessary utilities (92-1-340)

The appropriation in this subsection shall not be expended until project preplanning documents have been reviewed and approved by the office of financial management under section 59 (~~of this act~~), chapter 14, Laws of 1991 sp.s.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	7,578,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	7,578,000

- (30) Small works: For miscellaneous projects under \$25,000 each at the various institutions (92-2-008)

**Appropriation:**

CEP & RI Acct . . . . .	\$	192,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	430,500
TOTAL . . . . .	\$	622,500

- (31) Minor projects, alcohol and substance abuse division: For miscellaneous minor repairs, safety, and electrical repairs at Northern State Hospital (92-2-010)

**Appropriation:**

CEP & RI Acct . . . . .	\$	300,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	300,000

- (32) Minor projects, juvenile rehabilitation division: For the upgrade of the water supply, sewer treatment, and security (92-2-020)

**Appropriation:**

CEP & RI Acct . . . . .	\$	957,500
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	1,849,731
TOTAL . . . . .	\$	2,807,231

- (33) Minor projects, mental health division: For minor projects including storm sewer, electrical system, air conditioning, food distribution system, loading dock cover, and new parking lots at Western State Hospital; administration renovation, window security screens, outdoor recreation restrooms at Eastern State Hospital; cemetery fence and kitchen improvements at the Portal facility (92-2-030)

**Appropriation:**

CEP & RI Acct .....	\$	1,317,200
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) .....	\$	2,656,600
TOTAL .....	\$	3,973,800

- (34) Minor projects, developmental disabilities division:  
For minor projects, including the "Y" Building renovation at Fircrest; replacement of living unit floors at Lakeland Village, a state-wide facilities and land use plan; renovation of bathroom and kitchen floors at Rainier School; and added support space and playground expansion at Yakima Valley School (92-2-040)

**Appropriation:**

CEP & RI Acct .....	\$	912,400
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) .....	\$	1,472,000
TOTAL .....	\$	2,384,400

- (35) Maple Lane: To add sixty-four new level 1 security beds (92-2-225)

The appropriation in this subsection shall not be expended until project preplanning documents have been reviewed and approved by the office of financial management under section 59 (~~(of this act)~~), chapter 14, Laws of 1991 sp.s.

**Appropriation:**

St Bldg Constr Acct .....	\$	6,715,800
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) .....	\$	0
TOTAL .....	\$	6,715,800

- (36) Maple Lane: To add forty-seven new level 2 security beds (92-2-230)

The appropriation in this subsection shall not be expended until project preplanning documents have been reviewed and approved by the office of financial management under section 59 (~~(of this act)~~), chapter 14, Laws of 1991 sp.s.

**Appropriation:**

St Bldg Constr Acct .....	\$	3,107,000
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) .....	\$	0
TOTAL .....	\$	3,107,000

- (37) Child study: For construction of a new education ((center (high school))) facility (primary and secondary) at the child study and treatment center (92-2-319)

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	<del>((2,642,300))</del>
		<u>4,442,300</u>
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	<del>((2,642,300))</del>
		<u>4,442,300</u>

- (38) Maintenance management: For completion of the maintenance management system at Medical Lake and Olympia (92-3-050)

**Appropriation:**

CEP & RI Acct . . . . .	\$	292,800
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	<u>473,500</u>
TOTAL . . . . .	\$	766,300

- (39) Resource conservation: For energy and water conservation projects (92-4-006)

**Appropriation:**

CEP & RI Acct . . . . .	\$	561,100
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	<u>442,600</u>
TOTAL . . . . .	\$	1,003,700

- (40) Child care facilities for state employees, including higher education employees (92-4-050)

The appropriation in this subsection is subject to the following conditions and limitations: The department shall report to the appropriate committees of the legislature by January 1, 1993, on grant guidelines which encourage proposals that provide for management oversight of a child care facility by the state employees who will utilize the facility. Nothing in this subsection shall be construed to imply, or commit the state to, any liability for the acts or omissions of the state employees who provide management oversight at the facilities.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	2,500,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	<u>2,500,000</u>

- (41) Washington Institute for Mental Illness Research at Western State Hospital

**Appropriation:**

CEP & RI Acct . . . . .	\$	700,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>700,000</b>

**NEW SECTION. Sec. 9.** A new section is added to chapter 14, Laws of 1991 sp.s. to read as follows:

The provision of social and health services by a private nonprofit corporation operating in any county containing a population greater than forty thousand and less than seventy thousand people for an extended period of time constitutes consideration by the private nonprofit corporation acquiring property or property interests owned by a county, which property or property interests were acquired in whole or in part from money appropriated and authorized by chapter 43.83D RCW, if the property will be used for the provision of the social and health services.

**NEW SECTION. Sec. 10.** A new section is added to chapter 14, Laws of 1991 sp.s. to read as follows:

**FOR THE DEPARTMENT OF VETERANS' AFFAIRS**

- (1) Alzheimer unit: Design and remodel one wing of the Washington soldier's home for proper care and supervision of Alzheimer patients (93-2-001)

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	126,445
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>126,445</b>

- (2) Korean War memorial: To build and erect a Korean War memorial on the capitol campus

Expenditure of the appropriation in this subsection is contingent on a match of at least \$200,000 from nonstate sources for the same purpose.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	50,000
Prior Biennia (Expenditures) . . . . .	\$	25,000
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>75,000</b>

**Sec. 11.** 1991 sp.s. c 14 s 16 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

The appropriations in this section are subject to the following condition and limitation: The department

shall, to the extent possible, employ inmate labor in the construction of projects where such employment use will save money.

- (1) Washington State Reformatory: Continuation of cell-block renovations, and expansion of the industries and production areas and the gym (83-3-048)

The new appropriation in this subsection shall not be expended until project preplanning documents have been reviewed and approved by the office of financial management under section 59 (~~of this act~~), chapter 14, Laws of 1991 sp.s.

**Reappropriation:**

St Bldg Constr Acct . . . . . \$ 1,800,000

**Appropriation:**

St Bldg Constr Acct . . . . . \$ 9,687,000

Prior Biennia (Expenditures) . . . . . \$ 19,513,213

Future Biennia (Projected Costs) . . . . . \$ 9,281,500

TOTAL . . . . . \$ 40,281,713

- (2) Washington State Penitentiary: For improving security facilities and utilities (83-3-052)

The new appropriation in this subsection is provided solely to renovate perimeter walls and towers.

**Reappropriation:**

St Bldg Constr Acct . . . . . \$ 1,300,000

**Appropriation:**

St Bldg Constr Acct . . . . . \$ 1,609,000

Prior Biennia (Expenditures) . . . . . \$ 11,536,721

Future Biennia (Projected Costs) . . . . . \$ 4,274,000

TOTAL . . . . . \$ 18,719,721

- (3) McNeil Island Corrections Center: For replacement of water mains; installation of new telephone switch gear; purchase of an underwater power cable for emergency use; replacement of overhead power lines and poles; and projects related to regulation of the landfill (86-1-002)

**Reappropriation:**

St Bldg Constr Acct . . . . . \$ 4,800,000

**Appropriation:**

St Bldg Constr Acct . . . . . \$ 3,230,500

Prior Biennia (Expenditures) . . . . . \$ 2,084,319

Future Biennia (Projected Costs) . . . . . \$ 4,780,000

TOTAL . . . . . \$ 14,894,819

- (4) McNeil Island Corrections Center: For repairs of roads and sea walls (86-1-004)

**Reappropriation:**

St Bldg Constr Acct ..... \$ 700,000

**Appropriation:**

St Bldg Constr Acct ..... \$ 1,922,500

Prior Biennia (Expenditures) ..... \$ 5,400,879

Future Biennia (Projected Costs) ..... \$ 3,737,000

TOTAL ..... \$ 11,760,379

- (5) McNeil Island Corrections Center: For repair of island homes, replacement of the emergency generator, and fire and safety improvements to institutional buildings (86-1-008)

**Reappropriation:**

St Bldg Constr Acct ..... \$ 2,100,000

**Appropriation:**

St Bldg Constr Acct ..... \$ 2,040,000

Prior Biennia (Expenditures) ..... \$ 6,084,008

Future Biennia (Projected Costs) ..... \$ 3,805,000

TOTAL ..... \$ 14,029,008

- (6) State-wide wastewater system improvements: For improvements to the laboratory at the wastewater facilities at the Monroe Reformatory; for upgrades of the sewage pumping system at Twin rivers Correctional Center; and for renovation of sewer lines at several facilities (88-1-017)

**Reappropriation:**

St Bldg Constr Acct ..... \$ 450,000

**Appropriation:**

St Bldg Constr Acct ..... \$ 2,298,000

Prior Biennia (Expenditures) ..... \$ 863,000

Future Biennia (Projected Costs) ..... \$ 0

TOTAL ..... \$ 3,611,000

- (7) State-wide water system improvements: To construct a new 120,000-gallon reservoir at Twin rivers Correctional Center; to upgrade storage tanks at the Washington Correctional Center at Shelton and the Larch Correctional Center; to drill a new well at Clearwater/Olympic Correctional Center; to increase reservoir capacity at Cedar Creek Correctional Center; and to upgrade water treatment and storage at the Washington State Reformatory Honor Farm (88-1-018)

**Reappropriation:**

St Bldg Constr Acct . . . . . \$ 900,000

**Appropriation:**

St Bldg Constr Acct . . . . . \$ 1,731,000

Prior Biennia (Expenditures) . . . . . \$ 461,000

Future Biennia (Projected Costs) . . . . . \$ 0

TOTAL . . . . . \$ 3,092,000

- (8) McNeil Island Corrections Center: Continue major renovation and expansion of the McNeil Island Correction Center (88-2-003)

The new appropriation in this subsection shall be not expended until project preplanning documents have been reviewed and approved by the office of financial management under section 59 (~~of this act~~), chapter 14, Laws of 1991 sp.s.

**Reappropriation:**

St Bldg Constr Acct . . . . . \$ 27,000,000

**Appropriation:**

St Bldg Constr Acct . . . . . \$ 37,126,000

Prior Biennia (Expenditures) . . . . . \$ 5,012,222

Future Biennia (Projected Costs) . . . . . \$ 12,708,000

TOTAL . . . . . \$ 81,846,222

- (9) Work and training release relocation and expansion: To relocate and expand the work release facility currently located at Western State Hospital

No portion of this appropriation may be expended to purchase land until the department conducts a life-cycle cost analysis for the operating and capital costs of a facility to be located on the land and reports the results of the analysis to the fiscal committees of the legislature.

**Reappropriation:**

St Bldg Constr Acct . . . . . \$ 4,000,000

Prior Biennia (Expenditures) . . . . . \$ 415,400

Future Biennia (Projected Costs) . . . . . \$ 0

TOTAL . . . . . \$ 4,415,400

- (10) Washington Corrections Center for Women: For major renovation of existing facilities, including construction of thirty-bed special needs unit and addition of one hundred beds (88-2-006)

The new appropriation in this subsection shall be not expended until project preplanning documents have

been reviewed and approved by the office of financial management under section 59 ~~((of this act)), chapter 14, Laws of 1991 sp.s.~~

	<b>Reappropriation:</b>		
	St Bldg Constr Acct	..... \$	900,000
	<b>Appropriation:</b>		
	St Bldg Constr Acct	..... \$	<del>((3,388,000))</del>
			<u>11,097,000</u>
	Prior Biennia (Expenditures)	..... \$	715,000
	Future Biennia (Projected Costs)	..... \$	<del>((7,709,000))</del>
			<u>0</u>
	TOTAL	..... \$	12,712,000
(11)	Hazardous materials management (90-1-004)		
	<b>Reappropriation:</b>		
	St Bldg Constr Acct	..... \$	200,000
	Prior Biennia (Expenditures)	..... \$	79,000
	Future Biennia (Projected Costs)	..... \$	<u>0</u>
	TOTAL	..... \$	279,000
(12)	Washington Corrections Center/Washington Corrections Center for Women: Perimeter security upgrade (90-1-007)		
	<b>Reappropriation:</b>		
	St Bldg Constr Acct	..... \$	600,000
	Prior Biennia (Expenditures)	..... \$	1,052,000
	Future Biennia (Projected Costs)	..... \$	<u>1,183,000</u>
	TOTAL	..... \$	2,835,000
(13)	State-wide minor projects (90-1-009)		
	<b>Reappropriation:</b>		
	CEP & RI Acct	..... \$	900,000
	St Bldg Constr Acct	..... \$	<u>2,700,000</u>
	Subtotal Reappropriation	.... \$	2,200,000
	Prior Biennia (Expenditures)	..... \$	1,749,000
	Future Biennia (Projected Costs)	..... \$	<u>0</u>
	TOTAL	..... \$	5,349,000
(14)	State-wide small repairs and improvements (90-1-010)		
	<b>Reappropriation:</b>		
	St Bldg Constr Acct	..... \$	300,000
	Prior Biennia (Expenditures)	..... \$	456,000
	Future Biennia (Projected Costs)	..... \$	<u>0</u>
	TOTAL	..... \$	756,000

(15) State-wide emergency repair projects (90-1-013)

**Reappropriation:**

CEP & RI Acct . . . . . \$ 150,000

**Appropriation:**

CEP & RI Acct . . . . . \$ 750,000

Prior Biennia (Expenditures) . . . . . \$ 600,000

Future Biennia (Projected Costs) . . . . . \$ 750,000

TOTAL . . . . . \$ 2,250,000

(16) New facilities: To design and construct a new 1,024-bed medium-security prison, and four minimum-security correctional facilities, for a total of 2,424 new beds (90-2-001)

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The new appropriation in this subsection shall not be expended until project preplanning documents have been reviewed and approved by the office of financial management under section 59 ((of this act)), chapter 14, Laws of 1991 sp.s.

(b) \$10,045,000 is provided solely to construct a 300-bed correctional camp at the Dayton site.

**Reappropriation:**

St Bldg Constr Acct . . . . . \$ 51,550,000

~~((Drug Enf & Ed Acct . . . . . \$ 5,900,000~~

Subtotal Reappropriation . . . . . \$ 57,450,000))

**Appropriation:**

St Bldg Constr Acct . . . . . \$ ~~((96,036,000))~~

101,936,000

Prior Biennia (Expenditures) . . . . . \$ 3,038,000

Future Biennia (Projected Costs) . . . . . \$ 0

TOTAL . . . . . \$ 156,524,000

(17) Washington State Penitentiary: For minimum security unit double bunking (90-2-003)

**Reappropriation:**

St Bldg Constr Acct . . . . . \$ 1,050,000

Prior Biennia (Expenditures) . . . . . \$ 160,000

Future Biennia (Projected Costs) . . . . . \$ 0

TOTAL . . . . . \$ 1,210,000

- (18) Twin rivers Corrections Center: Double bunking  
(90-2-004)

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	2,500,000
Prior Biennia (Expenditures) . . . . .	\$	481,000
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>2,981,000</b>

- (19) Washington State Penitentiary: Medium-security complex double bunking (90-2-005)

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	1,000,000
Prior Biennia (Expenditures) . . . . .	\$	128,000
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>1,128,000</b>

- (20) Clearwater/Olympic Corrections Center: 100-bed expansion (90-2-006)

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	1,200,000
Prior Biennia (Expenditures) . . . . .	\$	538,000
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>1,738,000</b>

- (21) Cedar Creek Corrections Center: 100-bed expansion (90-2-007)

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	1,450,000
Prior Biennia (Expenditures) . . . . .	\$	187,000
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>1,637,000</b>

- (22) Washington State Penitentiary: Expand medium-security complex industries building (90-2-016)

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	1,100,000
Prior Biennia (Expenditures) . . . . .	\$	113,000
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>1,213,000</b>

- (23) State-wide roof repair: For reroofing projects at the Corrections Center at Shelton, Cedar Creek Corrections Center, Indian Ridge Corrections Center, Clearwater/Olympic Corrections Center, Monroe Reformatory, and the Treatment Center for Women at Purdy facilities (90-3-011)

**Reappropriation:**

St Bldg Constr Acct . . . . . \$ 150,000

**Appropriation:**

St Bldg Constr Acct . . . . . \$ 2,631,000

Prior Biennia (Expenditures) . . . . . \$ 1,350,000

Future Biennia (Projected Costs) . . . . . \$ 0

TOTAL . . . . . \$ 4,131,000

- (24) Clallam Bay Corrections Center: To expand program space and add three hundred forty-nine beds (90-5-026)

**Reappropriation:**

St Bldg Constr Acct . . . . . \$ 23,000,000

Prior Biennia (Expenditures) . . . . . \$ 2,301,000

Future Biennia (Projected Costs) . . . . . \$ 0

TOTAL . . . . . \$ 25,301,000

- (25) Camp labor pool funds (90-5-031)

Moneys from the reappropriation in this subsection shall made available to the department for expanded capacity projects in the event inmate labor cannot be employed.

**Reappropriation:**

St Bldg Constr Acct . . . . . \$ 229,000

Prior Biennia (Expenditures) . . . . . \$ 0

Future Biennia (Projected Costs) . . . . . \$ 0

TOTAL . . . . . \$ 229,000

- (26) Underground storage tanks: To test, replace, and/or remove underground storage tanks state-wide (92-1-002)

**Appropriation:**

St Bldg Constr Acct . . . . . \$ 300,000

Prior Biennia (Expenditures) . . . . . \$ 0

Future Biennia (Projected Costs) . . . . . \$ 1,000,000

TOTAL . . . . . \$ 1,300,000

- (27) State-wide minor projects: For projects less than \$500,000 pertaining to life safety/code compliance, property protection, or essential program support (92-1-012)

**Appropriation:**

St Bldg Constr Acct . . . . . \$ 7,500,000

Prior Biennia (Expenditures) . . . . . \$ 0

Future Biennia (Projected Costs) . . . . . \$ 4,976,000

TOTAL . . . . . \$ 12,476,000

- (28) State-wide small repairs and improvements: For miscellaneous state-wide projects, each under \$25,000 (92-1-013)

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	497,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	497,000

- (29) Washington Corrections Center: To retrofit the boiler at Shelton (92-1-026)

In retrofitting the boiler, the department shall consider using wood pellets or natural gas, whichever is the more economically competitive, as the primary fuel source for the boiler.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	2,164,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	2,164,000

- (30) Washington State Penitentiary: To add space for recreation, legal libraries, medical/dental unit, property and a clothing room at medium-security facilities (92-2-021)

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	1,443,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	1,443,000

- (31) Washington State Penitentiary: To add space to the current gym, and upgrade systems for heating, ventilation, and air conditioning, fire protection, lighting, and electricity (92-2-022)

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	888,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	888,000

- (32) Washington Corrections Center: For installation of a new underground steam distribution/condensation return system (92-2-028)

**Appropriation:**

St Bldg Constr Acct	..... \$	729,000
Prior Biennia (Expenditures)	..... \$	0
Future Biennia (Projected Costs)	..... \$	0
<b>TOTAL</b>	..... \$	<b>729,000</b>

- (33) Washington State Reformatory: For initiation of a feasibility study for relocation of program and living space at the honor farm (92-2-029)

**Appropriation:**

St Bldg Constr Acct	..... \$	230,000
Prior Biennia (Expenditures)	..... \$	0
Future Biennia (Projected Costs)	..... \$	1,000,000
<b>TOTAL</b>	..... \$	<b>1,230,000</b>

- (34) Washington State Reformatory: Restoration and repair of perimeter walls (92-2-031)

**Appropriation:**

St Bldg Constr Acct	..... \$	1,084,000
Prior Biennia (Expenditures)	..... \$	0
Future Biennia (Projected Costs)	..... \$	0
<b>TOTAL</b>	..... \$	<b>1,084,000</b>

- (35) Pilot preventive maintenance program: For computer hardware and software for a computer-based preventative maintenance system (92-4-033)

The appropriation in this subsection is subject to the following conditions and limitations: The department of corrections shall, every six months, submit a progress report on this project to the department of general administration, the office of financial management, the senate committee on ways and means, and the house of representatives committee on capital facilities and financing.

**Appropriation:**

St Bldg Constr Acct	..... \$	325,000
Prior Biennia (Expenditures)	..... \$	0
Future Biennia (Projected Costs)	..... \$	0
<b>TOTAL</b>	..... \$	<b>325,000</b>

- (36) Cedar Creek Corrections Center upgrade: Core facilities improvements and dormitory expansion (92-2-024)

**Appropriation:**

St Bldg Constr Acct .....	\$	1,426,000
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) .....	\$	0
<b>TOTAL .....</b>	<b>\$</b>	<b>1,426,000</b>

- (37) Mental health planning: The department shall develop a facility plan for a mental health delivery system including outpatient treatment, short-term crisis beds, and acute long-term inpatient facilities. The plan shall maximize outpatient and short-term crisis beds where appropriate through the utilization of current capacity including utilization of infirmary beds as short-term mental health crisis observation beds. Plans for new long-term inpatient capacity shall supplement and not replace existing capacity at the Special Offender Center in Monroe (93-2-035)

**Appropriation:**

St Bldg Constr Acct .....	\$	200,000
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) .....	\$	0
<b>TOTAL .....</b>	<b>\$</b>	<b>200,000</b>

- (38) Land acquisition: To acquire a purchase option on land adjacent to the Coyote Ridge Corrections Center (93-2-036)

**Appropriation:**

St Bldg Constr Acct .....	\$	24,000
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) .....	\$	2,500,000
<b>TOTAL .....</b>	<b>\$</b>	<b>2,524,000</b>

**PART 3**

**NATURAL RESOURCES**

\*Sec. 12. 1991 sp.s. c 14 s 18 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF ECOLOGY**

- (1) Referendum 26: Waste disposal facilities (74-5-004)

**Reappropriation:**

LIRA, Waste Disp Fac .....	\$	15,660,673
Prior Biennia (Expenditures) .....	\$	8,093,028
Future Biennia (Projected Costs) .....	\$	0
<b>TOTAL .....</b>	<b>\$</b>	<b>23,753,701</b>

(2) Referendum 38: Water supply facilities (74-5-006)

**Reappropriation:**

<b>LIRA, Water Sup Fac</b> . . . . .	\$	<b>26,744,618</b>
Prior Biennia (Expenditures) . . . . .	\$	2,466,576
Future Biennia (Projected Costs) . . . . .	\$	<u>29,763,000</u>
<b>TOTAL</b> . . . . .	\$	<b>58,974,194</b>

(3) State emergency water project revolving account (76-5-003)

**Reappropriation:**

<b>Emergency Water Proj</b> . . . . .	\$	<b>7,599,337</b>
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**Appropriation:**

<b>Emergency Water Proj</b> . . . . .	\$	<b>1,343,929</b>
Prior Biennia (Expenditures) . . . . .	\$	16,586,284
Future Biennia (Projected Costs) . . . . .	\$	<u>224,761</u>
<b>TOTAL</b> . . . . .	\$	<b>25,754,311</b>

(4) Referendum 39: Waste disposal facilities 1980 bond issue (82-5-005)

No expenditure from the reappropriation in this subsection shall be made for any grant valued over fifty million dollars to a city or county for solid waste disposal facilities unless the following conditions are met:

- (a) The city or county agrees to comply with all the terms of the grant contract between the city or county and the department of ecology;
- (b) The city or county agrees to implement curbside collection of recyclable materials as prescribed in the grant contract; and
- (c) The city or county does not begin actual construction of the solid waste disposal facility until it has obtained a permit for prevention of significant deterioration as required by the federal clean air act.

**Reappropriation:**

<b>LIRA, Waste Disp Fac 1980</b> . . . . .	\$	<del><b>((61,598,000))</b></del>
		<u>60,012,180</u>
Prior Biennia (Expenditures) . . . . .	\$	401,402,000
Future Biennia (Projected Costs) . . . . .	\$	<u>0</u>
<b>TOTAL</b> . . . . .	\$	<del><b>((463,000,000))</b></del>
		<u>461,414,180</u>

(5) *Water quality account (86-5-007)*

*The appropriations in this subsection are subject to the following conditions and limitations:*

*(a) In awarding grants, extending grant payments, or making loans from these appropriations for facilities that discharge directly into marine waters, the department shall:*

*(i) Give first priority to secondary wastewater treatment facilities that are mandated by both federal and state law;*

*(ii) Give second priority to projects that reduce combined sewer overflows; and*

*(iii) Encourage economies that are derived from any simultaneous projects that achieve the purposes of both (a) and (b) of this subsection.*

*(b) The following limitations shall apply to the department's total distribution of funds appropriated under this section:*

*(i) Not more than fifty percent for water pollution control facilities that discharge directly into marine waters;*

*(ii) Not more than twenty percent for water pollution control activities that prevent or mitigate pollution of underground waters and facilities that protect federally designated sole source aquifers with at least two-thirds for the Spokane-Rathdrum Prairie aquifer;*

*(iii) Not more than ten percent for water pollution control activities that protect freshwater lakes and rivers including but not limited to Lake Chelan and the Yakima and Columbia rivers;*

*(iv) Not more than ten percent for activities that control nonpoint source water pollution;*

*(v) Ten percent and such sums as may be remaining from the categories specified in (i) through (iv) of this subsection for water pollution control activities or facilities as determined by the department.*

*(c) In determining compliance schedules for the greatest reasonable reduction of combined sewer overflows, the department shall consider the amount of grant or loan moneys available to assist local governments in the planning, design, acquisition, construction, and improvement of combined sewer overflow facilities.*

*(d) \$330,000 of the water quality account appropriation is provided solely for the department to evaluate water quality, solid and hazardous waste, and toxics cleanup needs of the state. The amount provided in this subsection represents the water quality account share of funding the evaluation. The department shall include in the evaluation information regarding existing needs and recommendations on how to address those needs within existing state financial assistance programs. The evaluation shall include options that rely solely on existing tax sources. The department shall also evaluate long-range financial options, including a greater reliance on loans, which take into account local financial resources. The evaluation shall be done in coordination with the state agency coordinating council established in Engrossed Substitute House Bill No. 1025 (Growth Management Strategies). If the bill is not enacted by July 31, 1991, the director of the department shall coordinate with the department of community development, the department of health, and the Puget Sound water quality authority as well as with other appropriate state and local agencies. By November 1, 1991, the department shall submit to the chairs of the house capital facilities and financing committee and the senate ways and means committee, a detailed work plan, budget, and schedule for completion of the evaluation.*

**Reappropriation:**

Water Quality Acct \$ 134,422,504

**Appropriation:**

Water Quality Acct . . . . . \$ ((85,607,310))

72,686,310

Prior Biennia (Expenditures) . . . . . \$ 53,036,533

Future Biennia (Projected Costs) . . . . . \$ 157,835,000

**TOTAL . . . . . \$ ((430,901,347))**

417,980,347

**(6) Nisqually River Interpretive Center**

**Appropriation:**

St Bldg Constr Acct . . . . . \$ 150,000

Prior Biennia (Expenditures) . . . . . \$ 0

Future Biennia (Projected Costs) . . . . . \$ 0

**TOTAL . . . . . \$ 150,000**

## (7) Local toxics control account (88-5-008)

\$270,000 of the new appropriation in this subsection is provided solely for the evaluation required in subsection (5)(d) of this section.

\$300,000 of the new appropriation in this subsection is provided solely for a pilot grant program to address remedial actions involving the contamination of drinking water supplies from hazardous substances. The pilot grant program is limited to remedial action where a responsible party has not been identified or held responsible. The department may establish an appropriate local match requirement for the pilot grant program. The department shall report to the appropriate committees of the legislature regarding the state-wide need for programs to clean up drinking water supplies contaminated by hazardous substances. This report shall be consolidated into the evaluation required in subsection (5)(d) of this section.

**Reappropriation:**

Local Toxics Control . . . . .	\$	27,653,297
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**Appropriation:**

Local Toxics Control . . . . .	\$	59,183,607
Prior Biennia (Expenditures) . . . . .	\$	18,467,142
Future Biennia (Projected Costs) . . . . .	\$	106,984,641
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>212,288,687</b>

## (8) Methow Basin water conservation

This appropriation in this subsection shall be used to fund water use efficiency improvements in this Methow Basin, including the installation of headworks, weirs, and fish screens on existing irrigation diversions, metering of miscellaneous water uses, and lining of irrigation canals and ditches in identified high priority irrigation systems.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	400,000
LIRA, Water Sup Fac . . . . .	\$	800,000
Subtotal Appropriation . . . . .	\$	1,200,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>1,200,000</b>

**(9) Flood control assistance: For the purpose of flood control assistance under RCW 86.26.040 through 86.26.105**

**The appropriation in this subsection is subject to the following conditions and limitations: Moneys from this appropriation shall be used solely for capital purposes.**

**Appropriation:**

<u>St Bldg Constr Acct</u> . . . . .	\$	<u>4,000,000</u>
<u>Prior Biennia (Expenditures)</u> . . . . .	\$	<u>0</u>
<u>Future Biennia (Projected Costs)</u> . . . . .	\$	<u>0</u>
<b><u>TOTAL</u></b> . . . . .	<b>\$</b>	<b><u>4,000,000</u></b>

**(10) Water pollution control facility loans**

**Reappropriation:**

<u>Water Pollution Cont Rev Fund</u> . . . . .	\$	<u>33,106,000</u>
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**Appropriation:**

<u>Water Pollution Cont Rev Fund</u> . . . . .	\$	<u>83,047,000</u>
<u>Prior Biennia (Expenditures)</u> . . . . .	\$	<u>7,400,000</u>
<u>Future Biennia (Projected Costs)</u> . . . . .	\$	<u>71,000,000</u>
<b><u>TOTAL</u></b> . . . . .	<b>\$</b>	<b><u>194,553,000</u></b>

**(11) Transfer to department of community development**

**The appropriation in this subsection is provided solely for transfer to the department of community development for grants to counties to implement a property owner wetland notification program.**

**Appropriation:**

<u>Water Quality Account</u> . . . . .	\$	<u>350,000</u>
<u>Prior Biennia (Expenditures)</u> . . . . .	\$	<u>0</u>
<u>Future Biennia (Projected Costs)</u> . . . . .	\$	<u>0</u>
<b><u>TOTAL</u></b> . . . . .	<b>\$</b>	<b><u>350,000</u></b>

\*Sec. 12 was partially vetoed, see message at end of chapter.

\*NEW SECTION. Sec. 13. A new section is added to chapter 14, Laws of 1991 sp.s. to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

- (1) Sewer facilities: For sewer improvements at the following state parks: Ike Kinswa, Millersylvania, Lewis and Clark Trail, Bayview, Sequim Bay, Penrose Point, Tolmie, Fort Casey, Fort Ebey, and Maryhill

**Appropriation:**

<u>LIRA, Waste Fac 1980</u> . . . . .	\$	<u>1,585,820</u>
<u>Prior Biennia (Expenditures)</u> . . . . .	\$	<u>0</u>
<u>Future Biennia (Projected Costs)</u> . . . . .	\$	<u>0</u>
<b><u>TOTAL</u></b> . . . . .	<b>\$</b>	<b><u>1,585,820</u></b>

- (2) Flaming Geyser: Bridge relocation, phase 2  
(87-2-029)

The appropriation in this section is in addition to the appropriations in section 19(7), chapter 14, Laws of 1991 sp.s.

**Appropriation:**

ORA-State .....	\$ 90,000
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- (3) Deception Pass: Repair failed water system

**Appropriation:**

St Bldg Constr Acct .....	\$ 283,180
Prior Biennia (Expenditures) .....	\$ 0
Future Biennia (Projected Costs) .....	\$ 0
TOTAL .....	\$ 283,180

- (4) *Bogachiel Park: Repair storm damage to comfort stations*

**Appropriation:**

St Bldg Constr Acct .....	\$ 50,000
Prior Biennia (Expenditures) .....	\$ 0
Future Biennia (Projected Costs) .....	\$ 0
TOTAL .....	\$ 50,000

- (5) Chuckanut Hill: Planning and acquisition for addition to Larrabee state park

The appropriation in this subsection is subject to the following conditions and limitations:

(a) The appropriation in this subsection is provided solely for property acquisition, may not be used to acquire development rights, and is subject to chapter 43.99 RCW.

(b) Prior to the expenditure of any funds provided from this subsection, Whatcom county shall have acquired under forest board ownership a majority of the 1200-acre parcel of privately owned land adjacent and to the north of Larrabee state park. The county shall also have entered into an agreement with the board of natural resources committing the county to manage these lands, adjacent to Larrabee state park, as county park land under RCW 76.12.072.

(c) Prior to the expenditure of any funds provided from this subsection, either the city of Bellingham or Whatcom county shall have made application to the interagency committee for outdoor recreation for funding available through the wildlife and recreation pro-

gram so that the city or county may acquire park lands adjacent to Larrabee state park. The application may provide for management of the lands by the State Parks and Recreation Commission.

(d) No additional state funds may be expended for this acquisition unless authorized by the interagency committee for outdoor recreation in accordance with chapter 43.98A RCW.

**Appropriation:**

ORA . . . . .	\$	500,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	500,000

- (6) Olmstead Place—Senator Frank "Tub" Hansen Memorial Interpretive Center, including parking facilities, restrooms, and display kiosk

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	93,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	93,000

\*Sec. 13 was partially vetoed, see message at end of chapter.

**NEW SECTION. Sec. 14.** A new section is added to chapter 14, Laws of 1991 sp.s. to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

The appropriation in this section is provided to make payment for timber in Bogachiel, Scenic Beach, and Rockport state parks, which payment remains as an obligation from the transfers of trust lands to the state parks and recreation commission. It is the intent of the legislature that all moneys expended under this section result in revenue to the common school construction fund. The department of natural resources may use intergrant exchanges to accomplish the intent of this section. Any moneys from this appropriation that remain unexpended on December 31, 1992, shall be deposited in the common school construction fund.

**Appropriation**

**Common School Reimb**

Constr Acct . . . . .	\$	8,000,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	8,000,000

**\*NEW SECTION. Sec. 15.** A new section is added to chapter 14, Laws of 1991 sp.s. to read as follows:

*The state parks and recreation commission may sell to a city or county for one dollar existing park lands or interpretive centers that are closed because of budgetary constraints. The purchasing city or county must agree to keep the park land or interpretive center open for public access and use. The conveyance agreement shall contain a reversionary interest held by the commission that takes effect if the property is ever used for any purpose other than a public park or interpretive center.*

\*Sec. 15 was vetoed, see message at end of chapter.

**NEW SECTION. Sec. 16.** A new section is added to chapter 14, Laws of 1991 sp.s. to read as follows:

**FOR THE WASHINGTON STATE DAIRY PRODUCTS COMMISSION**

- (1) Acquire permanent facility: To acquire a permanent facility to house the offices and operations of the commission (92-5-001)

The appropriation in this subsection is subject to the following conditions and limitations: At least one dollar from the commission's operating funds shall be spent for each three dollars spent from this appropriation.

**Appropriation:**

**WA St Dairy Prod Comm Fac**

Acct . . . . .	\$	900,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	900,000

**Sec. 17.** 1991 sp.s. c 14 s 20 (uncodified) is amended to read as follows:  
**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

(1) Grants to public agencies (90-2-001)

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	498,000
ORA-Federal . . . . .	\$	637,000
ORA-State . . . . .	\$	1,911,000
Firearms Range Acct . . . . .	\$	405,000
Subtotal Reappropriation . . . . .	\$	3,451,000
Prior Biennia (Expenditures) . . . . .	\$	6,254,000
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>9,705,000</b>

(2) Wildlife conservation and recreation (90-5-002)

**Reappropriation:**

ORA-State . . . . .	\$	22,000,000
Habitat Conservation Acct . . . . .	\$	21,830,000
Subtotal Reappropriation . . . . .	\$	43,830,000
Prior Biennia (Expenditures) . . . . .	\$	9,170,000
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>53,000,000</b>

(3) Grants to public agencies (92-2-001)

The appropriations in this section are subject to the following conditions and limitations:

(a) (~~(\$10,400,000)~~) \$11,150,000 of the state building and construction account appropriation in this subsection is provided solely for matching grants to local governments for projects contained in the governor's Washington wildlife and recreation submittal list from categories designated for local governments. The committee shall require a match of at least fifty percent.

(b) \$138,000 of the state outdoor recreation account may be used for additional program staff for administration.

(c) The legislature hereby approves, without exception, the list of local projects dated October 1, 1991, submitted by the interagency committee for outdoor recreation to the office of financial management.

**Appropriation:**

ORA-Federal .....	\$	2,000,000
ORA-State .....	\$	7,738,000
Firearms Range Acct .....	\$	222,000
St Bldg Constr Acct .....	\$	((10,400,000))
		<u>11,150,000</u>
Subtotal Appropriation .....	\$	((20,360,000))
		<u>21,360,000</u>
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) .....	\$	21,764,000
		<u>21,764,000</u>
TOTAL .....	\$	((42,124,000))
		<u>42,874,000</u>

(4) Washington wildlife and recreation program

(a) One-half of the appropriation in this subsection shall be deposited into and is hereby appropriated from the habitat conservation account and one-half shall be deposited into and is hereby appropriated from the state outdoor recreation account, for the Washington wildlife and recreation program, as established under chapter 43.98A RCW.

(b) All land acquired by a state agency with mon-  
eys from this appropriation shall comply with class A,  
B, and C weed control provisions of chapter 17.10  
RCW.

(c) The following projects are deleted from the  
approved list of projects established under chapter  
43.98A RCW:

- (i) Hatten-Tracy rock acquisitions (project #925033)
- (ii) Yakima river canyon acquisition (project #925055)
- (iii) Okanogan sharp-tailed grouse habitat (project #925040)
- (iv) Southeast Washington critical habitat acquisition (project #925042)
- (v) Esquaztel coulee acquisition (project #935064)

**Appropriation:**

St Bldg Constr Acct .....	\$	50,000,000
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) .....	\$	105,000,000
		<u>105,000,000</u>
TOTAL .....	\$	155,000,000

- (5) Clear creek dam: To rebuild the dam according to plans approved by the United States bureau of reclamation (93-2-002)

The appropriation in this subsection is contingent on at least \$3,250,000 being provided from federal and local sources. The state shall not be obligated for project costs that exceed this appropriation.

**Appropriation:**

<b>St Bldg Constr Acct</b> .....	\$	<b>1,550,000</b>
<b>Prior Biennia (Expenditures)</b> .....	\$	<b>0</b>
<b>Future Biennia (Projected Costs)</b> .....	\$	<b>0</b>
<b>TOTAL</b> .....	\$	<b>1,550,000</b>

NEW SECTION. Sec. 18. A new section is added to chapter 14, Laws of 1991 sp.s. to read as follows:

**FOR THE DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT**

- (1) Washington Technology Center (92-5-001)

The appropriation in this subsection is provided solely for the design and outfitting of the first and second floor laboratory spaces in Fluke Hall.

**Appropriation:**

<b>St Bldg Constr Acct</b> .....	\$	<b>1,000,000</b>
<b>Prior Biennia (Expenditures)</b> .....	\$	<b>0</b>
<b>Future Biennia (Projected Costs)</b> .....	\$	<b>0</b>
<b>TOTAL</b> .....	\$	<b>1,000,000</b>

NEW SECTION. Sec. 19. A new section is added to chapter 14, Laws of 1991 sp.s. to read as follows:

**FOR THE DEPARTMENT OF FISHERIES**

- (1) Coast and Puget Sound salmon enhancement (92-5-001)

**Appropriation:**

<b>St Bldg Constr Acct</b> .....	\$	<b>513,311</b>
<b>Prior Biennia (Expenditures)</b> .....	\$	<b>0</b>
<b>Future Biennia (Projected Costs)</b> .....	\$	<b>0</b>
<b>TOTAL</b> .....	\$	<b>513,311</b>

(2) Habitat management (92-2-001)

**Appropriation:**

General Fund-Federal .....	\$	800,000
General Fund-Priv/Loc .....	\$	800,000
Subtotal Appropriation .....	\$	1,600,000
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) .....	\$	0
TOTAL .....	\$	1,600,000

NEW SECTION. Sec. 20. A new section is added to chapter 14, Laws of 1991 sp.s. to read as follows:

**FOR THE DEPARTMENT OF WILDLIFE**

(1) Repair of flood damage on Luhrs Landing

**Appropriation:**

St Bldg Constr Acct .....	\$	40,000
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) .....	\$	0
TOTAL .....	\$	40,000

(2) Hood Canal Wetlands Interpretive Center: For a grant to the North Mason School District to construct a wetlands education center at the Mary E. Theler wetlands

The appropriation in this subsection is subject to the following conditions and limitations:

(a) The school district shall provide and maintain public access, education, and passive recreation opportunities.

(b) The appropriation in this subsection shall be matched by an equal amount of money from other sources for the purposes described in this subsection.

**Appropriation:**

St Bldg Constr Acct .....	\$	500,000
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) .....	\$	0
TOTAL .....	\$	500,000

(3) Skagit wildlife area dike repair (92-3-008)

**Appropriation:**

St Bldg Constr Acct .....	\$	145,000
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) .....	\$	0
TOTAL .....	\$	145,000

**Sec. 21.** 1991 sp.s. c 14 s 26 (uncodified) is amended to read as follows:  
**FOR THE PARKS AND RECREATION COMMISSION: TIMBER-  
LAND PURCHASES AND COMMON SCHOOL PURCHASES**

The appropriation in this section is subject to the following conditions and limitations:

(1) This appropriation is provided to the state parks and recreation commission ("commission") solely to acquire trust lands that have been identified by the department of natural resources ("department") as appropriate for state park use and development. Except as specifically otherwise provided in this section, the commission shall acquire the following parcels:

(a) Lord Hill, in Snohomish county, west of Monroe;

(b) Beacon Rock, in Skamania county, adjacent to Beacon Rock State Park;

(c) Larrabee Addition, (1 and 2) in Whatcom county, northeast of Larrabee State Park and Chuckanut Mountain;

(d) South Whidbey, in Island county, adjacent to South Whidbey State Park;

(e) Wallace Falls Addition, in Snohomish county, adjacent to Wallace Falls State Park;

(f) Soleduck corridor, in Clallam county, on the Soleduck river at Sappho;

(g) Dugualia Bay property, in Island county, on the northeast shore of Whidbey Island;

(h) Rasar property, in Skagit county, west of Birdsvew, near the Skagit river;

(i) Wallace Falls Addition (Northwest) property, in Snohomish county, adjacent to the northwestern side of the designated park property;

(j) Wallace Falls Addition (Southwest) property, in Snohomish county, adjacent to the southwestern side of Wallace Falls State Park;

(k) Hoypus Hill in Island county south of Hoypus Point Natural Forest Area at Deception Pass State Park;

(l) Lake Easton in Easton in Kittitas county west of Lake Easton State park near the town of Easton;

(m) Diamond Point, in Clallam county, on the Strait of Juan de Fuca; and

(n) Skykomish river property, along Highway 2, near Index.

(2) The commission may expend moneys from this appropriation for acquisition of the Skykomish river property under subsection (1)(n) of this section only to the extent that moneys remain available after the commission has made all reasonable efforts to acquire the other properties identified in this subsection. If funds remain available after all properties in subsections (1)(a) through (1)(n) of this section have been purchased, the commission may purchase additional properties from the following list:

(a) Squak Mountain trust property, King county, south of existing Squak Mountain State Park;

(b) Doug's Beach trust property, Klickitat county, east of Lyle on the Columbia river;

(c) Point Lawrence Addition trust property, San Juan county, adjacent to designated park property on the eastern most point of Orcas Island;

(d) Obstruction Pass trust property, San Juan county near Obstruction Island on the southeast point of Orcas Island;

(e) Bottle Beach trust property, Grays Harbor county, southeast of Westport along the Ocasta-Bay City Road; and

(f) R.F. Kennedy Recreation Site trust property, Pierce county, on Whitman Cove along Case Inlet.

(3) To achieve the purposes of this section, intergrant exchanges between common school trust lands and parcels of noncommon school trust lands shall occur on an equal-value basis.

(4) Proceeds from the transfer of the timber shall be deposited by the department in the same manner as timber revenues from other common school trust lands. No deduction may be made for the resource management cost account under RCW 79.64.040. The proceeds from the transfer of the land shall be used by the department to acquire timber land of equal value to be managed as common school trust land and to maintain a sustainable yield.

(5) The department shall attempt to maintain an aggregate ratio of ~~((approximately))~~ 85:15 timber-to-land value in these transactions. If the aggregate value of timber-to-land varies by more than plus or minus five percent of that ratio, individual land acquisitions ~~((may))~~

shall be dropped in order to maintain ((the approxi-  
mate)) a ratio in this range.

(6) It is the intent of the legislature that, insofar as feasible, the full parcels identified in subsection (1) of this section be acquired for park purposes. However, to the extent authorized by the commission, House Bill No. 2990, or Senate Bill No. 6509, the boundaries of the Diamond Point property under subsection (1)(m) of this section may vary from the property boundaries as described in the joint study conducted by the commission and the department under section 4, chapter 163, Laws of 1985.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	50,000,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	50,000,000

**NEW SECTION. Sec. 22.** A new section is added to chapter 14, Laws of 1991 sp.s. to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

- (1) Land transfers: For acquisition of replacement lands as authorized by House Bill No. 2533 or Senate Bill No. 6161

**Appropriation:**

Nat Res Prop Repl Acct . . . . .	\$	30,000,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	20,000,000
TOTAL . . . . .	\$	50,000,000

**NEW SECTION. Sec. 23.** A new section is added to chapter 14, Laws of 1991 sp.s. to read as follows:

**FOR THE STATE CONVENTION AND TRADE CENTER**

- (1) Minor works: For minor works improvement projects, including security improvements, lighting enhancements, and space expansions (93-2-001)

The appropriation in this subsection is subject to the following conditions and limitations: Before expending the appropriation in this subsection, the Washington State Convention and Trade Center shall report to the office of financial management and to the fiscal committees of the legislature a status report on the convention and trade center account and the convention and trade center operations account. The status report

shall include, but not be limited to: Amounts borrowed under RCW 67.40.045 and 67.40.055 and corresponding repayment schedules, projections of future revenues and expenditures, transfers between accounts, and compliance with provisions of RCW 67.40.040.

**Appropriation:**

St Conv & Trade Ctr Acct . . . . .	\$	1,050,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	1,050,000

**PART 4  
EDUCATION**

**\*Sec. 24.** 1991 sp.s. c 14 s 30 (uncodified) is amended to read as follows:  
**FOR THE STATE BOARD OF EDUCATION**

The appropriations in subsections (1) through (9) of this section are subject to the following condition and limitation: Total cash disbursed from the common school construction fund may not exceed the available cash balance.

- (1) Public school building construction (79-3-002)

**Reappropriation:**

Common School Constr Fund . . .	\$	500
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	500

- (2) Public school building construction (83-3-001)

**Reappropriation:**

Common School Constr Fund . . .	\$	110,000
Prior Biennia (Expenditures) . . . . .	\$	490,000
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	600,000

- (3) Public school building construction (86-4-001)

**Reappropriation:**

Common School Constr Fund . . .	\$	1,100,000
Prior Biennia (Expenditures) . . . . .	\$	1,400,000
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	2,500,000

(4)	Public school building construction (86-4-008)		
	<b>Reappropriation:</b>		
	<b>Common School Constr Fund . . .</b>	\$	<b>70,000</b>
	Prior Biennia (Expenditures) . . . . .	\$	75,298
	Future Biennia (Projected Costs) . . . . .	\$	<u>0</u>
	<b>TOTAL . . . . .</b>	\$	<b>145,298</b>
(5)	Public school building construction (88-2-001)		
	<b>Reappropriation:</b>		
	<b>Common School Constr Fund . . .</b>	\$	<b>4,000,000</b>
	Prior Biennia (Expenditures) . . . . .	\$	61,328,022
	Future Biennia (Projected Costs) . . . . .	\$	<u>0</u>
	<b>TOTAL . . . . .</b>	\$	<b>65,328,022</b>
(6)	Public school building construction (89-2-004)		
	<b>Reappropriation:</b>		
	<b>Common School Constr Fund . . .</b>	\$	<b>80,000</b>
	Prior Biennia (Expenditures) . . . . .	\$	2,920,000
	Future Biennia (Projected Costs) . . . . .	\$	<u>0</u>
	<b>TOTAL . . . . .</b>	\$	<b>3,000,000</b>
(7)	Public school building construction (90-2-001)		
	<b>Reappropriation:</b>		
	<b>Common School Constr Fund . . .</b>	\$	<b>156,000,000</b>
	Prior Biennia (Expenditures) . . . . .	\$	252,527,000
	Future Biennia (Projected Costs) . . . . .	\$	<u>0</u>
	<b>TOTAL . . . . .</b>	\$	<b>408,527,000</b>
(8)	Public school building construction (91-2-001)		

The appropriations in this subsection are subject to the following conditions and limitations:

- (a) A maximum of \$1,200,000 may be spent for state administration of school construction funding.
- (b) A maximum of \$225,000 may be expended for two full-time equivalent field staff with construction/architectural experience to assist in evaluating project requests and reviewing information reported by school districts.
- (c) A maximum of \$100,000 may be expended for development of a new priority system pursuant to (f) of this subsection.
- (d) Funding (~~for common school construction and modernization~~) is provided first for projects approved for state assistance by the state board as of January 26, 1991, and ready to receive a commitment of state funds on July 1, 1992. The remaining funding is

~~provided for projects approved for state assistance by the state board after January 26, 1991, subject to (e) of this subsection. ((Of the funds available for obligation by the state board after state administration costs and after the costs incurred under (b) and (c) of this subsection, fifty eight percent is provided solely for approved new construction projects to serve unhoused students, four percent is provided solely for approved condemnation projects, and thirty four percent is provided solely for approved modernization projects. The remaining funds shall be allocated at the discretion of the state board.))~~

(e) Projects approved for state assistance by the state board after January 26, 1991, pursuant to WAC 180-25-040(,) shall be placed on a new priority system developed by the state board pursuant to (f) of this subsection. In approving projects for construction of new school facilities to meet enrollment growth, after July 1, 1992, the board shall give priority to districts that have implemented a modified school calendar or schedule that is designed to increase the pupil capacity of the district's school buildings. The state board may allocate funds for financial assistance to school districts for capital planning related to the implementation of a modified school calendar or schedule as authorized in Engrossed Substitute House Bill No. 2631.

(f)(i) The state board shall develop a new priority system for allocating state assistance for school construction and modernization projects. The priority system shall include evaluation of projects according to objective criteria established by the state board and a process for review of data submitted by school districts. In developing the system and the criteria, the state board shall consider the following factors: Type of space requested; current space availability, age, and condition; cost benefit considerations of new construction as compared to modernization; impacts of maintenance on the condition of facilities; impacts of delay of receipt of state assistance; and short and long-range demographic projections.

(ii) The state board shall present a progress report and implementation plan to the governor and the ap-

propriate fiscal committees of the legislature by February 15, 1992.

(g) The common school reimbursable construction account appropriation in this section serves as compensation to the common school construction fund for any obligation owed the fund as a result of vocational technical institutes being transferred from the authority of a local school district and the superintendent of public instruction to the state board for community and technical colleges as directed by chapter 238, Laws of 1991 (Engrossed Substitute Senate Bill No. 5184, workforce training and education).

**Appropriation:**

Common School Constr Fund ..	\$ ((135,500,000))
	<u>164,300,000</u>
Common School Reimb	
Constr Acct .....	\$((120,000,000))
	<u>247,500,000</u>
Subtotal Appropriation .....	\$((255,500,000))
	<u>411,800,000</u>
Prior Biennia (Expenditures) .....	\$ 0
Future Biennia (Projected Costs) .....	\$ 350,000,000
TOTAL .....	\$((605,500,000))
	<u>761,800,000</u>

~~((9)) Public school building construction (91-2-001)~~

~~The appropriation in this subsection is subject to the following conditions and limitations:~~

~~(a) This appropriation is subject to all conditions and limitations contained in subsection (8) of this section.~~

**Appropriation:**

Common School Constr Fund ....	\$ <u>21,000,000</u>
Prior Biennia (Expenditures) .....	\$ 0
Future Biennia (Projected Costs) .....	\$ <u>0</u>
TOTAL .....	\$ <u>21,000,000</u> )

\*Sec. 24 was partially vetoed, see message at end of chapter.

NEW SECTION. Sec. 25. A new section is added to chapter 14, Laws of 1991 sp.s. to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**

- (1) Before-and-after-school child care facility grants: To establish or expand before-and-after-school child care

programs housed within public elementary schools (93-5-001)

The appropriation in this subsection is subject to the following conditions and limitations:

(a) Grants shall be awarded to public school districts on a competitive basis, and shall be used to support the capital costs of establishing or expanding a before-and-after-school child care program. Eligible capital costs shall include facility improvements and acquisition of equipment with a long-term useful life.

(b) The superintendent of public instruction shall, in consultation with the child care coordinating committee under RCW 74.13.090, establish criteria for the awarding of grants. Such criteria shall include, but not be limited to, the percentage of nonstate funding to be contributed to the project, the number of children to be served, the cost per child care slot, and the projected lifespan of the before-and-after-school child care program. The operation of child care programs conducted in facilities funded by this appropriation shall be contracted through private or not-for-profit child care providers.

**Appropriation:**

St Bldg Constr Acct .....	\$	375,000
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) .....	\$	0
<b>TOTAL .....</b>	<b>\$</b>	<b>375,000</b>

**Sec. 26.** 1991 sp.s. c 14 s 34 (uncodified) is amended to read as follows:  
**FOR THE UNIVERSITY OF WASHINGTON**

- (1) Safety: Fire code, PCB, and life safety (86-1-001)

**Reappropriation:**

UW Bldg Acct .....	\$	6,890,000
Prior Biennia (Expenditures) .....	\$	2,298,000
Future Biennia (Projected Costs) .....	\$	0
<b>TOTAL .....</b>	<b>\$</b>	<b>9,188,000</b>

- (2) Safety: Asbestos removal (86-1-002)

**Reappropriation:**

UW Bldg Acct .....	\$	4,900,000
Prior Biennia (Expenditures) .....	\$	600,000
Future Biennia (Projected Costs) .....	\$	0
<b>TOTAL .....</b>	<b>\$</b>	<b>5,500,000</b>

(3) Minor works: Building renewal (86-1-004)

**Reappropriation:**

UW Bldg Acct .....	\$	6,200,000
Prior Biennia (Expenditures) .....	\$	5,983,000
Future Biennia (Projected Costs) .....	\$	0
<b>TOTAL .....</b>	<b>\$</b>	<b>12,183,000</b>

(4) Health Science Center G Court, H Wing, and I Court addition (86-2-021) and H Wing renovation (88-2-015)

**Reappropriation:**

St Bldg Constr Acct .....	\$	43,508,000
UW Bldg Acct .....	\$	3,500,000
Subtotal Reappropriation ....	\$	47,008,000
Prior Biennia (Expenditures) .....	\$	7,856,000
Future Biennia (Projected Costs) .....	\$	0
<b>TOTAL .....</b>	<b>\$</b>	<b>54,864,000</b>

(5) Minor works: Program renewal (86-3-005)

The reappropriations in this subsection are provided solely for minor repairs, fixtures, and improvements to state buildings and facilities and shall not be used for computer equipment, land acquisition, or for other expenses that normally would be funded from the state operating budget.

**Reappropriation:**

UW Bldg Acct .....	\$	3,800,000
Prior Biennia (Expenditures) .....	\$	9,540,000
Future Biennia (Projected Costs) .....	\$	0
<b>TOTAL .....</b>	<b>\$</b>	<b>13,340,000</b>

(6) Power plant boiler: To replace boiler number four with a gas and oil fixed boiler, including upgrades in the central heating plant (88-2-022)

The appropriation in this subsection shall not be expended until project preplanning documents have been reviewed and approved by the office of financial management under section 59 (~~of this act~~), chapter 14, Laws of 1991 sp.s.

<b>Reappropriation:</b>	
St Bldg Constr Acct .....	\$ 360,000
UW Bldg Acct .....	\$ 240,000
Subtotal Reappropriation ....	\$ 600,000
<b>Appropriation:</b>	
St Bldg Constr Acct .....	\$ 19,872,000
Prior Biennia (Expenditures) .....	\$ 468,495
Future Biennia (Projected Costs) .....	\$ 0
TOTAL .....	\$ 20,340,495

(7) K Wing addition (90-1-001)

The reappropriation in this subsection is provided from the proceeds of state general obligation bonds reimbursed from university indirect cost revenues from federal research grants and contracts pursuant to RCW 43.99H.020(18).

<b>Reappropriation:</b>	
H Ed Constr Acct .....	\$ 45,000,000
Prior Biennia (Expenditures) .....	\$ 0
Future Biennia (Projected Costs) .....	\$ 0
TOTAL .....	\$ 45,000,000

(8) Emergency power generation (90-2-001)

<b>Reappropriation:</b>	
St Bldg Constr Acct .....	\$ 10,500,000
Prior Biennia (Expenditures) .....	\$ 610,000
Future Biennia (Projected Costs) .....	\$ 0
TOTAL .....	\$ 11,110,000

(9) Physics: To construct and equip a new building for the physics and astronomy departments (90-2-009)

The project funded by the appropriations in this subsection shall be constructed on campus. The new appropriation in this subsection shall not be expended until project preplanning documents have been reviewed and approved by the office of financial management under section 59 (~~of this act~~), chapter 14, Laws of 1991 sp.s.

<b>Reappropriation:</b>	
St Bldg Constr Acct .....	\$ 4,000,000
<b>Appropriation:</b>	
H Ed Reimb Constr Acct .....	\$ 64,786,000
Prior Biennia (Expenditures) .....	\$ 3,778,000
Future Biennia (Projected Costs) .....	\$ 0
TOTAL .....	\$ 72,564,000

(10) Chemistry I: Design and construction (90-2-011)

The reappropriation in this subsection is subject to the following conditions and limitations:

(a) The reappropriation shall not be expended for construction until the project predesign and design documents have been reviewed and approved by the office of financial management under section 33 of this act.

(b) The project funded by the reappropriation in this subsection shall be constructed on campus.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	37,200,000
Prior Biennia (Expenditures) . . . . .	\$	1,952,000
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>39,152,000</b>

(11) Electrical engineering and computer science building:  
To complete the design of a replacement building for the departments of electrical engineering and computer science and engineering (90-2-013) (92-2-024)

The project funded by the appropriations in this subsection shall be constructed on campus. Other than for preplanning, the reappropriation shall not be expended until project preplanning documents have been reviewed and approved by the office of financial management under section 59 ~~((of this act))~~, chapter 14, Laws of 1991 sp.s.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	3,450,000
<b>Appropriation</b>		
St Bldg Constr Acct . . . . .	\$	1,147,000
Subtotal Appropriation . . . . .	\$	<del>((5,597,000))</del>
		<u>4,597,000</u>
Prior Biennia (Expenditures) . . . . .	\$	661,000
Future Biennia (Projected Costs) . . . . .	\$	93,500,000
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>98,758,000</b>

- (12) Electrical distribution system (88-1-011), power plant chiller (88-1-012), power plant stack replacement (88-1-023)

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	830,000
UW Bldg Acct . . . . .	\$	<u>770,000</u>
Subtotal Reappropriation . . . . .	\$	1,600,000
Prior Biennia (Expenditures) . . . . .	\$	7,539,000
Future Biennia (Projected Costs) . . . . .	\$	<u>0</u>
TOTAL . . . . .	\$	9,139,000

- (13) Safety: Fire code, PCB, and life safety projects including: Cleanup of asbestos, compliance with federal regulations for PCB removal and contaminated soil, ((and)) life and physical safety, and fire code regulations (92-1-004)

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	<del>((10,640,000))</del>
		<u>10,700,000</u>
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	<u>33,333,000</u>
TOTAL . . . . .	\$	<del>((43,973,000))</del> <u>44,033,000</u>

- (14) Minor capital renewal: To complete minor projects costing under \$500,000 that renew or bring campus facilities into code compliance (92-1-005)

The appropriations in this subsection are provided solely for minor repairs, fixtures, and improvements to state buildings and facilities and shall not be used for computer equipment, land acquisition, or for other expenses that normally would be funded from the state operating budget.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	3,525,000
UW Bldg Acct . . . . .	\$	<u>5,000,000</u>
Subtotal Appropriation . . . . .	\$	8,525,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	<u>40,200,000</u>
TOTAL . . . . .	\$	48,725,000

(15) Communications Building Renovation (88-2-014)

**Reappropriation:**

St Bldg Constr Acct .....	\$	2,015,000
UW Bldg Acct .....	\$	<u>1,167,000</u>
Subtotal Reappropriation ....	\$	3,182,000
Prior Biennia (Expenditures) .....	\$	3,555,000
Future Biennia (Projected Costs) .....	\$	<u>0</u>
TOTAL .....	\$	6,737,000

(16) Nuclear reactor decommission: To design the removal and decontamination of the nuclear reactor on campus (92-1-022)

**Appropriation:**

St Bldg Constr Acct .....	\$	235,000
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) .....	\$	<u>2,488,000</u>
TOTAL .....	\$	2,723,000

(17) Kincaid basement: To build twenty-two thousand-square feet of basement space between the Kincaid Building and the new Physics Building (92-2-002)

**Appropriation:**

St Bldg Constr Acct .....	\$	3,314,000
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) .....	\$	<u>0</u>
TOTAL .....	\$	3,314,000

(18) Physics Hall renovation, program: To complete the design for renovation of the existing Physics Hall (92-2-008)

The appropriation in this subsection shall not be expended on design documents until project preplanning documents have been reviewed and approved by the office of financial management under section 59 ((of this act)), chapter 14, Laws of 1991 sp.s.

**Appropriation:**

St Bldg Constr Acct .....	\$	2,543,000
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) .....	\$	<u>37,800,000</u>
TOTAL .....	\$	40,343,000

- (19) Chiller addition: To add one central power plant chiller unit (92-2-009)

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	2,459,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>2,459,000</b>

- (20) Data communications: To complete several data communications projects involving infrastructure, wiring, and building modifications (92-2-010)

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	2,700,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>2,700,000</b>

- (21) Electrical distribution: To upgrade the campus electrical distribution (92-2-012)

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	1,300,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>1,300,000</b>

- (22) Other utility projects: To remove and decontaminate underground storage tanks and other repair projects (92-2-013)

The appropriation in this subsection may be expended only after compliance with section 6(2) ((of this act)), chapter 14, Laws of 1991 sp.s.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	460,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	20,000,000
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>20,460,000</b>

- (23) Comparative medicine facility: To construct an animal laboratory facility (92-2-017)

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	700,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>700,000</b>

- (24) Minor capital improvements: To complete minor remodeling projects costing under \$500,000 that improve space usage and make repairs for specific campus programs or buildings (92-3-006)

The appropriations in this subsection are provided solely for minor repairs, fixtures, and improvements to state buildings and facilities and shall not be used for computer equipment, land acquisition, or for other expenses that normally would be funded from the state operating budget.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	5,703,000
UW Bldg Acct . . . . .	\$	<u>5,000,000</u>
Subtotal Appropriation . . . . .	\$	10,703,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	<u>40,250,000</u>
TOTAL . . . . .	\$	50,953,000

- (25) Parrington Hall exterior: To repair the exterior of Parrington Hall (92-3-018)

**Appropriation:**

UW Bldg Acct . . . . .	\$	1,759,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	<u>0</u>
TOTAL . . . . .	\$	1,759,000

- (26) Meany Hall exterior renovation: To replace the leaking exterior of Meany Hall (92-3-019)

The appropriation in this subsection shall not be expended for design documents until project preplanning documents have been reviewed and approved by the office of financial management under section 59 (~~(of this act)~~), chapter 14, Laws of 1991 sp.s.

**Appropriation:**

UW Bldg Acct . . . . .	\$	7,238,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	<u>0</u>
TOTAL . . . . .	\$	7,238,000

- (27) Denny Hall exterior repair: To repair and seismically improve the exterior of Denny Hall (92-3-020)

<b>Reappropriation:</b>	
St Bldg Constr Acct . . . . .	\$ 215,000
<b>Appropriation:</b>	
UW Bldg Acct . . . . .	\$ 1,670,000
Prior Biennia (Expenditures) . . . . .	\$ 0
Future Biennia (Projected Costs) . . . . .	\$ 0
TOTAL . . . . .	\$ 1,885,000

- (28) Fisheries II/utilities: To prepare plans for extending the utilities infrastructure to the west campus, constructing a new fisheries building, and replacing the facility for police and custodial units (92-2-027)

The appropriation in this subsection shall not be expended on design documents until project preplanning documents have been reviewed and approved by the office of financial management under section 59 (~~of this act~~), chapter 14, Laws of 1991 sp.s.

<b>Appropriation:</b>	
St( <del>ate</del> ) Bldg Constr Acct . . . . .	\$ 1,850,000
Prior Biennia (Expenditures) . . . . .	\$ 0
Future Biennia (Projected Costs) . . . . .	\$ 91,528,000
TOTAL . . . . .	\$ 93,378,000

- (29) Olympic Natural Resources Center

The appropriation in this subsection shall not be expended for design documents until project preplanning documents have been reviewed and approved by the office of financial management under section 59 (~~of this act~~), chapter 14, Laws of 1991 sp.s.

<b>Appropriation:</b>	
St Bldg Constr Acct . . . . .	\$ 5,675,000
Prior Biennia (Expenditures) . . . . .	\$ 0
Future Biennia (Projected Costs) . . . . .	\$ 0
TOTAL . . . . .	\$ 5,675,000

- (30) Employee day care facility—Preplanning

The appropriation in this subsection is provided solely for the purpose of acquiring, preparing a site for meeting the needs identified in the November 1987 child-care study conducted for the higher education coordinating board. In acquiring a site, the University shall make every effort to locate the child-care facility within a two-mile radius of the main Seattle campus

and shall give a high priority to the use of buildings owned, but not used by, the Seattle school district.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	150,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	150,000

(31) School of Business expansion: Predesign and design (93-4-001)

The appropriation in this subsection is subject to the following conditions and limitations:

(a) The appropriation shall not be expended for design documents until the project predesign documents have been reviewed and approved by the office of financial management under section 33 of this act.

(b) The appropriation in this subsection shall be matched by and spent concurrently with at least \$650,000 in cash provided from nonstate sources.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	650,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	5,350,000
TOTAL . . . . .	\$	6,000,000

(32) Henry Art Gallery expansion and renovation: For predesign and design phase

The appropriation in this subsection is subject to the following conditions and limitations:

(a) The appropriation shall be not expended for design documents until the project predesign documents have been reviewed and approved by the office of financial management under section 33 of this act.

(b) The appropriation in this subsection shall be matched by \$1,500,000 from nonstate sources. Phase II construction shall be matched by at least \$4,200,000 from nonstate sources.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	300,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	8,316,000
TOTAL . . . . .	\$	8,616,000

**(33) Burke Memorial Washington State Museum: For building renovations and new exhibits**

The appropriation in this subsection shall be matched by at least \$733,000 from other sources for the same purpose.

**Appropriation:**

<b><u>St Bldg Constr Acct</u></b> . . . . .	\$	<b><u>2,200,000</u></b>
<b><u>Prior Biennia (Expenditures)</u></b> . . . . .	\$	<u>0</u>
<b><u>Future Biennia (Projected Costs)</u></b> . . . . .	\$	<u>0</u>
<b><u>TOTAL</u></b> . . . . .	\$	<b><u>2,200,000</u></b>

**Sec. 27.** 1991 sp.s. c 14 s 35 (uncodified) is amended to read as follows:  
**FOR WASHINGTON STATE UNIVERSITY**

- (1) Science Hall renewal, phase 2 (86-1-006)

**Reappropriation:**

<b><u>H Ed Constr Acct</u></b> . . . . .	\$	<b><u>400,000</u></b>
<b><u>Prior Biennia (Expenditures)</u></b> . . . . .	\$	<u>10,804,000</u>
<b><u>Future Biennia (Projected Costs)</u></b> . . . . .	\$	<u>0</u>
<b><u>TOTAL</u></b> . . . . .	\$	<b><u>11,204,000</u></b>

- (2) Minor capital improvements (90-1-001)

The reappropriation in this subsection is provided solely for minor repairs, fixtures, and improvements to state buildings and facilities and shall not be used for computer equipment, land acquisition, or for other expenses that normally would be funded from the state operating budget.

**Reappropriation:**

<b><u>WSU Bldg Acct</u></b> . . . . .	\$	<b><u>1,788,000</u></b>
<b><u>Prior Biennia (Expenditures)</u></b> . . . . .	\$	<u>3,212,000</u>
<b><u>Future Biennia (Projected Costs)</u></b> . . . . .	\$	<u>0</u>
<b><u>TOTAL</u></b> . . . . .	\$	<b><u>5,000,000</u></b>

- (3) Minor capital renewal (90-1-002)

The reappropriation in this subsection is provided solely for minor repairs, fixtures, and improvements to state buildings and facilities and shall not be used for computer equipment, land acquisition, or for other expenses that normally would be funded from the state operating budget.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	1,950,000
Prior Biennia (Expenditures) . . . . .	\$	3,050,000
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	<u>5,000,000</u>

- (4) Washington higher education telecommunications system: To convert one of two analog channels to digital (90-2-021)

Any expenditure under this reappropriation shall be consistent with the plan being developed by the department of information services for the 1991 legislative session for the cost-effective, incremental implementation of a coordinated state-wide video telecommunications system.

**Reappropriation:**

WSU Bldg Acct . . . . .	\$	2,700,000
Prior Biennia (Expenditures) . . . . .	\$	55,000
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	<u>2,755,000</u>

- (5) Land acquisition (Branch Campus) (90-5-002)

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	250,000
Prior Biennia (Expenditures) . . . . .	\$	1,095,333
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	<u>1,345,333</u>

- (6) Tri-Cities University Center (90-5-901)

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	2,850,000
Prior Biennia (Expenditures) . . . . .	\$	9,548,000
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	<u>12,398,000</u>

- (7) Minor capital improvements: To complete minor remodeling projects costing under \$500,000 that improve space usage and make repairs for specific campus programs or buildings (92-1-001)

The appropriation in this subsection is provided solely for minor repairs, fixtures, and improvements to state buildings and facilities and shall not be used for computer equipment, land acquisition, or for other expenses that normally would be funded from the state operating budget.

	<b>Appropriation:</b>		
	WSU Bldg Acct . . . . .	\$	6,500,000
	Prior Biennia (Expenditures) . . . . .	\$	0
	Future Biennia (Projected Costs) . . . . .	\$	21,300,000
	TOTAL . . . . .	\$	27,800,000
(8)	Expansion of east campus substation: To provide an additional 15,000 KVA electrical power capacity to the existing east campus substation (92-1-015)		
	<b>Reappropriation:</b>		
	WSU Bldg Acct . . . . .	\$	525,100
	<b>Appropriation:</b>		
	WSU Bldg Acct . . . . .	\$	670,000
	Prior Biennia (Expenditures) . . . . .	\$	7,900
	Future Biennia (Projected Costs) . . . . .	\$	0
	TOTAL . . . . .	\$	1,203,000
(9)	Smith Gym electrical system replacement: To replace the entire building-wide electrical system (92-1-017) -		
	<b>Reappropriation:</b>		
	WSU Bldg Acct . . . . .	\$	638,300
	<b>Appropriation:</b>		
	WSU Bldg Acct . . . . .	\$	542,000
	Prior Biennia (Expenditures) . . . . .	\$	9,700
	Future Biennia (Projected Costs) . . . . .	\$	0
	TOTAL . . . . .	\$	1,190,000
(10)	Hazardous, pathological, and radioactive waste handling facilities: To provide centralized facilities to prepare, package, and ship biomedical, pathological, hazardous, low-level, and nonradioactive waste (92-1-019)		
	The appropriation in this subsection shall not be expended until project preplanning documents have been reviewed and approved by the office of financial management under section 59 ( <del>of this act</del> ), <u>chapter 14, Laws of 1991 sp.s.</u>		
	<b>Reappropriation:</b>		
	WSU Bldg Acct . . . . .	\$	21,700
	<b>Appropriation:</b>		
	St Bldg Constr Acct . . . . .	\$	1,343,000
	Prior Biennia (Expenditures) . . . . .	\$	130,300
	Future Biennia (Projected Costs) . . . . .	\$	5,570,000
	TOTAL . . . . .	\$	7,065,000

- (11) Asbestos removal: To remove asbestos contaminated fireproofing from the roof beams and support structures of the Coliseum (92-1-020)

The appropriation in this subsection may be expended only after compliance with section 6(3) (~~of this act~~), chapter 14, Laws of 1991 sp.s.

**Appropriation:**

WSU Bldg Acct . . . . .	\$	1,513,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	1,513,000

- (12) Fulmer Hall: To design renovations of Fulmer Hall Annex to meet fire, safety, and handicap access code requirements and to make changes in functional use of space (92-1-023)

The appropriation in this subsection shall not be expended until project preplanning documents have been reviewed and approved by the office of financial management under section 59 (~~of this act~~), chapter 14, Laws of 1991 sp.s.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	957,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	7,943,000
TOTAL . . . . .	\$	8,900,000

- (13) Nuclear radiation center study (92-1-025)

**Reappropriation:**

WSU Bldg Acct . . . . .	\$	13,400
Prior Biennia (Expenditures) . . . . .	\$	39,600
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	53,000

- (14) Minor capital renewal: To complete minor projects costing under \$500,000 that renew or bring campus facilities into code compliance (92-2-002)

The appropriation in this subsection is provided solely for minor repairs, fixtures, and improvements to state buildings and facilities and shall not be used for computer equipment, land acquisition, or for other expenses that normally would be funded from the state operating budget.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	5,500,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	5,500,000

- (15) Preplanning: To complete preplanning documents for the following projects: Engineering teaching-research building, animal sciences laboratory building, Thompson Hall renewal, Heald Hall renewal, Holland Library renewal, Bohler Gym addition/renewal, Kimbrough Hall addition, and classroom auditorium building (92-2-003)

The preplanning document shall include but not be limited to projected workload, site conditions, user requirements, current space available, and an overall budget and cost estimate breakdown in a form prescribed by the office of financial management.

**Appropriation:**

WSU Bldg Acct . . . . .	\$	869,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	869,000

- (16) Holland Library addition: To furnish and equip the library addition (92-2-012)

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	29,500,000
WSU Bldg Acct . . . . .	\$	48,600
Subtotal Reappropriation . . . . .	\$	29,548,600

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	2,580,000
Prior Biennia (Expenditures) . . . . .	\$	4,992,400
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	37,121,000

- (17) Veterinary teaching hospital: To construct and furnish a new teaching hospital for the department of veterinary medicine and surgery (92-2-013)

The appropriation in this subsection shall not be expended until project preplanning documents have been reviewed and approved by the office of financial management under section 59 (~~of this act~~), chapter 14, Laws of 1991 sp.s.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	970,000
WSU Bldg Acct . . . . .	\$	110,000
Subtotal Reappropriation . . . .	\$	1,080,000

**Appropriation:**

H Ed Reimb Constr Acct . . . . .	\$	26,835,000
Prior Biennia (Expenditures) . . . . .	\$	747,000
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	28,662,000

- (18) Child care facility: To design, construct, and furnish a child care facility by remodeling the vacated Rogers-Orton Dining Hall (92-2-014)

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	2,171,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	2,171,000

- (19) Carpenter Hall completion (renewal): To complete the renovation of Carpenter Hall (92-2-016)

**Reappropriation:**

H Ed Constr Acct . . . . .	\$	500,000
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**Appropriation:**

WSU Bldg Acct . . . . .	\$	810,000
Prior Biennia (Expenditures) . . . . .	\$	6,289,715
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	7,599,715

- (20) Communication infrastructure renewal: To design and construct university-wide communications facilities for telephone, computer, and audio-visual services (92-2-018)

The appropriation in this subsection shall not be expended until project preplanning documents have been reviewed and approved by the office of financial management under section 59 (~~of this act~~), chapter 14, Laws of 1991 sp.s.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	10,000,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	10,000,000

- (21) Todd Hall renewal: To renovate the entire building, including upgrading electrical and other building-wide systems, modernizing and refurbishing of classrooms and offices (92-2-021)

The appropriation in this subsection shall not be expended until project preplanning documents have been reviewed and approved by the office of financial management under section 59 (~~of this act~~), chapter 14, Laws of 1991 sp.s.

**Reappropriation:**

WSU Bldg Acct . . . . . \$ 37,000

**Appropriation:**

St Bldg Constr Acct . . . . . \$ 1,143,000  
 Prior Biennia (Expenditures) . . . . . \$ 145,000  
 Future Biennia (Projected Costs) . . . . . \$ 14,795,000  
 TOTAL . . . . . \$ 16,120,000

- (22) Student services addition: To design and construct a building for consolidated student service functions (92-2-027)

The appropriation in this subsection shall not be expended until project preplanning documents have been reviewed and approved by the office of financial management under section 59 (~~of this act~~), chapter 14, Laws of 1991 sp.s.

**Appropriation:**

St Bldg Constr Acct . . . . . \$ 15,000,000  
 WSU Bldg Acct . . . . . \$ 967,000  
 Subtotal Appropriation . . . . . \$ 15,967,000  
 Prior Biennia (Expenditures) . . . . . \$ 0  
 Future Biennia (Projected Costs) . . . . . \$ 0  
 TOTAL . . . . . \$ 15,967,000

- (23) Records, maintenance materials storage, and recycling, phase 1: To construct a storage structure for inactive records, physical plant storage, and recycling storage (92-2-028)

**Appropriation:**

WSU Bldg Acct . . . . . \$ 1,761,000  
 Prior Biennia (Expenditures) . . . . . \$ 0  
 Future Biennia (Projected Costs) . . . . . \$ 0  
 TOTAL . . . . . \$ 1,761,000

- (24) WHETS expansion: To add a fourth channel to the network that serves the Tri-Cities, Spokane, and Van-

cover branch campuses, to add two classrooms in Pullman, Tri-Cities, and Vancouver, to add one classroom in Spokane, and to extend the network and add one classroom ((at the ~~Tree Fruit Research and Extension Center~~) at Wenatchee Valley College in Wenatchee (92-2-908)

Any extension of educational telecommunications to the Wenatchee area shall be planned to allow for the possible future participation of multiple higher education institutions, especially those having direct program responsibility for the Wenatchee area. Implementation plans shall be approved by the higher education coordinating board, in conjunction with the department of information services.

**Appropriation:**

WSU Bldg Acct . . . . .	\$	2,321,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>2,321,000</b>

- (25) Dairy and forage facility: To design and construct a facility that includes a new dairy center and milking parlor, a freestall building, and offices and classrooms (92-3-024)

**Appropriation:**

WSU Bldg Acct . . . . .	\$	2,714,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>2,714,000</b>

- (26) Chilled water storage facility: To design and construct a 2,820,000-gallon chilled water storage tank (92-4-022)

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	2,850,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>2,850,000</b>

**NEW SECTION. Sec. 28.** A new section is added to chapter 14, Laws of 1991 sp.s. to read as follows:

**FOR EASTERN WASHINGTON UNIVERSITY**

- (1) To acquire property within the campus boundary from the Department of Natural Resources (92-5-001)

The appropriation in this subsection is in addition to the appropriation for same purpose in section 36, chapter 14, Laws of 1991 sp.s.

**Appropriation:**

EWU Cap Proj Acct . . . . .	\$	175,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	175,000

- (2) To remodel space in the Spokane Center to provide a student computer center (92-5-008)

**Appropriation:**

EWU Cap Proj Acct . . . . .	\$	600,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	600,000

**Sec. 29.** 1991 sp.s. c 14 s 44 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY COLLEGE SYSTEM**

- (1) Extension facility (Puyallup) (86-3-021)

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	99,211
Prior Biennia (Expenditures) . . . . .	\$	5,276,789
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	5,376,000

- (2) Tech building and remodeling (Skagit Valley) (86-3-022)

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	30,085
Prior Biennia (Expenditures) . . . . .	\$	3,369,915
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	3,400,000

- (3) Heavy equipment building (South Seattle) (86-3-026)

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	17,901
Prior Biennia (Expenditures) . . . . .	\$	4,429,099
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	4,447,000

(4)	Minor works (RMI) (88-2-001)		
	<b>Reappropriation:</b>		
	St Bldg Constr Acct .....	\$	114,174
	Prior Biennia (Expenditures) .....	\$	3,385,826
	Future Biennia (Projected Costs) .....	\$	0
	<b>TOTAL .....</b>	<b>\$</b>	<b>3,500,000</b>
(5)	Repairs, exterior walls (88-3-003)		
	<b>Reappropriation:</b>		
	St Bldg Constr Acct .....	\$	218,614
	Prior Biennia (Expenditures) .....	\$	4,045,386
	Future Biennia (Projected Costs) .....	\$	0
	<b>TOTAL .....</b>	<b>\$</b>	<b>4,264,000</b>
(6)	Repairs, mechanical, heating, ventilation, and air conditioning (88-3-004)		
	<b>Reappropriation:</b>		
	St Bldg Constr Acct .....	\$	500,121
	Prior Biennia (Expenditures) .....	\$	3,574,879
	Future Biennia (Projected Costs) .....	\$	0
	<b>TOTAL .....</b>	<b>\$</b>	<b>4,075,000</b>
(7)	Minor improvements (88-3-005)		
	<b>Reappropriation:</b>		
	St Bldg Constr Acct .....	\$	781,756
	Prior Biennia (Expenditures) .....	\$	12,982,244
	Future Biennia (Projected Costs) .....	\$	0
	<b>TOTAL .....</b>	<b>\$</b>	<b>13,764,000</b>
(8)	Repairs, electrical (88-3-006)		
	<b>Reappropriation:</b>		
	St Bldg Constr Acct .....	\$	114,986
	Prior Biennia (Expenditures) .....	\$	1,277,014
	Future Biennia (Projected Costs) .....	\$	0
	<b>TOTAL .....</b>	<b>\$</b>	<b>1,392,000</b>
(9)	Sites and interiors (88-3-007)		
	<b>Reappropriation:</b>		
	St Bldg Constr Acct .....	\$	168,312
	Prior Biennia (Expenditures) .....	\$	1,757,688
	Future Biennia (Projected Costs) .....	\$	0
	<b>TOTAL .....</b>	<b>\$</b>	<b>1,926,000</b>

## (10) Agri Tech building (Walla Walla) (88-3-008)

**Reappropriation:**

St Bldg Constr Acct .....	\$	1,000,539
Prior Biennia (Expenditures) .....	\$	2,114,461
Future Biennia (Projected Costs) .....	\$	0
TOTAL .....	\$	3,115,000

## (11) Plan, and construct library-student center (86-2-031)

**Reappropriation:**

St Bldg Constr Acct .....	\$	328,911
Prior Biennia (Expenditures) .....	\$	7,662,089
Future Biennia (Projected Costs) .....	\$	0
TOTAL .....	\$	7,991,000

## (12) Vocational shop (Wenatchee) (88-3-010)

**Reappropriation:**

St Bldg Constr Acct .....	\$	613,953
Prior Biennia (Expenditures) .....	\$	341,047
Future Biennia (Projected Costs) .....	\$	0
TOTAL .....	\$	955,000

## (13) Computer facility (Edmonds) (88-3-011)

**Reappropriation:**

St Bldg Constr Acct .....	\$	14,934
Prior Biennia (Expenditures) .....	\$	3,820,066
Future Biennia (Projected Costs) .....	\$	0
TOTAL .....	\$	3,835,000

## (14) Learning resource center (Clark) (88-3-012)

**Reappropriation:**

St Bldg Constr Acct .....	\$	620,017
Prior Biennia (Expenditures) .....	\$	5,759,983
Future Biennia (Projected Costs) .....	\$	0
TOTAL .....	\$	6,380,000

## (15) Extension center (Yakima Valley) (88-3-013)

**Reappropriation:**

St Bldg Constr Acct .....	\$	102,068
Prior Biennia (Expenditures) .....	\$	1,588,932
Future Biennia (Projected Costs) .....	\$	0
TOTAL .....	\$	1,691,000

(16) Math and science building (Spokane Falls) (88-3-015)	
<b>Reappropriation:</b>	
St Bldg Constr Acct .....	\$ 779,618
Prior Biennia (Expenditures) .....	\$ 4,970,382
Future Biennia (Projected Costs) .....	\$ 0
TOTAL .....	\$ 5,750,000
(17) Learning resource center (Spokane) (88-3-016)	
<b>Reappropriation:</b>	
St Bldg Constr Acct .....	\$ 588,025
Prior Biennia (Expenditures) .....	\$ 4,946,975
Future Biennia (Projected Costs) .....	\$ 0
TOTAL .....	\$ 5,535,000
(18) Preplanning for 1989-93 major projects (88-4-014)	
<b>Reappropriation:</b>	
St Bldg Constr Acct .....	\$ 48,852
Prior Biennia (Expenditures) .....	\$ 448,148
Future Biennia (Projected Costs) .....	\$ 0
TOTAL .....	\$ 497,000
(19) Construct: Whidbey learning resource center: To house library and media services, computer science and office occupations programs, classrooms, and offices at Skagit Valley's Whidbey branch (Skagit Valley) (88-5-020)	
<b>Reappropriation</b>	
St Bldg Constr Acct .....	\$ 66,117
<b>Appropriation:</b>	
St Bldg Constr Acct .....	\$ 2,123,000
Prior Biennia (Expenditures) .....	\$ 41,883
Future Biennia (Projected Costs) .....	\$ 0
TOTAL .....	\$ 2,231,000
(20) Construct: A combination science, physical education, and instruction building (South Puget Sound) (88-5-021)	
<b>Appropriation:</b>	
St Bldg Constr Acct .....	\$ 5,998,000
Prior Biennia (Expenditures) .....	\$ 256,000
Future Biennia (Projected Costs) .....	\$ 0
TOTAL .....	\$ 6,254,000

- (21) Construct: Early childhood education facility of eight thousand square feet (Shoreline) (88-5-022)

**Reappropriation:**

St Bldg Constr Acct ..... \$ 20,747

**Appropriation:**

St Bldg Constr Acct ..... \$ 1,307,000

Prior Biennia (Expenditures) ..... \$ 57,253

Future Biennia (Projected Costs) ..... \$ 0

TOTAL ..... \$ 1,385,000

- (22) Construct: Library addition and remodel to reconfigure the library building and add ten thousand four hundred seventy-five square feet (Columbia Basin) (88-5-023)

**Reappropriation:**

St Bldg Constr Acct ..... \$ 77,194

**Appropriation:**

St Bldg Constr Acct ..... \$ 1,972,000

Prior Biennia (Expenditures) ..... \$ 35,806

Future Biennia (Projected Costs) ..... \$ 0

TOTAL ..... \$ 2,085,000

- (23) Construct: Vocational shops for diesel, automotive, and woodworking classes (Centralia) (88-5-024)

**Reappropriation:**

St Bldg Constr Acct ..... \$ 49,234

**Appropriation:**

St Bldg Constr Acct ..... \$ 2,025,000

Prior Biennia (Expenditures) ..... \$ 45,766

Future Biennia (Projected Costs) ..... \$ 0

TOTAL ..... \$ 2,120,000

- (24) Construct: Learning research center addition and remodel to add seven thousand two hundred square feet for information technology, media production, offices, and work areas (Tacoma) (88-5-025)

**Reappropriation:**

St Bldg Constr Acct ..... \$ 76,722

**Appropriation:**

St Bldg Constr Acct ..... \$ 1,746,000

Prior Biennia (Expenditures) ..... \$ 13,278

Future Biennia (Projected Costs) ..... \$ 0

TOTAL ..... \$ 1,836,000

(25) Construct: Vocational food addition to add twelve thousand two hundred fifty square feet to the student center for expansion of the food service program areas (Lower Columbia) (88-5-026)	
<b>Reappropriation:</b>	
St Bldg Constr Acct .....	\$ 138,067
<b>Appropriation:</b>	
St Bldg Constr Acct .....	\$ 2,902,000
Prior Biennia (Expenditures) .....	\$ 1,933
Future Biennia (Projected Costs) .....	\$ 0
TOTAL .....	\$ 3,042,000
(26) Construct: Business Education Building to house office technology labs, computer labs, and related support activities (Spokane) (88-5-027)	
<b>Reappropriation:</b>	
St Bldg Constr Acct .....	\$ 33,714
<b>Appropriation:</b>	
St Bldg Constr Acct .....	\$ 6,311,000
Prior Biennia (Expenditures) .....	\$ 211,286
Future Biennia (Projected Costs) .....	\$ 0
TOTAL .....	\$ 6,556,000
(27) Construct: Student activity and physical education facility (Seattle Central) (88-5-028)	
<b>Reappropriation:</b>	
St Bldg Constr Acct .....	\$ 148,348
<b>Appropriation:</b>	
St Bldg Constr Acct .....	\$ 11,080,000
Prior Biennia (Expenditures) .....	\$ 251,652
Future Biennia (Projected Costs) .....	\$ 0
TOTAL .....	\$ 11,480,000
(28) Washington State University education center (Clark) (89-5-019)	
<b>Reappropriation:</b>	
St Bldg Constr Acct .....	\$ 12,793
Prior Biennia (Expenditures) .....	\$ 1,787,207
Future Biennia (Projected Costs) .....	\$ 0
TOTAL .....	\$ 1,800,000

## (29) Multipurpose child care center (Everett) (89-5-020)

**Reappropriation:**

St Bldg Constr Acct .....	\$	20,055
Prior Biennia (Expenditures) .....	\$	465,533
Future Biennia (Projected Costs) .....	\$	0
<b>TOTAL .....</b>	<b>\$</b>	<b>485,588</b>

## (30) Fire and security repairs (90-1-004)

**Reappropriation:**

St Bldg Constr Acct .....	\$	499,132
Prior Biennia (Expenditures) .....	\$	448,478
Future Biennia (Projected Costs) .....	\$	0
<b>TOTAL .....</b>	<b>\$</b>	<b>947,610</b>

## (31) Roof and structural repairs (90-2-002)

**Reappropriation:**

St Bldg Constr Acct .....	\$	1,336,671
Prior Biennia (Expenditures) .....	\$	2,321,329
Future Biennia (Projected Costs) .....	\$	0
<b>TOTAL .....</b>	<b>\$</b>	<b>3,658,000</b>

## (32) Heating, ventilation, and air conditioning mechanical repairs (90-2-003)

**Reappropriation:**

St Bldg Constr Acct .....	\$	1,412,452
Prior Biennia (Expenditures) .....	\$	1,560,378
Future Biennia (Projected Costs) .....	\$	0
<b>TOTAL .....</b>	<b>\$</b>	<b>2,972,830</b>

## (33) Electrical repairs (90-2-005)

**Reappropriation:**

St Bldg Constr Acct .....	\$	126,639
Prior Biennia (Expenditures) .....	\$	244,601
Future Biennia (Projected Costs) .....	\$	0
<b>TOTAL .....</b>	<b>\$</b>	<b>371,240</b>

## (34) Small repairs and improvements (90-3-001)

**Reappropriation:**

St Bldg Constr Acct .....	\$	1,338,574
Prior Biennia (Expenditures) .....	\$	2,861,426
Future Biennia (Projected Costs) .....	\$	0
<b>TOTAL .....</b>	<b>\$</b>	<b>4,200,000</b>

(35) Learning assistance resource center (Centralia)  
(90-3-006)

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	66,076
Prior Biennia (Expenditures) . . . . .	\$	4,147,924
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	4,214,000

(36) Facility repairs (90-3-007)

The reappropriation in this subsection is provided solely for minor repairs, fixtures, and improvements to state buildings and facilities and shall not be used for computer equipment or for other expenses that normally would be funded from the state operating budget.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	740,342
Prior Biennia (Expenditures) . . . . .	\$	3,107,838
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	3,848,180

(37) Technology laboratories (Highline) (90-3-023)

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	554,817
Prior Biennia (Expenditures) . . . . .	\$	2,213,183
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	2,768,000

(38) Minor improvements (90-5-009)

The reappropriation in this subsection is provided solely for minor repairs, fixtures, and improvements to state buildings and facilities and shall not be used for computer equipment, land acquisition, or for other expenses that normally would be funded from the state operating budget, except that the sum of \$465,000 may be expended for the purchase of Roosevelt Field at Olympic College.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	4,454,434
Prior Biennia (Expenditures) . . . . .	\$	8,838,506
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	13,292,940

## (39) Design: Technology center (Whatcom) (90-5-010)

The new appropriation in this subsection shall not be expended until project preplanning documents have been reviewed and approved by the office of financial management under section 59 (~~of this act~~), chapter 14, Laws of 1991 sp.s.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	34,750
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**Appropriation:**

St Bldg Constr Acct . . . . .	\$	249,000
Prior Biennia (Expenditures) . . . . .	\$	28,250
Future Biennia (Projected Costs) . . . . .	\$	6,378,000
TOTAL . . . . .	\$	6,690,000

## (40) Design: Physical education facility (North Seattle) (90-5-011)

The appropriation in this subsection shall not be expended until project preplanning documents have been reviewed and approved by the office of financial management under section 59 (~~of this act~~), chapter 14, Laws of 1991 sp.s.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	202,000
Prior Biennia (Expenditures) . . . . .	\$	45,000
Future Biennia (Projected Costs) . . . . .	\$	6,940,000
TOTAL . . . . .	\$	7,187,000

## (41) Design: Applied arts building (Spokane Falls) (90-5-012)

The new appropriation in this subsection shall not be expended until project preplanning documents have been reviewed and approved by the office of financial management under section 59 (~~of this act~~), chapter 14, Laws of 1991 sp.s.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	33,157
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**Appropriation:**

St Bldg Constr Acct . . . . .	\$	280,000
Prior Biennia (Expenditures) . . . . .	\$	34,843
Future Biennia (Projected Costs) . . . . .	\$	5,213,000
TOTAL . . . . .	\$	5,561,000

(42) Design: Industrial tech building (Spokane) (90-5-013)

The new appropriation in this subsection shall not be expended until project preplanning documents have been reviewed and approved by the office of financial management under section 59 (~~of this act~~), chapter 14, Laws of 1991 sp.s.

<b>Reappropriation:</b>	
St Bldg Constr Acct .....	\$ 9,076
<b>Appropriation:</b>	
St Bldg Constr Acct .....	\$ 298,000
Prior Biennia (Expenditures) .....	\$ 54,924
Future Biennia (Projected Costs) .....	\$ 6,536,000
TOTAL .....	\$ 6,898,000

(43) Design: Vocational art facility (Shoreline) (90-5-014)

<b>Reappropriation:</b>	
St Bldg Constr Acct .....	\$ 22,407
<b>Appropriation:</b>	
St Bldg Constr Acct .....	\$ 157,000
Prior Biennia (Expenditures) .....	\$ 28,593
Future Biennia (Projected Costs) .....	\$ 2,785,000
TOTAL .....	\$ 2,993,000

(44) Design: Business education building (Clark) (90-5-015)

The new appropriation in this subsection shall not be expended until project preplanning documents have been reviewed and approved by the office of financial management under section 59 (~~of this act~~), chapter 14, Laws of 1991 sp.s.

<b>Reappropriation:</b>	
St Bldg Constr Acct .....	\$ 33,280
<b>Appropriation:</b>	
St Bldg Constr Acct .....	\$ 305,000
Prior Biennia (Expenditures) .....	\$ 39,720
Future Biennia (Projected Costs) .....	\$ 5,725,000
TOTAL .....	\$ 6,103,000

(45) Design: Student center (South Seattle) (90-5-016)

The new appropriation in this subsection shall not be expended until project preplanning documents have been reviewed and approved by the office of financial management under section 59 (~~of this act~~), chapter 14, Laws of 1991 sp.s.

	<b>Reappropriation:</b>		
	St Bldg Constr Acct .....	\$	5,117
	<b>Appropriation:</b>		
	St Bldg Constr Acct .....	\$	258,000
	Prior Biennia (Expenditures) .....	\$	53,883
	Future Biennia (Projected Costs) .....	\$	4,276,000
	TOTAL .....	\$	4,593,000
(46)	Design: Library addition (Skagit Valley) (90-5-017)		
	<b>Appropriation:</b>		
	St Bldg Constr Acct .....	\$	116,000
	Prior Biennia (Expenditures) .....	\$	44,000
	Future Biennia (Projected Costs) .....	\$	1,896,000
	TOTAL .....	\$	2,056,000
(47)	Acquisition: Purchase land for staff and student parking (Olympic) (92-1-601)		
	<b>Appropriation:</b>		
	St Bldg Constr Acct .....	\$	105,000
	Prior Biennia (Expenditures) .....	\$	0
	Future Biennia (Projected Costs) .....	\$	0
	TOTAL .....	\$	105,000
(48)	Acquisition: Purchase a two thousand four hundred-square-foot child care facility (Centralia) (92-1-602)		
	<b>Appropriation:</b>		
	St Bldg Constr Acct .....	\$	78,000
	Prior Biennia (Expenditures) .....	\$	0
	Future Biennia (Projected Costs) .....	\$	0
	TOTAL .....	\$	78,000
(49)	Acquisition: Purchase 1.76 acres and a five thousand seven hundred five-square-foot fire station for fire science training and additional college parking (Spokane) (92-1-603)		
	<b>Appropriation:</b>		
	St Bldg Constr Acct .....	\$	498,000
	Prior Biennia (Expenditures) .....	\$	0
	Future Biennia (Projected Costs) .....	\$	0
	TOTAL .....	\$	498,000

- (50) Acquisition: Purchase property for auto shop ((~~that is currently being leased~~)) program (Olympic) (92-1-604)

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	700,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	700,000

- (51) Acquisition: Purchase 1.4 acres and an eight thousand-square-foot graphic arts facility currently being leased for the Whidbey branch (Skagit Valley) (92-1-605)

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	280,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	280,000

- (52) Acquisition: Purchase a fourteen thousand six hundred three-square-foot vocational facility adjacent to the college that is currently being leased (Whatcom) (92-1-606)

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	1,893,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	1,893,000

- (53) Underground tank repairs: To remove sixty-five underground storage tanks and any contaminated soil (92-2-102)

The appropriation in this subsection may be expended only after compliance with section 6(2) ((~~of this act~~)), chapter 14, Laws of 1991 sp.s.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	650,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	650,000

- (54) Life safety code repairs: To pay local improvement district assessments and make improvements to meet handicap and safety regulations (92-2-103)

	<b>Appropriation:</b>		
	<b>St Bldg Constr Acct</b> . . . . .	\$	1,172,000
	Prior Biennia (Expenditures) . . . . .	\$	0
	Future Biennia (Projected Costs) . . . . .	\$	0
	TOTAL . . . . .	\$	1,172,000
(55)	Roof repairs: To replace or repair roofs at seventeen campuses (92-2-104)		
	<b>Appropriation:</b>		
	<b>St Bldg Constr Acct</b> . . . . .	\$	7,457,000
	Prior Biennia (Expenditures) . . . . .	\$	0
	Future Biennia (Projected Costs) . . . . .	\$	0
	TOTAL . . . . .	\$	7,457,000
(56)	Exterior and structural repairs: To repair structural or exterior problems at seven campuses (92-2-105)		
	<b>Appropriation:</b>		
	<b>St Bldg Constr Acct</b> . . . . .	\$	817,000
	Prior Biennia (Expenditures) . . . . .	\$	0
	Future Biennia (Projected Costs) . . . . .	\$	0
	TOTAL . . . . .	\$	817,000
(57)	Heating, ventilation, and air conditioning repairs: To repair or replace HVAC systems on ten campuses (92-2-106)		
	<b>Appropriation:</b>		
	<b>St Bldg Constr Acct</b> . . . . .	\$	3,074,000
	Prior Biennia (Expenditures) . . . . .	\$	0
	Future Biennia (Projected Costs) . . . . .	\$	0
	TOTAL . . . . .	\$	3,074,000
(58)	Electrical repairs: To repair or replace electrical wiring and equipment on twelve campuses (92-2-107)		
	<b>Appropriation:</b>		
	<b>St Bldg Constr Acct</b> . . . . .	\$	2,307,000
	Prior Biennia (Expenditures) . . . . .	\$	0
	Future Biennia (Projected Costs) . . . . .	\$	0
	TOTAL . . . . .	\$	2,307,000
(59)	Mechanical repairs: To repair or replace mechanical system components on eleven campuses (92-2-108)		
	<b>Appropriation:</b>		
	<b>St Bldg Constr Acct</b> . . . . .	\$	2,508,000
	Prior Biennia (Expenditures) . . . . .	\$	0
	Future Biennia (Projected Costs) . . . . .	\$	0
	TOTAL . . . . .	\$	2,508,000

- (60) Fire and security repairs: To repair or improve fire and security systems on four campuses (92-2-109)

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	692,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	692,000

- (61) Interior repairs: To repair or replace interior surfaces and equipment on twelve campuses (92-2-110)

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	1,440,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	1,440,000

- (62) Site repairs: To provide site improvements on eleven campuses (92-2-111)

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	1,329,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	1,329,000

- (63) Small repairs and improvements: To provide funds for each community college to make unforeseen repairs (92-5-001)

The appropriation in this subsection is subject to the following conditions and limitations:

(a) \$45,000, or as much thereof as may be necessary, (~~of the appropriation in this subsection~~) is provided for an evaluation of the physical condition of the Seattle Vocational Institute formally the Washington Institute of Applied Technology (WIAT) facility.

(b) The state board for community and technology colleges shall include within the 1993-95 capital budget request for small repairs and improvements as identified in the governor's six year capital plan, an amount for a centralized reserve to be allocated by the board for facility emergency repairs that occur during the fiscal period.

(c) The board shall ensure that all allocations from this appropriation are used for capital expenditures and not for expenditures normally funded from the state operating budget.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	6,256,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	6,256,000

- (64) Minor improvements: To complete fifty-seven minor improvement projects costing less than \$500,000 each (92-5-200)

The appropriation in this subsection is provided solely for minor repairs, fixtures, and improvements to state buildings and facilities and shall not be used for computer equipment, land acquisition, or for other expenses that normally would be funded from the state operating budget.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	16,930,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	16,930,000

- (65) Preplan: Puyallup, phase 2 (Pierce) (92-5-501)

Any preplanning documents developed using the appropriation in this subsection are subject to review by the office of financial management under section 59 (~~of this act~~), chapter 14, Laws of 1991 sp.s.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	57,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	9,653,000
TOTAL . . . . .	\$	9,710,000

- (66) Preplan: Vocational building (Skagit Valley) (92-5-502)

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	25,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	2,116,000
TOTAL . . . . .	\$	2,141,000

- (67) Preplan: Learning resource center, arts, and student center (Whatcom) (92-5-503)

Any preplanning documents developed using the appropriation in this subsection are subject to review

by the office of financial management under section 59  
 ((of this act)), chapter 14, Laws of 1991 sp.s.

**Appropriation:**

St Bldg Constr Acct .....	\$	45,000
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) .....	\$	6,942,000
<b>TOTAL .....</b>	<b>\$</b>	<b>6,987,000</b>

- (68) Preplan: Office and instructional building (Edmonds)  
 (92-5-504)

Any preplanning documents developed using the  
 appropriation in this subsection are subject to review  
 by the office of financial management under section 59  
 ((of this act)), chapter 14, Laws of 1991 sp.s.

**Appropriation:**

St Bldg Constr Acct .....	\$	58,000
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) .....	\$	8,485,000
<b>TOTAL .....</b>	<b>\$</b>	<b>8,543,000</b>

- (69) Preplan: Technical skills facility (South Puget Sound)  
 (92-5-505)

Any preplanning documents developed using the  
 appropriation in this subsection are subject to review  
 by the office of financial management under section 59  
 ((of this act)), chapter 14, Laws of 1991 sp.s.

**Appropriation:**

St Bldg Constr Acct .....	\$	42,000
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) .....	\$	5,849,000
<b>TOTAL .....</b>	<b>\$</b>	<b>5,891,000</b>

- (70) Preplan: Learning resource center and technical facility  
 (Green river) (92-5-506)

Any preplanning documents developed using the  
 appropriation in this subsection are subject to review  
 by the office of financial management under section 59  
 ((of this act)), chapter 14, Laws of 1991 sp.s.

**Appropriation:**

St Bldg Constr Acct .....	\$	58,000
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) .....	\$	10,462,000
<b>TOTAL .....</b>	<b>\$</b>	<b>10,520,000</b>

(71) Preplan: New Campus One (92-5-701)

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	300,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	14,800,000
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>15,100,000</b>

(72) Pool repairs (Pierce)

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	600,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
<b>TOTAL . . . . .</b>	<b>\$</b>	<b>600,000</b>

(73) Lake Washington Technical College: For the administrative addition, classroom space, and aerospace laboratory (92-5-003)

The appropriation in this subsection is in addition to the appropriation in chapter 2, Laws of 1992 (House Bill No. 2295) for Lake Washington Technical College and is provided solely for building construction, building equipment and furniture, street improvements, and required art works.

**Appropriation:**

<u>St Bldg Constr Acct . . . . .</u>	<u>\$</u>	<u>2,291,200</u>
<u>Prior Biennia (Expenditures) . . . . .</u>	<u>\$</u>	<u>10,117,000</u>
<u>Future Biennia (Projected Costs) . . . . .</u>	<u>\$</u>	<u>0</u>
<b><u>TOTAL . . . . .</u></b>	<b><u>\$</u></b>	<b><u>12,408,200</u></b>

(74) Bates Technical College: For building furnishings and equipment to complete a facility (93-2-002)

**Appropriation:**

<u>St Bldg Constr Acct . . . . .</u>	<u>\$</u>	<u>108,000</u>
<u>Prior Biennia (Expenditures) . . . . .</u>	<u>\$</u>	<u>0</u>
<u>Future Biennia (Projected Costs) . . . . .</u>	<u>\$</u>	<u>0</u>
<b><u>TOTAL . . . . .</u></b>	<b><u>\$</u></b>	<b><u>108,000</u></b>

(75) Clover Park Technical College: Roof repairs (93-2-002)

**Appropriation:**

<u>St Bldg Constr Acct . . . . .</u>	<u>\$</u>	<u>189,000</u>
<u>Prior Biennia (Expenditures) . . . . .</u>	<u>\$</u>	<u>0</u>
<u>Future Biennia (Projected Costs) . . . . .</u>	<u>\$</u>	<u>0</u>
<b><u>TOTAL . . . . .</u></b>	<b><u>\$</u></b>	<b><u>189,000</u></b>

(76) Wenatchee Valley College: For remodeling to accommodate the WHETS telecommunication system

**Appropriation:**

<u>St Bldg Constr Acct</u> . . . . .	\$	<u>250,000</u>
<u>Prior Biennia (Expenditures)</u> . . . . .	\$	<u>0</u>
<u>Future Biennia (Projected Costs)</u> . . . . .	\$	<u>0</u>
<b><u>TOTAL</u></b> . . . . .	<b>\$</b>	<b><u>250,000</u></b>

(77) Olympic College: For electrical transformer repairs

**Appropriation:**

<u>St Bldg Constr Acct</u> . . . . .	\$	<u>100,000</u>
<u>Prior Biennia (Expenditures)</u> . . . . .	\$	<u>0</u>
<u>Future Biennia (Projected Costs)</u> . . . . .	\$	<u>0</u>
<b><u>TOTAL</u></b> . . . . .	<b>\$</b>	<b><u>100,000</u></b>

(78) Columbia Basin College: For heating system repairs and steam line replacement

**Appropriation:**

<u>St Bldg Constr Acct</u> . . . . .	\$	<u>281,600</u>
<u>Prior Biennia (Expenditures)</u> . . . . .	\$	<u>0</u>
<u>Future Biennia (Projected Costs)</u> . . . . .	\$	<u>0</u>
<b><u>TOTAL</u></b> . . . . .	<b>\$</b>	<b><u>281,600</u></b>

(79) Seattle Vocational Institute: Facilities planning and emergency repairs

The appropriation in this subsection is subject to the following conditions and limitations:

(a) The Seattle Vocational Institute shall revise its mission statement to integrate with the goals, program, and facilities plans of the Seattle community college district;

(b) \$60,000, or as much thereof as may be necessary, is provided for unforeseen or emergency repairs to the facility;

(c) The state board for community and technical colleges shall submit a report to the fiscal committees of the senate and house of representatives by January 15, 1993. The report shall include:

(i) The feasibility of alternative leased or new facilities that could replace the existing Seattle Vocational Institute building;

(ii) A recommendation on the disposition or renovation of the existing Seattle Vocational Institute building; and

(iii) Operating and capital cost estimates for the Seattle Vocational Institute for the next six years.

**Appropriation:**

<u>St Bldg Constr Acct</u> . . . . .	\$	<u>100,000</u>
<u>Prior Biennia (Expenditures)</u> . . . . .	\$	<u>0</u>
<u>Future Biennia (Projected Costs)</u> . . . . .	\$	<u>0</u>
<u>TOTAL</u> . . . . .	\$	<u>100,000</u>

**PART 5  
MISCELLANEOUS**

**NEW SECTION. Sec. 30.** The estimated debt service costs impacting future general fund expenditures related solely to new supplemental capital appropriations within this act are \$395,300 during the 1991-93 fiscal period; \$23,794,000 during the 1993-95 fiscal period; and \$28,381,300 during the 1995-97 fiscal period.

**\*Sec. 31.** 1991 sp.s. c 14 s 47 (uncodified) is amended to read as follows:

The following agencies may enter into financial contracts for the purpose indicated and in not more than the principal amounts indicated plus financing expenses and required reserves pursuant to chapter 39.94 RCW:

(1) Department of Social and Health Services to:

(a) Lease a multi-service center in Benton or Franklin county for ~~(((\$2,592,450))~~ \$1,337,670 during the 1991-93 biennium; ~~((and))~~

(b) Lease a Spokane North Community Service Office for \$980,000 during the 1991-93 biennium; and

(c) Lease a Children's and Family Services office in Toppenish for \$135,000 during the 1991-93 biennium.

(2) Department of Corrections to:

(a) Lease-purchase a ~~((sixty-bed))~~ work-release facility in Benton or Franklin county for ~~(((\$1,186,850))~~ 1,337,670 during the 1991-93 biennium;

(b) Lease-purchase a forty-bed work-release facility in Longview for \$1,337,670 during the 1991-93 biennium;

(c) Lease-purchase ~~((twelve-forty-bed))~~ three hundred sixty beds in work-release facilities in as-yet-undetermined locations state-wide ~~((for \$1,337,670 each)),~~ for a total of ~~(((\$16,052,040))~~ 12,039,030 during the 1991-93 biennium;

(d) Lease-purchase a correctional industries building at Shelton for \$1,892,153 during the 1991-93 biennium; ~~((and))~~

(e) Lease-purchase a four hundred-passenger ferry, used tugboat, and new vehicle barge at McNeil Island for \$1,760,963 during the 1991-93 biennium; and

(f) Lease-purchase property from the Department of Natural Resources on which the Cedar Creek, Indian Ridge, Larch, and Olympic Correctional Centers are now located for up to \$1,000,000 during the 1991-93 biennium.

(3) State Board for Community College Education to:

(a) Lease-purchase a warehouse-type facility to house the electrician apprentice training program in Skagit county for an estimated cost of \$200,000 during the 1991-93 biennium;

(b) Lease-purchase a facility to house the cosmetology training program at Everett for \$60,000;

(c) Lease a facility to house the Bellevue Community College business office in Bellevue for \$120,000 during the 1991-93 biennium;

(d) Lease a facility for the Green River Community College education and training center in Kent for \$120,000 in the 1991-93 biennium;

(e) Lease-purchase office space for Edmonds Community College in Edmonds for \$280,000 during the 1991-93 biennium;

(f) Lease-purchase space to house Spokane Falls Community College's adult education programs in Spokane for \$300,000 during the 1991-93 biennium;

(g) Lease-purchase space to house plant services for Wenatchee Valley Community College in Wenatchee for \$96,000 during the 1991-93 biennium;

(h) Lease-purchase land in Bellingham for Whatcom Community College for \$450,000;

(i) Purchase a central storage facility for Spokane Community College for \$75,000;

(j) Purchase a hangar at Felts Field to house the aircraft mechanics' vocational training program for Spokane Community College for \$161,000; ((and))

(k) Lease-purchase an auto technology training facility at Shoreline Community College for \$2,600,000. The college or its trustee may secure the financing contract with a lease of the land directly under the facility being financed by the contract;

(l) Purchase 6.32 acres adjacent to Centralia College for \$1,500,000 during the 1991-93 biennium;

(m) Purchase 2.33 acres and house adjacent to Green River Community College for \$250,000 during the 1991-93 biennium;

(n) Purchase 1.66 acres contiguous to Lake Washington Technical College for \$500,000 during the 1991-93 biennium;

(o) Purchase 0.37 acres contiguous to Lower Columbia College for \$55,000 during the 1991-93 biennium;

(p) Purchase 8.8 acres contiguous to the South Puget Sound Community College for \$500,000 during the 1991-93 biennium;

(q) Purchase 6 acres contiguous to Wenatchee Valley College for \$265,000 during the 1991-93 biennium;

(r) Purchase 4.29 acres contiguous to Whatcom Community College for \$560,000 during the 1991-93 biennium;

(s) Purchase 10.5 acres adjacent to Whatcom Community College for \$1,400,000 during the 1991-93 biennium;

(t) Purchase the Masonic Temple property adjacent to Seattle Central Community College for \$1,600,000 during the 1991-93 biennium;

(u) Lease an industrial training center in Colville for Community Colleges of Spokane for \$600,000 during the 1991-93 biennium;

(v) Lease-purchase Colville Building #2 for expansion of the Colville Center for the Community Colleges of Spokane for \$300,000 during the 1991-93 biennium;

(w) Purchase a 6,000 square foot building and site on San Juan Island for instructional, office, and meeting space for Skagit Valley Community College for \$600,000 during the 1991-93 biennium;

(x) Purchase 20,000 square foot building on a five-acre site in Gig Harbor for an off-site education center for Tacoma Community College for \$1,750,000 during the 1991-93 biennium;

(y) Purchase space for a Kent education and training center by Green River Community College for up to \$201,000 per year; and

(z) Lease or lease-purchase a computing and telecommunications center for the community and technical college system for up to \$5,000,000.

(4) The Department of Ecology, to acquire, design, and construct a Thurston county headquarters for \$53,000,000.

(5) The Evergreen State College, to expand the college activities building for \$800,000. The college or its trustee may secure the financing contract with a lease of the land directly under the facility being financed by the contract. The financing contract shall be repaid through student activities fees.

(6) The Department of General Administration, to purchase or lease purchase office space to house the state board for community college education staff for \$1,400,000.

\*Sec. 31 was partially vetoed, see message at end of chapter.

**Sec. 32.** 1991 sp.s. c 14 s 54 (uncodified) is amended to read as follows:

Unless otherwise stated, for all appropriations under this act that require a match of nonstate money or in-kind contributions, the following requirement, consistent with RCW 43.88.150, shall apply: Expenditure of state money shall be timed so that the state share of project expenditures never exceeds the intended state share of total project costs. This section shall not apply to section 10(5), chapter 14, Laws of 1991 sp.s. as amended by section ((12(5))) 5(5) of this act.

**Sec. 33.** 1991 sp.s. c 14 s 59 (uncodified) is amended to read as follows:

To ensure that major construction projects are carried out in accordance with legislative and executive intent, appropriations in this act referencing this section shall not be expended until the office of financial management has reviewed the agency's programmatic preplanning or predesign document and approved continuation of or made changes to the project. The program preplanning document shall include but not be limited to projected workload, site conditions, user requirements, current space available, and an overall budget and cost

estimate breakdown in a form prescribed by the office of financial management. The predesign document shall be prepared in accordance with the predesign standards adopted by the office of financial management. The office of financial management shall report to the house of representatives capital facilities committee, the senate ways and means committee, and the legislative transportation committee a listing of the program documents the office has reviewed and approved, changes made to the documents resulting from the review, and the estimated cost changes resulting from the review.

**NEW SECTION. Sec. 34.** In recognition of the services provided to the beneficiaries of state trust lands by county public safety agencies, lease payments for public safety communication systems located on trust lands in any county with a population of less than five thousand shall be twenty-five percent of the fair market value as determined by the department of natural resources.

**NEW SECTION. Sec. 35.** A new section is added to chapter 14, Laws of 1991 sp.s. (uncodified) to read as follows:

As used in this act, the following phrases have the following meanings:

"WA St Dairy Prod Comm Fac Acct" means Washington State Dairy Products Commission Facility Account.

"Data Processing Bldg Constr Acct" means Data Processing Building Construction Account;

"Nat Res Prop Repl Acct" means Natural Resources Property Replacement Account.

"St Conv & Trade Ctr Acct" means State Convention and Trade Center Account.

"Water Pollution Cont Rev Fund" means the Water Pollution Control Revolving Fund.

**NEW SECTION. Sec. 36.** This act is subject to the provisions, definitions, conditions, and limitations of chapter 14, Laws of 1991 sp. sess., as amended by this act.

## PART 6

### SEVERABILITY AND EFFECTIVE DATE

**NEW SECTION. Sec. 37.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 38.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

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Passed the House March 12, 1992.

Passed the Senate March 12, 1992.

Approved by the Governor April 2, 1992, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 2, 1992.

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

"I am returning herewith, without my approval as to sections 6, 12(5), 12(9), 12(11), 13(4), 15, 24(8)(e), and 31(3)(z) of Engrossed Substitute House Bill No. 2552 entitled:

"AN ACT Relating to the capital budget."

My reasons for vetoing these sections are as follows:

Section 6, Department of Community Development and  
Section 12(11), Transfer to Department of Community Development

These sections direct the Department of Ecology to transfer \$350,000 from the Water Quality Account to the Department of Community Development to implement a wetland notification program. This is an improper use of funds from the Water Quality Account. RCW 70.146.030(2) states that "the Department may use or permit the use of any monies in the account to make grants to public bodies ... for water pollution control facilities and activities, or for purposes of assisting a public body to obtain an ownership interest in water pollution control facilities and/or to defray a part of the payments made

by a public body to a service provider under a service agreement...." The property owner notification program does not meet these criteria. Also, the transfer of funds from Ecology to the Department of Community Development, which in turn is directed to make grants to local governments, clearly indicates that the Department of Community Development and not Ecology will be administering these funds. This is contrary to RCW 70.146.030, which states that the "Water Quality Account may be used only in a manner consistent with this chapter. Monies deposited in the account shall be administered by the Department of Ecology...."

While the legislature could have amended chapter 70.146 RCW to allow these actions, the legislature's failure to do so renders this budget item legally suspect.

Given the legal questions surrounding this issue, I have vetoed these items.

I do, however, agree that local efforts to implement the Growth Management Act will not be successful unless critical area activities, such as wetland designation and protection, are accomplished with extensive notification and involvement of all affected parties and the public-at-large. I have, therefore, directed the Department of Community Development to provide technical assistance relating to such notification and involvement and, if necessary, to develop procedural criteria under the Growth Management Act to ensure that this occurs.

#### Section 12(5), Water Quality Account

This section reduces the appropriation to the Department of Ecology's Water Quality Account by \$12,921,000. Washington State is facing increasing threats to one of our most vital resources, our state's waters. If we are to continue to make progress toward protecting Washington's surface and ground waters, it is essential that a consistent and reliable funding level be available, particularly for local governments. Solutions to tough pollution problems require planning, prevention, and intervention strategies, which may take years to implement. In order to dedicate sizable portions of their own resources to these long-term strategies, local governments need to know that state funding will continue at levels that will enable them to achieve mandated state and federal water pollution requirements. Therefore, I have vetoed this section in order to restore the funding level to the Water Quality Account.

The amended proviso language in this section implies that the needs assessment should consider only the existing source of revenues for the Water Quality Account. When the Water Quality Account was established, the legislature specifically included the General Fund subsidy because revenues from the tax on tobacco products were projected to be inadequate. The General Fund subsidy is necessary in order to provide a stable funding source to address water quality needs. Therefore, I have vetoed the new language in this proviso.

#### Section 12(9), Flood Control Assistance Account

This section appropriates \$4 million to the Flood Control Assistance program from the State Building Construction Account. This program was transferred from the operating budget to the capital budget. While I support this program, which provides grant dollars to local communities for flood mitigation plans and projects, most are operating activities and should be funded from the operating budget. The proviso in this section precludes spending any of these funds on operating activities. The Department of Ecology would not be able to effectively administer this program and would either have to redirect funds from other General Fund programs or be forced to eliminate the program. Given the severity of the budget reductions to the Department of Ecology, this program would need to be eliminated. Therefore, I have vetoed this section, along with the corresponding sections related to fund transfers in the operating budget. I have directed the Department to continue this program with funds that are made available by corresponding vetoes in the operating budget.

#### Section 13(4), State Parks and Recreation Commission/Bogachiel State Park

While I recognize that the facilities at Bogachiel State Park have suffered significant damage from storms, an additional appropriation to the State Parks and Recreation Commission is not required to effect needed repairs. The Commission received a \$350,000 appropriation in section 19(41) of the 1991-93 capital budget for emergency and

unforeseen needs. I have asked the agency to rely on this appropriation to make the necessary repairs at Bogachiel State Park.

Section 15, State Parks and Recreation Commission

The language in this section is neither practical nor necessary at the present time. The legislature restored funding to operate all state parks during the remainder of the 1991-93 Biennium. Interpretive centers may close, but practical considerations would prevent the sale of these facilities to local governments. Interpretive centers are physically situated within existing state park boundaries. The ability to sell a portion of an operating state park is not addressed in the section. Furthermore, I have been assured by the State Parks and Recreation Commission that they will cooperate with any local government which desires to operate a closed interpretive facility. Should future budgetary constraints force the closure of state park facilities, the option of transferring operation and ownership to local governments can be revisited.

Section 24(8)(e), page 86, sentence beginning on line 32 through line 37, beginning with the word "The" and ending "No. 2631." Public School Building Construction

The sentence beginning on page 86, line 32 through line 37, is unnecessary. The language allows the State Board of Education to allocate funds for financial assistance to school districts for capital planning related to the implementation of a modified school calendar or schedule as authorized in Engrossed Substitute House Bill No. 2631. The State Board currently (by WAC 180-25-030) allocates funds to school districts for capital planning. These planning grants may be for studies and surveys and include such other matters as the Superintendent of Public Instruction deems pertinent to a decision by the State Board of Education in the allocation of funds for school facilities. Therefore, the authority referenced in Engrossed Substitute House Bill No. 2631 already exists.

Section 31(3)(z), Lease or Lease Purchase of a Computing and Telecommunications Center for the Community and Technical College System

This subsection authorizes the Computing and Telecommunications Center to find a facility to lease, lease/purchase, or lease/develop. It is not clear whether the \$5 million authorized is sufficient to accomplish the agency's space needs. No documentation has been provided explaining the scope, size, or cost of the proposed facility. The effect of this project on the operating budgets of the community colleges supporting the Computing and Telecommunications Center is not explained. The existing lease for the current Computing and Telecommunications Center expires in the fall of 1996, providing ample time for the Computing and Telecommunications Center to request and fully document the need for a permanent facility in the normal capital budget process.

For the reasons stated above, I have vetoed sections 6, 12(5), 12(9), 12(11), 13(4), 15, 24(8)(e), and 31(3)(z) of Engrossed Substitute House Bill No. 2552.

With the exception of sections 6, 12(5), 12(9), 12(11), 13(4), 15, 24(8)(e), and 31(3)(z), Engrossed Substitute House Bill No. 2552 is approved."

## CHAPTER 234

[Engrossed Substitute House Bill 2947]

### EARLY RETIREMENT FOR TEACHERS AND PUBLIC EMPLOYEES

Effective Date: 4/2/92

AN ACT Relating to early retirement under the public employees' and teachers' retirement systems; amending RCW 28A.400.210; creating new sections; and declaring an emergency.

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

NEW SECTION. **Sec. 1.** In addition to members who are eligible to retire under RCW 41.40.180, any member of the public employees' retirement system plan I who meets the following criteria may retire on written notification to the member's employer and written application to the director no later than

June 15, 1992, setting forth that the member will be retired no later than August 31, 1992:

(1) The member is employed by an employer in an eligible position on the effective date of this act; and

(2) The member has: (a) Attained the age of fifty-five years and completed five service credit years of service; (b) completed twenty-five service credit years of service; or (c) attained the age of fifty years and completed twenty service credit years of service.

**NEW SECTION. Sec. 2.** Section 1 of this act is added to chapter 41.40 RCW, but because of its temporary nature, shall not be codified.

**NEW SECTION. Sec. 3.** In addition to members who are eligible to retire under RCW 41.32.480, any member of the teachers' retirement system plan I who meets the following criteria may retire on written notification to the member's employer and written application to the director no later than June 15, 1992, setting forth that the member will be retired no later than August 31, 1992:

(1) The member is employed by an employer on the effective date of this act and is not a substitute teacher; and

(2) The member has: (a) Attained the age of fifty-five years and completed five service credit years of service; (b) completed twenty-five service credit years of service; or (c) attained the age of fifty years and completed twenty service credit years of service.

**NEW SECTION. Sec. 4.** Section 3 of this act is added to chapter 41.32 RCW, but because of its temporary nature, shall not be codified.

**NEW SECTION. Sec. 5.** The office of the state actuary shall study the actual utilization of the early retirement offered by this act, the replacement of persons who utilized the early retirement, and the fiscal and programmatic impact of early retirement on the state, local governments, and school districts. The office of financial management and the office of the superintendent of public instruction shall provide technical assistance and information to the office of the state actuary for the study required in this section. The study shall be submitted to the joint committee on pension policy and the fiscal committees of the legislature by December 31, 1993.

**NEW SECTION. Sec. 6.** In order to ensure that the state derives the expected benefits from the early retirement provisions of this act, no state agency may engage through personal service contracts persons who retire from state service under the provisions of this act. Exceptions to this section may be granted by written approval from the director of the office of financial management if the director finds that the proposed contract is necessary to protect the public safety, protect against the loss of federal certification or loss of critical federal funds, or carry out functions so essential to the agency that even temporary suspension or delay of services would have a significant negative impact on the public. At the end of each three-month period in which exceptions

are approved, the director shall forward a copy of any approvals, together with justification for the exceptions, to the fiscal committees of the legislature. Each forwarded approval shall include the name of the proposed contractor, the agency and division or department requesting the contract, duration and cost of the proposed contract, and specific functions and duties to be carried out under the contract. This section shall expire June 30, 1995.

**NEW SECTION. Sec. 7.** Section 6 of this act is added to chapter 39.29 RCW, but because of its temporary nature, shall not be codified.

**NEW SECTION. Sec. 8.** In order to ensure that the state derives the expected benefits from the early retirement provisions of this act, no board of directors of a school district or educational service district may engage through personal service contracts persons who retire from state service under the provisions of this act. Exceptions to this section may be granted by written approval from the superintendent of public instruction if the superintendent finds that the proposed contract is necessary to protect student safety, protect against the loss of school district certification or loss of federal funds, or carry out functions so essential to the district that even temporary suspension or delay of services would have a significant negative impact on students. At the end of each three-month period in which exceptions are approved, the superintendent shall forward a copy of any approvals, together with justification for the exceptions, to the office of financial management and the fiscal committees of the legislature. Each forwarded approval shall include the name of the proposed contractor, the district requesting the contract, duration and cost of the proposed contract, and specific functions and duties to be carried out under the contract. This section shall expire August 31, 1995.

**NEW SECTION. Sec. 9.** Section 8 of this act is added to chapter 28A.400 RCW, but because of its temporary nature, shall not be codified.

**NEW SECTION. Sec. 10.** The department of personnel, through the combined benefits communication project, shall prepare information encouraging individual financial planning for retirement and describing the potential consequences of early retirement, including members' assumption of health insurance costs, members' receipt of reduced retirement benefits, and the increased period of time before members will become eligible for cost-of-living adjustments. The department of retirement systems shall distribute the information to members who are eligible to retire under the provisions of this act. Prior to retiring, such members who elect to retire shall sign a statement acknowledging their receipt and understanding of the information.

**NEW SECTION. Sec. 11.** In order to ensure that the state derives the expected benefits from the early retirement provisions of this act, no state agency may hire persons who retire from state service under the provisions of this act as temporary or project employees, as defined by the state personnel board for employees covered under chapter 41.06 RCW and by the higher education

personnel board for employees covered under chapter 28B.16 RCW. Exceptions to this section may be granted by written approval from the director of the office of financial management if the director finds that the temporary or project employment of a retiree is necessary to protect the public safety, protect against the loss of federal certification or loss of critical federal funds, or carry out functions so essential to the agency that even temporary suspension or delay of services would have a significant negative impact on the public. At the end of each three-month period in which exceptions are approved, the director shall forward a copy of any approvals, together with justification for the exceptions, to the fiscal committees of the legislature. Each forwarded approval shall include the name of the temporary or project employee, the agency and division or department requesting the employment, duration and cost of the proposed employment, and specific functions and duties to be carried out during the employment. This section shall expire June 30, 1995.

**Sec. 12.** RCW 28A.400.210 and 1991 c 92 s 2 are each amended to read as follows:

Every school district board of directors may, in accordance with chapters 41.56 and 41.59 RCW, establish an attendance incentive program for all certificated and noncertificated employees in the following manner, including covering persons who were employed during the 1982-'83 school year:

(1) In January of the year following any year in which a minimum of sixty days of leave for illness or injury is accrued, and each January thereafter, any eligible employee may exercise an option to receive remuneration for unused leave for illness or injury accumulated in the previous year at a rate equal to one day's monetary compensation of the employee for each four full days of accrued leave for illness or injury in excess of sixty days. Leave for illness or injury for which compensation has been received shall be deducted from accrued leave for illness or injury at the rate of four days for every one day's monetary compensation. No employee may receive compensation under this section for any portion of leave for illness or injury accumulated at a rate in excess of one day per month.

(2) Except as provided in section 13 of this act, at the time of separation from school district employment due to retirement or death an eligible employee or the employee's estate shall receive remuneration at a rate equal to one day's current monetary compensation of the employee for each four full days accrued leave for illness or injury.

(3) In lieu of remuneration for unused leave for illness or injury as provided in subsections (1) and (2) of this section, a school district board of directors may, with equivalent funds, provide eligible employees a benefit plan that provides reimbursement for medical expenses. Any benefit plan adopted after July 28, 1991, shall require, as a condition of participation under the plan, that the employee sign an agreement with the district to hold the district harmless should the United States government find that the district or the employee is in debt to

the United States as a result of the employee not paying income taxes due on the equivalent funds placed into the plan, or as a result of the district not withholding or deducting any tax, assessment, or other payment on such funds as required under federal law.

Moneys or benefits received under this section shall not be included for the purposes of computing a retirement allowance under any public retirement system in this state.

The superintendent of public instruction in its administration hereof, shall promulgate uniform rules and regulations to carry out the purposes of this section.

Should the legislature revoke any benefits granted under this section, no affected employee shall be entitled thereafter to receive such benefits as a matter of contractual right.

**NEW SECTION. Sec. 13.** An employee of a school district that has established an attendance incentive program under RCW 28A.400.210 who retires under section 1 or 3 of this act shall receive, at the time of his or her separation from school district employment, not less than one-half of the remuneration for accrued leave for illness or injury payable to him or her under the district's incentive program. The school district board of directors may, at its discretion, pay the remainder of such an employee's remuneration for accrued leave for illness or injury after the time of the employee's separation from school district employment, but the employee or the employee's estate is entitled to receive the remainder of the remuneration no later than the date the employee would have been eligible to retire under the provisions of RCW 41.40.180 or 41.32.480 had the employee continued to work for the district until eligible to retire, or three years following the date of the employee's separation from school district employment, whichever occurs first. A district exercising its discretion under this section to pay the remainder of the remuneration after the time of the employee's separation from school district employment shall establish a policy and procedure for paying the remaining remuneration that applies to all affected employees equally and without discrimination. Any remuneration paid shall be based on the number of days of leave the employee had accrued and the compensation the employee received at the time he or she retired under section 1 or 3 of this act.

**NEW SECTION. Sec. 14.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 6, 1992.

Passed the Senate March 11, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

## CHAPTER 235

[Engrossed Substitute House Bill 2950]

## GENERAL OBLIGATION BOND ISSUE AUTHORIZED

Effective Date: 4/2/92

AN ACT Relating to state general obligation bonds and related accounts; amending RCW 43.991.010, 43.991.020, 43.991.040, 43.84.092, 43.105.080, 90.50A.020, 43.160.080, and 43.168.110; adding new sections to chapter 43.991 RCW; and declaring an emergency.

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

**Sec. 1.** RCW 43.991.010 and 1991 sp.s. c 31 s 1 are each amended to read as follows:

The state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one billion (~~ninety-five~~) two hundred eighty-four million dollars, or so much thereof as may be required, to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 1991-1993 fiscal biennium and subsequent fiscal biennia, and all costs incidental thereto.

Bonds authorized in this section shall be sold in such manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. No such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. The state finance committee may obtain insurance, letters of credit, or other credit enhancements and may authorize the execution and delivery of agreements, promissory notes, and other obligations for the purpose of insuring the payment or enhancing the marketability of bonds authorized in this section. Promissory notes or other obligations issued pursuant to this section shall not constitute a debt or the contracting of indebtedness under any constitutional or statutory indebtedness limitation if their payment is conditioned upon the failure of the state to pay the principal of or interest on the bonds with respect to which the same relate.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued.

**Sec. 2.** RCW 43.991.020 and 1991 sp.s. c 31 s 2 are each amended to read as follows:

Bonds issued under RCW 43.991.010 are subject to the following conditions and limitations:

General obligation bonds of the state of Washington in the sum of one billion (~~ninety-five~~) two hundred eighty-four million dollars, or so much thereof as may be required, shall be issued for the purposes described and authorized by the legislature in the capital and operating appropriations acts for the 1991-93 fiscal biennium and subsequent fiscal biennia, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of

insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. Subject to such changes as may be required in the appropriations acts, the proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the state building construction account created by RCW 43.83.020 and transferred as follows:

(1) Eight hundred thirty-five thousand dollars to the state higher education construction account created by RCW 28B.10.851;

(2) Eight hundred ~~((twenty-three))~~ seventy-one million dollars to the state building construction account created by RCW 43.83.020;

(3) Fifteen million dollars to the energy efficiency construction account created by RCW 39.35C.100;

(4) Three million fifty thousand dollars to the energy efficiency services account created by RCW 39.35C.110;

(5) ~~((One hundred twenty))~~ Two hundred fifty-five million five hundred thousand dollars to the common school reimbursable construction account hereby created in the state treasury;

(6) Ninety-eight million six hundred forty-eight thousand dollars to the higher education reimbursable construction account hereby created in the state treasury; ~~((and))~~

(7) ~~((Two million four hundred five thousand dollars to the wildlife reimbursable construction account hereby created in the state treasury))~~ Three million two hundred eighty-four thousand dollars to the data processing building construction account created in section 7 of this act; and

(8) Nine hundred thousand dollars to the Washington state dairy products commission facility account created in section 8 of this act.

These proceeds shall be used exclusively for the purposes specified in this subsection, and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management, subject to legislative appropriation.

**Sec. 3.** RCW 43.99I.040 and 1991 sp.s. c 31 s 4 are each amended to read as follows:

(1) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99I.020 (3) and (4), the state treasurer shall transfer from the energy efficiency construction account created in RCW 39.35C.100 to the general fund of the state treasury the amount computed in RCW 43.99I.030 for the bonds issued for the purposes of RCW 43.99I.020 (3) and (4).

(2) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99I.020(5), the state treasurer shall transfer from property taxes in the state general fund levied for this support of the common schools under RCW 84.52.065 to the general fund of the state treasury for unrestricted use the amount computed in RCW 43.99I.030 for the bonds issued for the purposes of RCW 43.99I.020(5).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.991.020(6), the state treasurer shall transfer from higher education operating fees deposited in the general fund to the general fund of the state treasury for unrestricted use, or if chapter ..., Laws of 1992 (Senate Bill No. 6285) becomes law and changes the disposition of higher education operating fees from the general fund to another account, the state treasurer shall transfer the proportional share from the University of Washington operating fees account, the Washington State University operating fees account, and the Central Washington University operating fees account the amount computed in RCW 43.991.030 for the bonds issued for the purposes of RCW 43.991.020((6)) (7).

~~(4) ((On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.991.020(7), the state treasurer shall transfer from the state wildlife fund to the general fund of the state treasury the amount computed in RCW 43.991.030 for the bonds issued for the purpose of RCW 43.991.020(7).))~~ On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.991.020(7), the state treasurer shall transfer from the data processing revolving account created in RCW 43.105.080 to the general fund of the state treasury the amount computed in RCW 43.991.030 for the bonds issued for the purposes of RCW 43.991.020(7).

(5) On each date on which any interest or principal and interest payment is due on bonds issued for the purpose of RCW 43.991.020(8), the Washington state dairy products commission shall cause the amount computed in RCW 43.991.030 for the bonds issued for the purposes of RCW 43.991.020(8) to be paid out of the commission's general operating fund to the state treasurer for deposit into the general fund of the state treasury.

**Sec. 4.** RCW 43.84.092 and 1991 sp.s. c 13 s 57 are each amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administra-

tive account, the deferred compensation principal account, the department of retirement systems expense account, the Eastern Washington University capital projects account, the federal forest revolving account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local sales and use tax account, the medical aid account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the perpetual surveillance and maintenance account, the public employees' retirement system plan I account, the public employees' retirement system plan II account, the Puyallup tribal settlement account, the resource management cost account, the site closure account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the teachers' retirement system plan I account, the teachers' retirement system plan II account, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' relief and pension principal account, the volunteer fire fighters' relief and pension administrative account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan I retirement account, the Washington law enforcement officers' and fire fighters' system plan II retirement account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (2)(a) shall first be reduced by the allocation to the state treasurer's service (~~(account {fund})~~) fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The central Puget Sound public transportation account, the city hardship assistance account, the county arterial preservation account, the economic development account, the essential rail assistance account, the essential rail banking account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway construction stabilization account, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the

special category C account, the state patrol highway account, the transfer relief account, the transportation capital facilities account, the transportation equipment fund, the transportation fund, the transportation improvement account, and the urban arterial trust account.

(3) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**NEW SECTION.** Sec. 5. A new section is added to chapter 43.99I RCW to read as follows:

The bonds authorized by RCW 43.99I.020(8) shall be issued only after the director of financial management has (a) certified that, based on the future income from assessments levied pursuant to chapter 15.44 RCW and other revenues collected by the Washington state dairy products commission, an adequate balance will be maintained in the commission's general operating fund to pay the interest or principal and interest payments due under RCW 43.99I.040-(4) for the life of the bonds; and (b) approved the facility to be acquired using the bond proceeds.

**Sec. 6.** RCW 43.105.080 and 1987 c 504 s 11 are each amended to read as follows:

There is created a revolving fund to be known as the data processing revolving fund in the custody of the state treasurer. The revolving fund shall be used for the acquisition of equipment, software, supplies, and services and the payment of salaries, wages, and other costs incidental to the acquisition, development, operation, and administration of information services, telecommunications, systems, software, supplies and equipment, including the payment of principal and interest on bonds issued for capital projects, by the department, Washington State University's computer services center, the department of personnel's personnel information systems division, the office of financial management's financial systems management group, and other users as jointly determined by the department and the office of financial management. The revolving fund is subject to the allotment procedure provided under chapter 43.88 RCW. Disbursements from the revolving fund for the services component of the department are not subject to appropriation. Disbursements for the planning component of the department are subject to appropriation. All disbursements from the fund are subject to the allotment procedures provided under chapter 43.88 RCW. The department shall establish and implement a billing structure to assure all agencies pay an equitable share of the costs.

As used in this section, the word "supplies" shall not be interpreted to delegate or abrogate the division of purchasing's responsibilities and authority to purchase supplies as described in RCW 43.19.190 and 43.19.200.

**NEW SECTION.** Sec. 7. A new section is added to chapter 43.99I RCW to read as follows:

The data processing building construction account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for acquisition of land for and construction of a data processing building.

**NEW SECTION. Sec. 8.** A new section is added to chapter 43.991 RCW to read as follows:

The Washington state dairy products commission facility account is hereby created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for acquisition, renovation, or construction of a permanent facility for the Washington state dairy products commission.

**Sec. 9.** RCW 90.50A.020 and 1991 sp.s. c 13 s 102 are each amended to read as follows:

(1) The water pollution control revolving fund is hereby established in the ~~((custody of the))~~ state ~~((treasurer))~~ treasury. Moneys in this fund ~~((are not subject to))~~ may be spent only after legislative appropriation. Moneys in the fund may be spent only in a manner consistent with this chapter.

(2) The water pollution control revolving fund shall consist of:

(a) All capitalization grants provided by the federal government under the federal water quality act of 1987;

(b) All state matching funds appropriated or authorized by the legislature;

(c) Any other revenues derived from gifts or bequests pledged to the state for the purpose of providing financial assistance for water pollution control projects;

(d) All repayments of moneys borrowed from the fund;

(e) All interest payments made by borrowers from the fund;

(f) Any other fee or charge levied in conjunction with administration of the fund; and

(g) Any new funds as a result of leveraging.

**Sec. 10.** RCW 43.160.080 and 1991 sp.s. c 13 s 115 are each amended to read as follows:

There shall be a fund in the state treasury known as the public facilities construction loan revolving account, which shall consist of all moneys collected under this chapter, except moneys of the board collected in connection with the issuance of industrial development revenue bonds, and any moneys appropriated to it by law: PROVIDED, That seventy-five percent of all principal and interest payments on loans made with the proceeds deposited in the account under section 901, chapter 57, Laws of 1983 1st ex. sess. shall be deposited in the general fund as reimbursement for debt service payments on the bonds authorized in RCW 43.83.184. ~~((The state treasurer shall be custodian of the revolving account.))~~ Disbursements from the revolving account shall be on authorization of the board. In order to maintain an effective expenditure and revenue control, the public facilities construction loan revolving account shall be subject in all

respects to chapter 43.88 RCW(~~(, but no appropriation is required to permit expenditures and payment of obligations from the account))~~).

**Sec. 11.** RCW 43.168.110 and 1985 c 164 s 11 are each amended to read as follows:

There is established the Washington state development loan fund which shall be an account in the state treasury. All loan payments of principal and interest which are transferred under RCW 43.168.050 shall be deposited into the account. Moneys in the account may be spent (~~(without)~~) **only after** legislative appropriation for loans under this chapter. (~~(However,)~~) **Any** expenditures of these moneys shall conform to federal law.

**NEW SECTION. Sec. 12.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 12, 1992.

Passed the Senate March 12, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

## CHAPTER 236

[Engrossed Senate Bill 6284]

### BUDGET STABILIZATION ACCOUNT TRANSFER

Effective Date: 4/2/92

AN ACT Relating to the budget stabilization account; making an appropriation; and declaring an emergency.

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

**NEW SECTION. Sec. 1.** State revenues have declined below previous projections. Therefore, the sum of one hundred sixty million dollars from the budget stabilization account is appropriated to the general fund for the purpose of RCW 43.88.535(1)(a).

**NEW SECTION. Sec. 2.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 12, 1992.

Passed the House March 12, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

## CHAPTER 237

[Substitute Senate Bill 6483]

## WEIGHTS AND MEASURES—REVISIONS

Effective Date: 7/1/92

AN ACT Relating to weights and measures; amending RCW 19.94.010, 19.94.150, 19.94.160, 19.94.190, 19.94.220, 19.94.230, 19.94.240, 19.94.250, 19.94.330, 19.94.260, 19.94.280, 19.94.310, 19.94.320, 19.94.340, 19.94.350, 19.94.370, 19.94.440, 19.94.450, 19.94.460, 19.94.480, 19.94.490, 19.94.500, 19.94.505, 19.94.510, and 19.94.530; adding new sections to chapter 19.94 RCW; creating a new section; recodifying RCW 19.94.330; repealing RCW 19.94.020, 19.94.030, 19.94.040, 19.94.050, 19.94.060, 19.94.070, 19.94.080, 19.94.090, 19.94.100, 19.94.110, 19.94.120, 19.94.130, 19.94.140, 19.94.170, 19.94.180, 19.94.200, 19.94.210, 19.94.215, 19.94.270, 19.94.290, 19.94.300, and 19.94.380; prescribing penalties; and providing an effective date.

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

**NEW SECTION.** Sec. 1. The legislature finds:

(1) The accuracy of weighing and measuring instruments and devices used in commerce in the state of Washington affects every consumer throughout the state and is of vital importance to the public interest.

(2) Fair weights and measures are equally important to business and the consumer.

(3) A continuing study of this state's weights and measures program is necessary to ensure that the program provides proper enforcement and oversight to safeguard consumers, business, and interstate commerce.

(4) This chapter safeguards the consuming public and ensures that businesses receive proper compensation for the commodities they deliver.

**NEW SECTION.** Sec. 2. Until such time as the study in section 38 of this act is completed, it is the intent of the legislature that consumer protection activities of the department of agriculture weights and measures program be funded by the general fund and that device inspection related activities be funded on a fee-for-service basis.

**Sec. 3.** RCW 19.94.010 and 1969 c 67 s 1 are each amended to read as follows:

~~((Terms used in this chapter shall have the meaning given to them in RCW 19.94.020 through 19.94.130 unless where used the context shall clearly indicate to the contrary.))~~ (1) Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter and to any rules adopted pursuant to this chapter.

(a) "City" means a first class city with a population of over fifty thousand persons.

(b) "City sealer" means the person duly authorized by a city to enforce and administer the weights and measures program within such city and any duly appointed deputy sealer acting under the instructions and at the direction of the city sealer.

(c) "Commodity in package form" means a commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale, exclusive, however, of an auxiliary shipping container enclosing packages

that individually conform to the requirements of this chapter. An individual item or lot of any commodity not in packaged form, but on which there is marked a selling price based on established price per unit of weight or of measure, shall be construed to be a commodity in package form.

(d) "Consumer package" or "package of consumer commodity" means a commodity in package form that is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by persons, or used by persons for the purpose of personal care or in the performance of services ordinarily rendered in or about a household or in connection with personal possessions.

(e) "Cord" means the measurement of wood intended for fuel or pulp purposes that is contained in a space of one hundred twenty-eight cubic feet, when the wood is ranked and well stowed.

(f) "Department" means the department of agriculture of the state of Washington.

(g) "Director" means the director of the department or duly authorized representative acting under the instructions and at the direction of the director.

(h) "Fish" means any waterbreathing animal, including shellfish, such as, but not limited to, lobster, clam, crab, or other mollusca that is prepared, processed, sold, or intended for sale.

(i) "Net weight" means the weight of a commodity excluding any materials, substances, or items not considered to be part of such commodity. Materials, substances, or items not considered to be part of a commodity shall include, but are not limited to, containers, conveyances, bags, wrappers, packaging materials, labels, individual piece coverings, decorative accompaniments, and coupons.

(j) "Nonconsumer package" or "package of nonconsumer commodity" means a commodity in package form other than a consumer package and particularly a package designed solely for industrial or institutional use or for wholesale distribution only.

(k) "Meat" means and shall include all animal flesh, carcasses, or parts of animals, and shall also include fish, shellfish, game, poultry, and meat food products of every kind and character, whether fresh, frozen, cooked, cured, or processed.

(l) "Official seal of approval" means the uniform seal or certificate issued by the director or city sealer which indicates that a weights and measures standard or a weighing or measuring instrument or device conforms with the specifications, tolerances, and other technical requirements adopted in section 10 of this act.

(m) "Person" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, business trust, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise.

(n) "Poultry" means all fowl, domestic or wild, that is prepared, processed, sold, or intended or offered for sale.

(o) "Service agent" means a person who for hire, award, commission, or any other payment of any kind, installs, inspects, checks, adjusts, repairs, reconditions, or systematically standardizes the graduations of a weighing or measuring instrument or device.

(p) "Ton" means a unit of two thousand pounds avoirdupois weight.

(q) "Weighing or measuring instrument or device" means any equipment or apparatus used commercially to establish the size, quantity, capacity, count, extent, area, heaviness, or measurement of quantities, things, produce, or articles for distribution or consumption, that are purchased, offered or submitted for sale, hire, or award on the basis of weight, measure or count, including any accessory attached to or used in connection with a weighing or measuring instrument or device when such accessory is so designed or installed that its operation affects, or may effect, the accuracy or indication of the device. This definition shall be strictly limited to those weighing or measuring instruments or devices governed by Handbook 44 as adopted under section 10 of this act.

(r) "Weight" means net weight as defined in this section.

(s) "Weights and measures" means the recognized standards or units of measure used to indicate the size, quantity, capacity, count, extent, area, heaviness, or measurement of any consumable commodity.

(t) "Weights and measures standard" means any object used by the director, a city sealer, or a service agent that under specified conditions defines or represents a recognized weight or measure during the inspection, adjustment, testing, or systematic standardization of the graduations of any weighing or measuring instrument or device.

(2) The director shall prescribe by rule other definitions as may be necessary for the implementation of this chapter.

**Sec. 4.** RCW 19.94.150 and 1991 sp.s. c 23 s 4 are each amended to read as follows:

The system of weights and measures in customary use in the United States and the metric system of weights and measures are jointly recognized, and either one or both of these systems shall be used for all commercial purposes in this state. The definitions of basic units of weight and measure and weights and measures equivalents, as published by the national institute of standards and technology or any successor organization, are recognized and shall govern weighing ~~((and))~~ or measuring ((equipment and transactions in the)) instruments or devices used in commercial activities and other transactions involving weights and measures within this state.

**Sec. 5.** RCW 19.94.160 and 1991 sp.s. c 23 s 5 are each amended to read as follows:

Weights and measures standards that are in conformity with the standards of the United States as have been supplied to the state by the federal government

or otherwise obtained by the state for use as state weights and measures standards, shall, when the same shall have been certified as such by the national institute of standards and technology or any successor organization, be the state standards of weight and measure. The state weights and measures standards shall be kept in a place designated by the director and shall not be removed from ~~((the said))~~ such designated place except for repairs or for certification~~((: PROVIDED, That they))~~. These state weights and measures standards shall be submitted at least once ~~((in))~~ every ten years to the national institute of standards and technology or any successor organization for certification.

**NEW SECTION. Sec. 6.** (1) Unless otherwise provided by the department, all weighing or measuring instruments or devices used for commercial purposes within this state shall be inspected and tested for accuracy by the director or city sealer at least once every two years and, if found to be correct, the director or city sealer shall issue an official seal of approval for each such instrument or device.

(2) Beginning fiscal year 1993, the schedule of inspection and testing shall be staggered so as one-half of the weighing or measuring instruments or devices under the jurisdiction of the inspecting and testing authority are approved in odd fiscal years and the remaining one-half are inspected and tested in even fiscal years.

(3) The department may provide, as needed, uniform, official seals of approval to city sealers for the purposes expressed in this section.

**NEW SECTION. Sec. 7.** (1) The department shall establish reasonable, biennial inspection and testing fees for each type or class of weighing or measuring instrument or device required to be inspected and tested under this chapter. These inspection and testing fees shall be equitably prorated within each such type or class and shall be limited to those amounts necessary for the department to cover, to the extent possible, the direct costs associated with the inspection and testing of each type or class of weighing or measuring instrument or device.

(2) Prior to the establishment and each amendment of the fees authorized under this chapter, a weights and measures fee task force shall be convened under the direction of the department. The task force shall be composed of a representative from the department who shall serve as chair and one representative from each of the following: City sealers, service agents, service stations, grocery stores, retailers, food processors/dealers, oil heat dealers, the agricultural community, and liquid propane dealers. The task force shall recommend the appropriate level of fees to be assessed by the department pursuant to subsection (1) of this section, based upon the level necessary to cover the direct costs of administering and enforcing the provisions of this chapter and to the extent possible be consistent with fees reasonably and customarily charged in the private sector for similar services.

(3) The fees authorized under this chapter may be billed only after the director or a city sealer has issued an official seal of approval for a weighing or measuring instrument or device or a weight or measure standard.

(4) All fees shall become due and payable thirty days after billing by the department or a city sealer. A late penalty of one and one-half percent per month may be assessed on the unpaid balance more than thirty days in arrears.

(5) Fees upon weighing or measuring instruments or devices within the jurisdiction of the city that are collected under this section by city sealers shall be deposited into the general fund, or other account, of the city as directed by the governing body of the city. On the thirtieth day of each month, city sealers shall, pursuant to procedures established and upon forms provided by the director, remit to the department for administrative costs ten percent of the total fees collected.

(6) With the exception of subsection (7) of this section, no person shall be required to pay more than the established inspection and testing fee adopted under section 7 of this act for any weighing or measuring instrument or device in any two-year period when the same has been found to be correct.

(7) Whenever a special request is made by the owner for the inspection and testing of a weighing or measuring instrument or device, the fee prescribed by the director for such a weighing or measuring instrument or device shall be paid by the owner.

**NEW SECTION. Sec. 8.** All moneys collected under this chapter shall be placed in the weights and measures account hereby established in the state treasury. Moneys deposited in this account may be spent only following appropriation by law and shall be used solely for the purposes of weighing or measuring instrument or device inspection and testing.

**Sec. 9.** RCW 19.94.190 and 1991 sp.s. c 23 s 6 are each amended to read as follows:

**(1)** The director and duly appointed city sealers shall enforce the provisions of this chapter ~~((and)).~~ The director shall adopt rules for enforcing and carrying out the purposes of this chapter ~~((-- Such rules shall have the effect of law and may include (1)))~~ including but not limited to the following:

**(a)** Establishing state standards of ~~((not))~~ weight, measure, or count, and reasonable standards of fill for any commodity in package form ~~((--(2)))~~;

**(b)** The ~~((governing))~~ establishment of technical and reporting procedures to be followed, ~~((and the))~~ any necessary report and record forms, and marks of rejection to be used by the director and city sealers in the discharge of their official duties ~~((--(3)))~~ as required by this chapter;

**(c)** The ~~((governing))~~ establishment of technical test procedures, reporting procedures, and any necessary record and reporting forms to be used by ~~((commercial firms))~~ service agents when installing, repairing ~~((or testing commercial weights or measures, (4) the criteria that all weights and measures used by commercial firms in repairing or servicing commercial weighing and~~

~~measuring devices shall be calibrated by the department and be directly traceable to state standards and shall be submitted to the department for calibration and certification as necessary and/or at such reasonable intervals as may be established or required by the director, (5)), inspecting, or standardizing the graduations of any weighing or measuring instruments or devices;~~

(d) The establishment of fee payment and reporting procedures and any necessary report and record forms to be used by city sealers when remitting the percentage of total fees collected as required under this chapter;

(e) The establishment of exemptions from the sealing or marking inspection and testing requirements of RCW 19.94.250 with respect to ((weights and measures)) weighing or measuring instruments or devices of such character or size that such sealing or marking would be inappropriate, impracticable, or damaging to the apparatus in question((, (6) provisions that allow the director to establish fees for weighing, measuring, and providing calibration services performed by the weights and measures laboratory, with all money collected under this subsection paid to the director and deposited in an account within the agricultural local fund to be used for the repair and maintenance of weights and measures devices and other related functions, (7)));

(f) The establishment of exemptions from the inspection and testing requirements of ((RCW 19.94.200 and 19.94.210 for testing,)) section 6 of this act with respect to classes of ((weights and measures)) weighing or measuring instruments or devices found to be of such character that periodic ((retesting)) inspection and testing is unnecessary to ensure continued accuracy((:)); and

(g) The establishment of inspection and approval techniques, if any, to be used with respect to classes of weighing or measuring instruments or devices that are designed specifically to be used commercially only once and then discarded, or are uniformly mass-produced by means of a mold or die and are not individually adjustable.

(2) These rules shall also include specifications((:)) and tolerances((, and rules)) for ((weights and measures of the character of those specified in RCW 19.94.210,)) the acceptable range of accuracy required of weighing or measuring instruments or devices and shall be designed to eliminate from use, without prejudice to ((apparatus)) weighing or measuring instruments or devices that conform((s)) as closely as practicable to ((the)) official ((standards)) specifications and tolerances, those (a) ((that are not accurate, (b))) that are of such construction that they are faulty, that is, that are not reasonably permanent in their adjustment or will not repeat their indications correctly, or (((e))) (b) that facilitate the perpetration of fraud. ((The specifications, tolerances, and rules for commercial weighing and measuring devices, together with amendments thereto, as recommended by the most recent edition of Handbook 44 published by the national institute of standards and technology shall be the specifications, tolerances, and regulations for commercial weighing and/or measuring devices of the state. To promote uniformity, any supplements or amendments to

~~Handbook 44 or any similar subsequent publication of the national institute of standards and technology shall be deemed to have been adopted under this section. The director may, however, within thirty days of the publication or effective date of Handbook 44 or any supplements, amendments, or similar publications give public notice that a hearing will be held to determine if such publications should not be applicable under this section. The hearing shall be conducted under chapter 34.05 RCW. For the purpose of this chapter, apparatus shall be deemed to be "correct" when it conforms to all applicable requirements promulgated as specified in this section; all other apparatus shall be deemed to be "incorrect".)~~

NEW SECTION. **Sec. 10.** (1) The department shall adopt the specifications, tolerances, and other technical requirements for commercial weighing or measuring instruments or devices, together with amendments thereto, as recommended by the most recent edition of Handbook 44 published by the national institute of standards and technology or any successor organization as the specifications, tolerances, and other technical requirements for commercial weighing or measuring instruments or devices commercially used in this state.

(2)(a) To promote uniformity, any supplements or amendments to Handbook 44 or any similar subsequent publication of the national institute of standards and technology or any successor organization shall be deemed to have been adopted under this section.

(b) The director may, however, within thirty days of the publication or effective date of Handbook 44 or any supplements, amendments, or similar publications give public notice that a hearing will be held to determine if such publications should not be applicable under this section. Any such hearing shall be conducted under chapter 34.05 RCW.

NEW SECTION. **Sec. 11.** For the purposes of this chapter, weighing or measuring instruments or devices and weights and measures standards shall be deemed to be "correct" when they conform to all applicable requirements of this chapter or the requirements of any rule adopted by the department under the authority granted in this chapter; all other weighing or measuring instruments or devices and weights and measures standards shall be deemed to be "incorrect."

NEW SECTION. **Sec. 12.** The department shall:

(1) Biennially inspect and test the weights and measures standards of any city for which the appointment of a city sealer is provided by this chapter and shall issue an official seal of approval for same when found to be correct. The department shall, by rule, establish a reasonable fee for such inspection and testing services performed by the department's metrology laboratory.

(2) Biennially inspect, test, and, if found to be correct, issue an official seal of approval for any weighing or measuring instrument or device used in an agency or institution to which moneys are appropriated by the legislature or of the federal government and shall report any findings in writing to the executive

officer of the agency or institution concerned. The department shall collect a reasonable fee, to be set by rule, for testing any such weighing or measuring instrument or device.

(3) Inspect, test, and, if found to be correct, issue a seal of approval for classes of weighing or measuring instruments or devices found to be few in number, highly complex, and of such character that differential inspection and testing frequency is necessary including, but not limited to, railroad track scales and grain elevator scales. The department shall develop rules regarding the inspection and testing procedures to be used for such weighing or measuring instruments or devices which shall include requirements for the provision, maintenance, and transport of any weight or measure standard necessary for inspection and testing at no expense to the state. The department may collect a reasonable fee, to be set by rule, for inspecting and testing any such weighing and measuring instruments or devices. This fee shall not be unduly burdensome and shall cover, to the extent possible, the direct costs of performing such service.

**Sec. 13.** RCW 19.94.220 and 1991 sp.s. c 23 s 8 are each amended to read as follows:

In promoting the general objective of ensuring accuracy of weighing or measuring instruments or devices and the proper representation of weights and measures in commercial transactions, the director or a city sealer shall, upon his or her own initiative and as he or she deems appropriate and advisable, investigate complaints made concerning violations of the provisions of this chapter~~(, and shall, upon his or her own initiative, conduct such investigations as deemed appropriate and advisable to develop information on prevailing procedures in commercial quantity determination and on possible violations of the provisions of this chapter and to promote the general objective of accuracy in the determination and representation of quantity in commercial transactions))~~.

**Sec. 14.** RCW 19.94.230 and 1969 c 67 s 23 are each amended to read as follows:

(1) The director ~~((shall))~~ or a city sealer may, from time to time, ~~((weigh or measure and))~~ inspect and test packages or amounts of commodities kept, offered, exposed for sale, sold, or in the process of delivery to determine whether the same contain the amounts represented and whether they ~~((be))~~ are kept, offered, exposed for sale or sold in accordance with law~~((; and))~~. When such packages or amounts of commodities are found not to contain the amounts represented or are found to be kept, offered, or exposed for sale or sold in violation of law, the director or city sealer may order them off sale and may mark, tag, or stamp them in a manner prescribed by ~~((him))~~ the department.

(2) In carrying out the provisions of this section, the director or city sealer may employ recognized sampling procedures under which the compliance of a given lot of packages will be determined on the basis of a result obtained on a sample selected from and representative of such lot.

(3) No person shall ~~((1))~~ (a) sell, keep, offer, or expose for sale any package or amount of commodity that has been ordered off sale as provided in this section unless and until such package or amount of commodity has been brought into full compliance with legal requirements or ~~((2))~~ (b) dispose of any package or amount of commodity that has been ordered off sale and that has not been brought into compliance with legal requirements in any manner except with the specific written approval of the director or city sealer who issued such off sale order.

**Sec. 15.** RCW 19.94.240 and 1991 sp.s. c 23 s 9 are each amended to read as follows:

(1) The director or a city sealer shall have the power to issue stop-use orders, stop-removal orders, and removal orders with respect to ~~((weights and measures))~~ weighing or measuring devices being, or susceptible of being, commercially used ~~((and to))~~ within this state.

(2) The director or a city sealer shall also have the power to issue stop-removal orders and removal orders with respect to packages or amounts of commodities kept, offered, exposed for sale, sold, or in process of delivery ~~((;))~~.

(3) The director or a city sealer shall issue such orders whenever in the course of his or her enforcement of the provisions of this chapter or rules adopted hereunder he or she deems it necessary or expedient to issue such orders.

(4) No person shall use, remove from the premises specified, or fail to remove from any premises specified any ~~((weight, measure, or package))~~ weighing or measuring instrument or device, commodity in packaged form, or amount of commodity contrary to the terms of a stop-use order, stop-removal order or removal order, issued under the authority of this section.

**Sec. 16.** RCW 19.94.250 and 1991 sp.s. c 23 s 10 are each amended to read as follows:

(1) ~~The director or a city sealer shall ((reject and mark or tag as "rejected" such weights and measures as he or she finds upon inspection or test to be "incorrect" as defined in RCW 19.94.190, but which in his or her best judgment are susceptible of satisfactory repair: PROVIDED, That such sealing or marking shall not be required with respect to such weights and measures as may be exempted therefrom by rule of the director issued under the authority of RCW 19.94.190)), from time to time, inspect any weighing or measuring instrument or device, except those weighing or measuring instruments or devices exempted under the authority of RCW 19.94.190, to determine if it is correct. If the director or a city sealer discovers upon inspection that a weighing or measuring instrument or device is "incorrect," but in his or her best judgment is susceptible of satisfactory repair, he or she shall reject and mark or tag as rejected any such weighing or measuring instrument or device.~~

(2) The director or a city sealer may reject or seize any ~~((weights and measures))~~ weighing or measuring instrument or device found to be incorrect

that, in his or her best judgment, ~~((are))~~ is not susceptible of satisfactory repair. ~~((Weights and measures))~~

(3) Weighing or measuring instruments or devices that have been rejected under subsection (1) of this section may be confiscated and may be destroyed by the director or a city sealer if not corrected as required by RCW 19.94.330 as recodified by this act or if used or disposed of contrary to the requirements of ~~((said))~~ that section.

**Sec. 17.** RCW 19.94.330 and 1991 sp.s. c 23 s 14 are each amended to read as follows:

~~((Weights and measures))~~ (1) Weighing or measuring instruments or devices that have been rejected under the authority of the director or a city sealer shall remain subject to the control of the rejecting authority until such time as suitable repair or disposition thereof has been made as required by this section.

(2) The owner((s)) of ((such rejected weights and measures)) any weighing or measuring instrument or device that has been marked or tagged as rejected by the director or a city sealer shall cause the same to be made correct within thirty days or such longer period as may be authorized by the rejecting authority((; or)). In lieu of ~~((this,))~~ correction, the owner of such weighing and measuring instrument or device may dispose of the same, but only in ((such a) the manner ((as is)) specifically authorized by the rejecting authority. ((Weights and measures))

(3) Weighing and measuring instruments or devices that have been rejected shall not again be used commercially until they have been officially reexamined ~~((or until standardized corrective measures have been instituted as prescribed by rule as adopted by the department))~~ and, if found to be correct, had an official seal of approval placed upon or issued for such weighing or measuring instrument or device by the rejecting authority.

**Sec. 18.** RCW 19.94.260 and 1991 sp.s. c 23 s 11 are each amended to read as follows:

(1) With respect to the enforcement of this chapter and any other acts dealing with weights and measures that he or she is, or may be empowered to enforce, the director ~~((is authorized to))~~ or a city sealer may reject or seize for use as evidence incorrect ((or unsealed weights and measures or amounts)) weighing or measuring instruments or devices or packages of commodities to be used, retained, offered, exposed for sale, or sold in violation of the law.

(2) In the performance of his or her official duties conferred under this chapter, the director or a city sealer is authorized at reasonable times during the normal business hours of the person using ((the weights and measures)) a weighing or measuring instrument or device to enter into or upon any structure or premises where ((weights and measures are)) such weighing or measuring instrument or device is used or kept for commercial purposes. ((Should)) If the director ((be)) or a city sealer is denied access to any premises or establishment where such access was sought for the purposes set forth in this ((section))

chapter, the director or a city sealer may apply to any court of competent jurisdiction for a search warrant authorizing access to such premises or establishment for ~~((said))~~ such purposes. The court may, upon such application, issue the search warrant for the purposes requested.

**NEW SECTION. Sec. 19.** (1) Any person aggrieved by any official action of the department or a city sealer conferred under this chapter, including but not limited to, "stop-use orders," "stop-removal orders," "removal orders," "condemnation," or "off sale order" may within thirty days after an order is given or any action is taken, petition the director for a hearing to determine the matter. Such proceedings and any appeal therefrom shall be taken in accordance with the administrative procedure act, chapter 34.05 RCW.

(2) The director shall give due notice and hold a hearing within ten days after the confiscation or seizure of any weighing or measuring instrument or device or commodity under RCW 19.94.250 or the seizure of any weighing or measuring instrument or device for evidence under RCW 19.94.260. This hearing shall be for the purposes of determining whether any such weighing or measuring instrument or device or commodity was properly confiscated or seized, to determine whether or not such weighing or measuring instrument or device or commodity was used for, or is in, violation of any provision of this chapter or to determine the disposition to be made of such weighing or measuring instrument or device or commodity. Such proceedings and any appeal therefrom shall be taken in accordance with the administrative procedure act, chapter 34.05 RCW.

(3) The department may by rule establish procedures for the administration of this section.

**Sec. 20.** RCW 19.94.280 and 1969 c 67 s 28 are each amended to read as follows:

(1) There ~~((shall))~~ may be a city sealer ~~((of weights and measures))~~ in every city and such deputies as may be required by ordinance of each such city ~~((governed by this chapter. Such sealer and such deputies shall in any such city be appointed by, and they shall hold office subject to applicable local civil service laws and regulations; otherwise they shall be appointed by the mayor, or other chief executive officer of such city, by and with the advice and consent of the governing body of such city, and they may be removed for cause in the same manner))~~ to administer and enforce the provisions of this chapter.

(2) Each city electing to have a city sealer shall adopt rules for the appointment and removal of the city sealer and any deputies required by local ordinance. The rules for appointment of a city sealer and any deputies must include provisions for the advice and consent of the local governing body of such city and, as necessary, any provisions for local civil service laws and regulations.

(3) A city sealer shall adopt the fee amounts established by the director pursuant to section 6 of this act. No city shall adopt or charge an inspection, testing, or licensing fee or any other fee upon a weighing or measuring

instrument or device that is in excess of the fee amount adopted under section 6 of this act.

(4) A city sealer shall keep a complete and accurate record of all official acts performed under the authority of this chapter and shall submit an annual report to the governing body of his or her city and shall make any reports as may be required by the director.

**Sec. 21.** RCW 19.94.310 and 1969 c 67 s 31 are each amended to read as follows:

(1) The ~~((council or other))~~ governing body of each city for which a city sealer has been appointed as provided for by RCW 19.94.280 shall ~~((1))~~;

(a) Procure at the expense of the city ~~((such standards of weight and measure and such additional equipment, to be used))~~ the official weights and measures standards and any field weights and measures standards necessary for the administration and enforcement of the provisions of this chapter ~~((in such city, as))~~ or any rule that may be prescribed by the director; ~~((2))~~

(b) Provide a suitable office for the city sealer and any deputies that have been duly appointed; and ~~((3))~~

(c) Make provision for the necessary clerical services, supplies, transportation and for defraying contingent expenses incidental to the official activities of the city sealer and his or her deputies in carrying out the provisions of this chapter.

(2) When the ~~((standards of weight and measure))~~ acquisition of the official weights and measures standards required ~~((by this))~~ under subsection (1)(a) of this section ~~((to be provided by a city shall have))~~ has been made and such weights and measures standards have been examined and approved by the director, they shall be the ~~((official))~~ certified weights and measures standards for such city. ~~((It shall be the duty of))~~

(3) In order to maintain field weights and measure standards in accurate condition, the city sealer ~~((to make, or to arrange to have made, at least as frequently as once a year, comparisons between his field standards and appropriate standards of a higher order belonging to his city or to the state, in order to maintain such field standards in accurate condition))~~ shall, at least once every two years, compare the field weights and measures standards used within his or her city to the certified weights and measures standards of such city or to the official weights and measures standards of this state.

**Sec. 22.** RCW 19.94.320 and 1969 c 67 s 32 are each amended to read as follows:

(1) In cities for which city sealers ~~((of weights and measures))~~ have been appointed as provided for in this chapter, the director shall have general supervisory powers over such city sealers and may, when he or she deems it reasonably necessary, exercise concurrent authority to carry out the provisions of this chapter.

(2) When the director elects to exercise concurrent authority within a city with a duly appointed city sealer, the director's powers and duties relative to ~~((weights and measures contained in))~~ this chapter shall be in addition to the powers granted ~~((to))~~ in any such city by law or charter.

**NEW SECTION. Sec. 23.** (1) Except as otherwise provided for in this chapter or in any rule adopted under the authority of this chapter, any person who engages in business within this state as a service agent shall biennially submit to the department for inspection and testing all weights and measures standards used by the service agent, or any agent or employee of the service agent. If the department finds such weights and measures standards to be correct, the director shall issue an official seal of approval for each such standard.

(2) The department may by rule adopt reasonable fees for the inspection and testing services performed by the weights and measures laboratory pursuant to this section.

(3) A service agent shall not use in the installation, inspection, adjustment, repair, or reconditioning of any weighing or measuring instrument or device any weight or measure standard that does not have a valid, official seal of approval from the director. Any service agent who violates this section is subject to a civil penalty of no more than five hundred dollars.

**Sec. 24.** RCW 19.94.340 and 1991 sp.s. c 23 s 15 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, commodities in liquid form shall be sold only by liquid measure or by weight, and, except as otherwise provided in this chapter, commodities not in liquid form shall be sold only by weight, by measure of length or area, or by count~~((:—PROVIDED, That))~~.

(2) Liquid commodities may be sold by weight and commodities not in liquid form may be sold by count only if such methods ~~((give))~~ provide accurate information as to the quantity of commodity sold~~((:—AND PROVIDED FURTHER, That))~~.

(3) The provisions of this section shall not apply ~~((to))~~ to:

(a) Commodities ~~((when))~~ that are sold for immediate consumption on the premises where sold~~((:—(2)—to))~~;

(b) Vegetables when sold by the head or bunch~~((:—(3)—to))~~;

(c) Commodities in containers standardized by a law of this state or by federal law~~((:—(4)—to))~~;

(d) Commodities in package form when there exists a general consumer usage to express the quantity in some other manner~~((:—(5)—to))~~;

(e) Concrete aggregates, concrete mixtures, and loose solid materials such as earth, soil, gravel, crushed stone, and the like, when sold by cubic measure~~((:—(6)—to))~~; or

(f) Unprocessed vegetable and animal fertilizer when sold by cubic measure.

(4) The director may issue such reasonable rules as are necessary to assure that amounts of commodity sold are determined in accordance with good commercial practice and are so determined and represented to be accurate and informative to all interested parties.

**Sec. 25.** RCW 19.94.350 and 1991 sp.s. c 23 s 16 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, any commodity in package form introduced or delivered for introduction into or received in intrastate commerce, kept for the purpose of sale, offered or exposed for sale or sold in intrastate commerce, shall bear on the outside of the package such definite, plain, and conspicuous declaration of ~~((+))~~;

(a) The identity of the commodity ~~((#))~~ contained within the package unless the same can easily be identified through the ~~((wrapper or container))~~ package; ~~((2))~~

(b) The net quantity of the contents in terms of weight, measure or count; and ~~((3))~~

(c) In the case of any package not sold on the premises where packed, the name and place of business of the manufacturer, packer, or distributor, as may be prescribed by rule issued by the director ~~((: PROVIDED, That))~~.

(2) In connection with the declaration required under subsection ~~((2))~~ (1)(b) of this section, neither the qualifying term "when packed" or any words of similar import, nor any term qualifying a unit of weight, measure, or count (for example, "jumbo", "giant", "full", "or over", and the like) that tends to exaggerate the amount of commodity in a package, shall be used ~~((: AND PROVIDED FURTHER, That))~~.

(3) With respect to the declaration required under subsection ~~((2))~~ (1)(b) of this section the director shall by rule establish: (a) Reasonable variations to be allowed, (b) exemptions as to small packages, and (c) exemptions as to commodities put up in variable weights or sizes for sale to the consumer intact and either customarily not sold as individual units or customarily weighed or measured at time of sale to the consumer.

**Sec. 26.** RCW 19.94.370 and 1969 c 67 s 37 are each amended to read as follows:

No commodity in package form shall be so wrapped, nor shall it be in a container so made, formed or filled as to mislead the purchaser as to the quantity of the contents of the package, and the contents of a container shall not fall below such reasonable standards of fill as may have been prescribed by the director for the commodity in question ~~((by the director))~~.

**Sec. 27.** RCW 19.94.440 and 1991 sp.s. c 23 s 18 are each amended to read as follows:

(1) When a vehicle delivers to an individual purchaser a commodity in bulk, and the commodity is sold in terms of weight units, the delivery ~~((shall))~~ must be accompanied by a duplicate delivery ticket with the following information

clearly stated, in ink or other indelible marking equipment and, in clarity, equal to type or printing: ~~((1))~~

(a) The name and address of the vendor ~~((2))~~;

(b) The name and address of the purchaser ~~((1))~~; and ~~((3))~~

(c) The ~~((net))~~ weight of the delivery expressed in pounds, and, if the ~~((net))~~ weight is derived from determinations of gross and tare weights, such gross and tare weights also ~~((shall))~~ must be stated in terms of pounds.

(2) One of ~~((these))~~ the delivery tickets shall be retained by the vendor, and the other shall be delivered to the purchaser at the time of delivery of the commodity, or shall be surrendered on demand to the director ~~((or the deputy director or the inspector,))~~ or the city sealer ~~((or deputy sealer,))~~ who, if he or she ~~((desires))~~ elects to retain it as evidence, shall issue a weight slip in lieu thereof for delivery to the purchaser ~~((: PROVIDED, That))~~.

(3) If the purchaser himself or herself carries away the purchase, the vendor shall be required only to give the purchaser at the time of sale a delivery ticket stating the number of pounds of commodity delivered ~~((to the purchaser))~~.

**Sec. 28.** RCW 19.94.450 and 1991 sp.s. c 23 s 19 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, all solid fuels such as, but not limited to, coal, coke, charcoal, broiler chips, pressed fuels and briquets shall be sold by weight ~~((: PROVIDED, That))~~.

(2) All solid fuels such as hogged fuel, sawdust and similar industrial fuels may be sold or purchased by cubic measure.

(3) Unless ~~((the))~~ a fuel is delivered to the purchaser in package form, each delivery of ~~((coal, coke, or charcoal))~~ such fuel to an individual purchaser ~~((shall))~~ must be accompanied by a duplicate delivery ticket ~~((s on which))~~ with the following information clearly stated, in ink or other indelible ~~((substance; there shall be clearly stated (1)))~~ marking equipment and, in clarity equal to type or printing:

(a) The name and address of the vendor; ~~((2))~~

(b) The name and address of the purchaser; and ~~((3))~~

(c) The ~~((net))~~ weight of the delivery and the gross and tare weights from which the ~~((net))~~ weight is computed, each expressed in pounds.

(4) One of ~~((these))~~ the delivery tickets shall be retained by the vendor and the other shall be delivered to the purchaser at the time of delivery of the fuel, or shall be surrendered, on demand, to the director ~~((or his or her deputy or inspector or a))~~ or the city sealer ~~((or deputy sealer))~~ who, if he or she ~~((desires))~~ elects to retain it as evidence, shall issue a weight slip in lieu thereof for delivery to the purchaser ~~((: PROVIDED, That))~~.

(5) If the purchaser himself or herself carries away the purchase, the vendor shall be required only to give to the purchaser at the time of sale a delivery ticket stating the number of pounds of fuel delivered ~~((to the purchaser))~~.

**Sec. 29.** RCW 19.94.460 and 1969 c 67 s 46 are each amended to read as follows:

(1) All stove and furnace oil shall be sold by liquid measure or by ((net)) weight in accordance with the provisions of RCW 19.94.340. ((In the case of each delivery of such liquid fuel net))

(2) Unless such fuel is delivered to the purchaser in package form ((and)) each delivery of such fuel in an amount greater than ten gallons in the case of sale by liquid measure or one hundred pounds in the case of sale by weight ~~((, there shall be rendered to the purchaser, either (a) at the time of delivery or (b) within a period mutually agreed upon in writing or otherwise between the vendor and the purchaser,))~~ must be accompanied by a delivery ticket or a written statement on which, in ink or other indelible substance, there shall be clearly and legibly stated ~~((1))~~:

(a) The name and address of the vendor; ((2))

(b) The name and address of the purchaser; ((3))

(c) The identity of the type of fuel comprising the delivery; ((4))

(d) The unit price (that is, price per gallon or per pound, as the case may be), of the fuel delivered; ((5))

(e) In the case of sale by liquid measure, the liquid volume of the delivery together with any meter readings from which such liquid volume has been computed, expressed in terms of the gallon and its binary or decimal subdivisions; and ((6))

(f) In the case of sale by weight, the net weight of the delivery, together with any weighing scale readings from which such net weight has been computed, expressed in terms of tons or pounds avoirdupois.

(3) The delivery ticket required under this section must be delivered at the time of delivery unless an agreement, written or otherwise, between the vendor and the purchaser has been reached regarding the delivery of such delivery ticket.

**Sec. 30.** RCW 19.94.480 and 1969 c 67 s 48 are each amended to read as follows:

Fractional parts of any unit of weight or measure shall mean like fractional parts of the value of such unit as prescribed ~~((or defined))~~ in RCW ~~((19.94.070, 19.94.090 and))~~ 19.94.150 ~~((, and all contracts concerning the sale of commodities and services shall be construed in accordance with this requirement)).~~

**NEW SECTION. Sec. 31.** All contracts concerning the sale of commodities and services by weight, measure, or count, will be construed in accordance with the weights and measures adopted under this chapter.

**Sec. 32.** RCW 19.94.490 and 1969 c 67 s 49 are each amended to read as follows:

Any person who shall hinder or obstruct in any way the director ~~((;))~~ or a city sealer ~~((or deputy sealer,))~~ in the performance of his or her official duties ~~((, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty dollars or more than two hundred dollars, or by~~

imprisonment in the county jail for not more than three months, or by both such fine and imprisonment)) under this chapter is subject to a civil penalty of no more than five hundred dollars.

**Sec. 33.** RCW 19.94.500 and 1969 c 67 s 50 are each amended to read as follows:

Any person who shall impersonate in any way the director((;)) or a city sealer ((or a deputy sealer)), by ((the use of his)) using an official seal of approval without specific authorization to do so or by using a counterfeit ((of his)) seal of approval, or in any other manner, ((shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars or more than five hundred dollars or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment)) is subject to a civil penalty of no more than one thousand dollars.

**Sec. 34.** RCW 19.94.505 and 1984 c 61 s 1 are each amended to read as follows:

(1) It is unlawful for any dealer or service station, as both are defined in RCW 82.36.010, to sell ethanol and/or methanol at one percent, by volume, or greater in gasoline for use as motor vehicle fuel unless the dispensing device has a label stating the type and maximum percentage of alcohol contained in the motor vehicle fuel.

(2) In any county, city, or other political subdivision designated as a carbon monoxide nonattainment area pursuant to the provisions of subchapter I of the Clean Air Act Amendments of 1990, P.L. 101-549, and in which the sale of oxygenated petroleum products is required by section 211(m) of the Clean Air Act Amendments of 1990, 42 U.S.C. 7545(m), any dealer or service station, as both are defined in RCW 82.36.010, who sells or dispenses a petroleum product that contains at least one percent, by volume, ethanol, methanol, or other oxygenate, shall post only such label or notice as may be required pursuant to 42 U.S.C. 7545(m)(4) or any amendments thereto or any successor provision thereof. This provision shall be applicable only during such portion of the year as oxygenated petroleum product sales are required pursuant to 42 U.S.C. 7545(m).

~~((Violation of))~~ (3) Any person who violates this section is ((a misdemeanor)) subject to a civil penalty of no more than five hundred dollars.

**Sec. 35.** RCW 19.94.510 and 1969 c 67 s 51 are each amended to read as follows:

(1) Any person who, by himself or herself, by his ((servant or)) or her agent or employee, or as the ((servant or)) agent or employee of another person, performs any one of the acts enumerated in ((f subsections (1))) (a) through ((9)) below, shall be guilty of a misdemeanor and upon a second or subsequent conviction thereof he shall be guilty of a gross misdemeanor.) (k) of this subsection is subject to a civil penalty of no more than one thousand dollars:

~~((1))~~ (a) Use or have in possession for the purpose of using for any commercial purpose ~~((specified in RCW 19.94.210;))~~ a weighing or measuring instrument or device that is intentionally calculated to falsify any weight, measure, or count of any commodity, or to sell, offer, expose for sale or hire or have in possession for the purpose of selling or hiring an incorrect ~~((weight or measure or any device or instrument used or))~~ weighing or measuring instrument or device or any weighing or measuring instrument or device calculated to falsify any weight or measure.

~~((2))~~ (b) Knowingly use or have in possession for current use in the buying or selling of any commodity or thing, for hire or award, or in the computation of any basic charge or payment for services rendered on the basis of weight ~~((or)),~~ measurement, or count, or in the determination of weight ~~((or)),~~ measurement or count, when a charge is made for such determination, any incorrect ~~((weight or measure))~~ weighing or measuring instrument or device.

~~((3))~~ (c) Dispose of any rejected ~~((or condemned weight or measure))~~ weighing or measuring instrument or device in a manner contrary to law or ~~((regulation))~~ rule.

~~((4))~~ (d) Remove from any ~~((weight or measure))~~ weighing or measuring instrument or device, contrary to law or ~~((regulation))~~ rule, any tag, seal, stamp or mark placed thereon by the director ~~((;))~~ or a city sealer ~~((or deputy sealer)).~~

~~((5))~~ (e) Sell, offer or expose for sale less than the quantity he or she represents of any commodity, thing or service.

~~((6))~~ (f) Take more than the quantity he or she represents of any commodity, thing, or service when, as buyer, he or she furnishes the weight ~~((or)),~~ measure, or count by means of which the amount of the commodity, thing or service is determined.

~~((7))~~ (g) Keep for the purpose of sale, advertise, offer or expose for sale or sell any commodity, thing or service in a condition or manner contrary to law or ~~((regulation))~~ rule.

~~((8))~~ (h) Use in retail trade, except in the preparation of packages put up in advance of sale and of medical prescriptions, a ~~((weight or measure))~~ weighing or measuring instrument or device that is not so positioned that its indications may be accurately read and the weighing or measuring operation ~~((observed))~~ observable from some position which may reasonably be assumed by a customer.

~~((9))~~ (i) Knowingly approve or issue an official seal of approval for any weighing or measuring instrument or device known to be incorrect.

(j) Fails to disclose to the department or a city sealer any knowledge of information relating to, or observation of, any device or instrument added to or modifying any weighing or measuring instrument or device for the purpose of selling, offering, or exposing for sale, less than the quantity represented of a commodity or calculated to falsify weight or measure, if the person is a service agent.

(k) Violate any other provision of this chapter or of the rules ((and/or regulations promulgated)) adopted under the provisions of this chapter for which a specific penalty has not been prescribed.

(2) Any person who, by himself or herself, by his or her agent or employee, or as the agent or employee of another person, performs any of the following acts is subject to a civil penalty of no more than five thousand dollars:

(a) Knowingly adds to or modifies any weighing or measuring instrument or device by the addition of a device or instrument that would allow the sale, or the offering or exposure for sale, of less than the quantity represented of a commodity or falsification of weight or measure.

(b) Commits as a fourth or subsequent infraction any of the acts listed in subsection (1) of this section.

**Sec. 36.** RCW 19.94.530 and 1969 c 67 s 53 are each amended to read as follows:

For the purposes of this chapter, proof of the existence of a ~~((weight or measure or a))~~ weighing or measuring instrument or device in or about any building, enclosure, stand, or vehicle in which or from which it is shown that buying or selling is commonly carried on, shall, in the absence of conclusive evidence to the contrary, be presumptive proof of the regular use of such ~~((weight or measure or))~~ weighing or measuring instrument or device for commercial purposes and of such use by the person in charge of such building, enclosure, stand or vehicle.

**NEW SECTION. Sec. 37.** The following acts or parts of acts are each repealed:

- (1) RCW 19.94.020 and 1969 c 67 s 2;
- (2) RCW 19.94.030 and 1969 c 67 s 3;
- (3) RCW 19.94.040 and 1969 c 67 s 4;
- (4) RCW 19.94.050 and 1969 c 67 s 5;
- (5) RCW 19.94.060 and 1969 c 67 s 6;
- (6) RCW 19.94.070 and 1969 c 67 s 7;
- (7) RCW 19.94.080 and 1969 c 67 s 8;
- (8) RCW 19.94.090 and 1969 c 67 s 9;
- (9) RCW 19.94.100 and 1969 c 67 s 10;
- (10) RCW 19.94.110 and 1969 c 67 s 11;
- (11) RCW 19.94.120 and 1969 c 67 s 12;
- (12) RCW 19.94.130 and 1969 c 67 s 13;
- (13) RCW 19.94.140 and 1969 c 67 s 14;
- (14) RCW 19.94.170 and 1969 c 67 s 17;
- (15) RCW 19.94.180 and 1969 c 67 s 18;
- (16) RCW 19.94.200 and 1991 sp.s. c 23 s 7 & 1969 c 67 s 20;
- (17) RCW 19.94.210 and 1969 c 67 s 21;
- (18) RCW 19.94.215 and 1990 c 27 s 1;
- (19) RCW 19.94.270 and 1969 c 67 s 27;

- (20) RCW 19.94.290 and 1991 sp.s. c 23 s 12 & 1969 c 67 s 29;
- (21) RCW 19.94.300 and 1991 sp.s. c 23 s 13 & 1969 c 67 s 30; and
- (22) RCW 19.94.380 and 1969 c 67 s 38.

**NEW SECTION. Sec. 38.** (1) The office of financial management shall conduct a review of the state's weights and measures program. The review shall include, but not be limited to: :

(a) Identification of the benefits of a weights and measures program, taking into account the element of service provided the weighing or measuring instrument or device owners and the element of general consumer protection provided to the consuming public.

(b) A survey of other states regarding methods of funding weights and measures programs, frequency of inspection, program organization, and the types of activities included in weights and measures programs.

(c) Investigation of the potential error rates for different types and classes of weighing or measuring instruments and devices and determination of the appropriate frequency of inspection for those different types and classes of weighing or measuring instruments and devices.

(d) A review of the department of agriculture's current operation of the weights and measures program focusing on whether or not the current program provides at least the minimum services necessary for the efficient operation of commerce, the protection of consumers and the preservation of confidence in products originating in the state of Washington.

(e) Investigation of the practicality and revenue potential of alternative funding and more efficient operational mechanisms.

(f) A study of the potential efficiency of licensing or registering of private service agents to perform official inspection and testing services.

(g) A review of city sealer programs and their relationship to the state weights and measures program.

(2) To perform this review, the office of financial management shall form a special task force on weights and measures which shall contain representation from government and industry. This special task force shall include, but need not be limited to, one person representing each of the following entities: The legislature, the department of agriculture, city sealers, service agents, service stations, grocery stores, retailers, food processors and dealers, oil heat dealers, the agricultural community, and liquid propane dealers. This task force shall act in an advisory capacity and work in cooperation with the office of financial management.

(3) The office of financial management shall provide recommendations in the following areas:

(a) Recommendations on the appropriate funding level and the most efficient organizational form of a weights and measures program sufficient for the efficient operation of commerce and the protection of consumers, including inspection and testing equipment maintenance; and

(b) Other recommendations relevant to review or investigations made pursuant to this section.

(4) The office of financial management shall report preliminary findings and recommendations to the task force established in subsection (2) of this section by February 28, 1993, and shall report final findings and recommendations to the appropriate legislative committees dealing with commerce, trade, agriculture, and revenue matters no later than June 30, 1993.

(5) This section shall expire on January 1, 1994.

NEW SECTION. Sec. 39. Sections 1, 6 through 8, 10 through 12, 19, 23, and 31 of this act are each added to chapter 19.94 RCW.

NEW SECTION. Sec. 40. RCW 19.94.330, as amended by this act, is recodified as RCW 19.94.255.

NEW SECTION. Sec. 41. This act shall take effect July 1, 1992.

Passed the Senate March 11, 1992.

Passed the House March 12, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

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**CHAPTER 238**

[Engrossed Senate Bill 5961]

**TUITION WAIVERS AND DEPARTMENT OF SOCIAL AND HEALTH SERVICES  
VENDOR RATE INCREASES—APPROPRIATIONS FOR**

**Effective Date: 6/11/92**

AN ACT Relating to fiscal matters; amending 1992 c ... ss 601, 602, 603, 604, 605, 606, 607, and 608; and making appropriations.

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

**Sec. 1.** 1992 c ... s 601 is amended to read as follows:

**HIGHER EDUCATION.** The appropriations in sections 602 through 610 of this act are subject to the following conditions and limitations:

(1) "Institutions of higher education" means the institutions receiving appropriations pursuant to sections 602 through 610 of this act.

(2)(a) "Student quality standard" means, for each four-year institution and the community and technical colleges as a whole, the following amount divided by the budgeted enrollment levels specified in (b) of this subsection: The combined operating appropriations under this act from the general fund—state and the institutional operating fees account, less expenditures for plant maintenance and operation, with the exception of Washington State University, where cooperative extension and agriculture research expenditures are excluded, and with the exception of the state board for community and technical colleges, where technical college operations and FTE enrollments, the Seattle vocational

institute operations and FTE enrollments, and supplemental funding and enrollments for timber-dependent communities are excluded.

(b) Budgeted Enrollments: Each institution shall enroll to its budgeted biennial average full time equivalent enrollments, plus four percent or minus two percent, except each branch campus shall enroll within plus or minus twelve percent. If the estimated 1991-93 average biennial full time equivalent student enrollment of an institution or branch campus (as estimated on April 30, 1993, by the office of financial management using spring enrollment reports submitted by the institutions) varies from the biennial budgeted amount by more than four percent above or two percent below the budgeted amount, or twelve percent above or below the budgeted amount for each branch campus, then an amount equal to the student quality standard multiplied by the number of full time equivalent students above or below the variances shall revert to the state general fund. The variance allowance for the state board for community and technical colleges excludes the technical colleges.

	Average 1991-93 Budgeted FTEs
University of Washington	
Main campus .....	29,981
Tacoma branch .....	345
Bothell branch .....	348
Washington State University	
Main campus .....	15,806
Tri-Cities branch .....	467
Vancouver branch .....	343
Spokane branch .....	160
Eastern Washington University .....	7,281
Central Washington University .....	6,361
The Evergreen State College .....	3,159
Western Washington University .....	8,913
State Board for Community and Technical Colleges .....	88,350

(c) Facilities Quality Standard: During the 1991-93 biennium, no institution of higher education may allow its expenditures for plant operation and maintenance to fall more than five percent below the amounts allotted for this purpose.

(3)(a) Each four-year institution of higher education shall reduce the amount of operating fee foregone revenue from tuition waivers by ~~((thirteen))~~ 6.6 percent of the fiscal year 1993 projection under the office of financial management tuition and fee model used in the governor's February 1992 forecast.

(b) The state board for community and technical colleges shall reduce the amount of operating fee foregone revenue from tuition waivers, for the

community college system as a whole, by ~~((thirteen and forty seven hundredths))~~ 6.6 percent of the fiscal year 1993 projection under the office of financial management tuition and fee model used in the governor's February 1992 forecast, excluding the adult basic education program.

(4)(a) The amounts specified in (b), (c), and (d) of this subsection are maximum amounts that each institution may spend from the appropriations in sections 602 through 610 of this act for staff salary increases on January 1, 1992, and January 1, 1993, excluding classified staff salary increases, and subject to all the limitations contained in this section.

(b) The following amounts shall be used to provide instruction and research faculty at each four-year institution an average salary increase of 3.9 percent on January 1, 1992, and 3.0 percent on January 1, 1993.

	1991-92	1992-93
University of Washington . . . . . \$	2,888,000	7,391,000
Washington State University . . . . . \$	1,157,000	3,264,000
Eastern Washington University . . . . . \$	435,000	1,084,000
Central Washington University . . . . . \$	393,000	958,000
The Evergreen State College . . . . . \$	185,000	459,000
Western Washington University . . . . . \$	540,000	1,317,000

(c) The following amounts shall be used to provide exempt professional staff, academic administrators, academic librarians, counselors, and teaching and research assistants as classified by the office of financial management, at each four-year institution, and the higher education coordinating board an average salary increase of 3.9 percent on January 1, 1992, and 3.0 percent on January 1, 1993. In providing these increases, institutions shall ensure that each person employed in these classifications is granted a salary increase of 3.1 percent on January 1, 1992, and 2.5 percent on January 1, 1993. The remaining amounts shall be used by each institution to grant salary increases on January 1, 1992, and on January 1, 1993 that address its most serious salary inequities among exempt staff within these classifications.

	1991-92	1992-93
University of Washington . . . . . \$	918,000	2,500,000
Washington State University . . . . . \$	625,000	1,748,000
Eastern Washington University . . . . . \$	118,000	320,000
Central Washington University . . . . . \$	93,000	253,000
The Evergreen State College . . . . . \$	79,000	212,000
Western Washington University . . . . . \$	138,000	374,000
Higher Education Coordinating Board . . . . . \$	25,000	69,000

(d) \$4,342,000 for fiscal year 1992 and \$10,657,000 for fiscal year 1993 are provided solely for the state board for community and technical colleges to provide faculty and exempt staff for the community college system as a whole

excluding the technical colleges, average salary increases of 3.9 percent on January 1, 1992, and 3.0 percent on January 1, 1993.

(e) The salary increases authorized under this subsection may be granted to state employees at Washington State University who are supported in full or in part by federal land grant formula funds.

(5)(a) The following amounts from the appropriations in sections 602 and 610 of this act, or as much thereof as may be necessary, shall be spent to provide employees classified by the higher education personnel board a 3.6 percent across-the-board salary increase effective January 1, 1992, and an additional 3.0 percent across-the-board increase effective January 1, 1993. The amount identified for the state board for community and technical colleges excludes employees of the technical colleges.

	1991-92	1992-93
University of Washington . . . . .	\$ 1,422,000	4,068,000
Washington State University . . . . .	\$ 868,000	2,496,000
Eastern Washington University . . . . .	\$ 214,000	613,000
Central Washington University . . . . .	\$ 172,000	494,000
The Evergreen State College . . . . .	\$ 131,000	374,000
Western Washington University . . . . .	\$ 232,000	683,000
State Board for Community and Technical Colleges . . . . .	\$ 1,323,000	3,800,000
Higher Education Coordinating Board . . . . .	\$ 12,000	34,000

(b) The salary increases granted in this subsection (5) of this section shall be implemented in compliance and conformity with all requirements of the comparable worth agreement ratified by the 1986 Senate Concurrent Resolution No. 126, where applicable.

(c) No salary increases may be paid under this subsection (5) of this section to any person whose salary has been Y-rated pursuant to rules adopted by the higher education personnel board.

(6) The following amounts are provided to fund as much as may be required for salary increases resulting from the higher education personnel board's job classification revision of clerical support staff, as adopted by the board on January 3, 1991, and revised by the board on February 14, 1991. The amount identified for the state board for community and technical colleges excludes employees of the technical colleges.

University of Washington . . . . .	\$ 2,386,000
Washington State University . . . . .	\$ 1,057,000
Eastern Washington University . . . . .	\$ 239,000
Central Washington University . . . . .	\$ 198,000
The Evergreen State College . . . . .	\$ 265,000

Western Washington University . . . . .	\$	289,000
State Board for Community College Education . . . . .	\$	1,634,000
Higher Education Coordinating Board . . . . .	\$	26,000

Sec. 2. 1992 c ... s 602 is amended to read as follows:

**FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES**

General Fund—State Appropriation . . . . .	\$	<del>((733,585,000))</del>
		<u>735,024,000</u>
Community Colleges Operating Fees Account		
Appropriation . . . . .	\$	<del>((63,562,000))</del>
		<u>62,123,000</u>
General Fund—Federal Appropriation . . . . .	\$	4,700,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>801,847,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$3,549,000 of the general fund—state appropriation is provided solely for assessment of student outcomes.

(2) \$1,463,000 of the general fund—state appropriation is provided solely to recruit and retain minorities.

(3) The 1991-93 enrollment increases funded by this appropriation shall be distributed among the community college districts based on the weighted prorated percentage enrollment plan developed by the state board for community and technical colleges, and contained in the legislative budget notes.

(4) \$2,204,000 of the general fund—state appropriation is provided solely for 500 supplemental FTE enrollment slots to implement section 17, chapter 315, Laws of 1991 (Engrossed Substitute Senate Bill No. 5555, timber-dependent communities).

(5) \$1,000,000 of the general fund—state appropriation is provided solely for grants to the community college districts to fund unusually high start-up costs for training programs.

(6) In addition to any other compensation adjustments provided in this act, salary increments may be funded by community college districts to the extent that funds are available from staff turnover. A maximum of \$1,000,000 for fiscal year 1992 and \$1,240,000 for fiscal year 1993 of the appropriation in this section may be expended to supplement savings from staff turnover for the payment of faculty salary increments. The state board for community and technical colleges shall issue system-wide guidelines for the payment of salary increments for full time faculty by community college districts and monitor compliance with those guidelines.

(7) \$78,731,000 of the general fund—state appropriation is provided solely for vocational programs and adult basic education at technical colleges. Of this amount, \$7,800,000 of expenditures may be accrued but not disbursed.

(8) \$2,315,000 of the general fund—state appropriation is provided solely for technical college employee salary increases of four percent in fiscal year 1992 and three percent in fiscal year 1993.

(9) \$783,000 of the general fund—state appropriation is provided solely for technical college employees' insurance benefit increases. A maximum of \$307,325 is provided for fiscal year 1992 and \$475,675 is provided for fiscal year 1993.

(10) \$1,414,000 of the general fund—state appropriation is provided solely to lease computer equipment, reprogram software and data bases, and to provide for other initial operating costs necessary to merge the computer systems of the technical colleges into the community and technical college system created under chapter 238, Laws of 1991. The apportionment of this amount among the technical colleges shall be made by the director of the state board for community and technical colleges.

(11) \$1,481,000 of the general fund—state appropriation is provided solely for grants to public or private nonprofit organizations to assist parents of children in headstart or early childhood education and assistance programs who are enrolled in adult literacy classes or tutoring programs under RCW 28A.610.010 through 28A.610.020. Grants provided under this subsection may be used for scholarships, transportation, child care, and other support services.

(12) \$4,700,000 of the general fund—federal appropriation is provided solely for adult basic education and other related purposes as may be defined by federal regulations.

(13) \$3,064,000 of the general fund—state appropriation is provided solely for the Seattle vocational institute.

(14) The state board for community and technical colleges shall reduce spending for the entire system by \$625,000 for travel. These funds are to be used to mitigate enrollment reductions as part of the agency's 2.5 percent allotment reduction.

(15) \$585,000 of the general fund—state appropriation is provided solely for English instruction to non-English speaking immigrants.

Sec. 3. 1992 c ... s 603 is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

General Fund Appropriation .....	\$	<del>((595,020,000))</del>
		<u>596,503,000</u>
University of Washington Operating Fees Account		
Appropriation .....	\$	<del>((75,286,000))</del>
		<u>73,803,000</u>
Medical Aid Fund Appropriation .....	\$	3,818,000
Accident Fund Appropriation .....	\$	3,818,000
Death Investigations Account Appropriation .....	\$	1,145,000
Oil Spill Administration Account Appropriation .....	\$	229,000
TOTAL APPROPRIATION .....	\$	679,316,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$8,782,000 of the general fund appropriation is provided solely to operate upper-division and graduate level courses offered at the Bothell branch campus. The amount referenced in this subsection does not include amounts authorized for 1991-93 salary increases.

(2) \$7,472,000 of the general fund appropriation is provided solely to operate upper-division and graduate level courses offered at the Tacoma branch campus. The amount referenced in this subsection does not include amounts authorized for 1991-93 salary increases.

(3) \$390,000 of the general fund appropriation is provided solely for assessment of student outcomes.

(4) \$679,000 of the general fund appropriation is provided solely to recruit and retain minorities.

(5) \$561,000 is provided solely to operate the Olympic natural resources center.

(6) \$229,000 of the oil spill administration account appropriation is provided solely to implement section 10, chapter 200, Laws of 1991 (Engrossed Substitute House Bill No. 1027, hazardous substance spills).

(7) \$4,255,000 of the general fund appropriation is provided solely for evening degree program enrollment levels of 337 student FTEs in the first year and 375 student FTEs in the second year.

(8) The University of Washington shall reduce spending by \$630,000 for travel. These funds are to be used to mitigate enrollment reductions planned as part of the agency's 2.5 percent allotment reduction and to improve instruction.

(9) \$40,000 of the general fund appropriation is provided solely for the planning for learning project.

Sec. 4. 1992 c ... s 604 is amended to read as follows:

**FOR WASHINGTON STATE UNIVERSITY**

General Fund Appropriation .....	\$	<del>((335,455,000))</del>
		<u>336,148,000</u>
Washington State University Operating Fees Account		
Appropriation .....	\$	<del>((36,670,000))</del>
		<u>35,977,000</u>
<b>TOTAL APPROPRIATION .....</b>	<b>\$</b>	<b>372,125,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$7,719,000 of the general fund appropriation is provided solely to operate upper-division and graduate level courses offered at the Tri-Cities branch campus. At least \$500,000 of this amount is provided solely to implement sections 6, 7, and 8, chapter 341, Laws of 1991 (Engrossed Substitute House Bill No. 1426, research and extension programs). The amount referenced in this subsection does not include amounts authorized for 1991-93 salary increases.

(2) \$6,947,000 of the general fund appropriation is provided solely to operate upper-division and graduate level courses offered at the Vancouver branch campus. The amount referenced in this subsection does not include amounts authorized for 1991-93 salary increases.

(3) \$6,929,000 of the general fund appropriation is provided solely to operate graduate level courses offered at the Spokane branch campus. The amount referenced in this subsection does not include amounts authorized for 1991-93 salary increases.

(4) \$390,000 of the general fund appropriation is provided solely for assessment of student outcomes.

(5) \$293,000 of the general fund appropriation is provided solely to recruit and retain minorities.

(6) \$60,000 of the general fund appropriation is provided solely for the aquatic animal health program.

(7) \$779,000 of the general fund appropriation is provided solely to operate the international marketing program for agriculture commodities and trade (IMPACT). If House Bill No. 2316 (IMPACT sunset termination) is not enacted by June 30, 1992, the amount provided in this subsection shall lapse.

(8) Washington State University shall reduce spending by \$562,000 for travel. These funds are to be used to mitigate enrollment reductions of planned as part of the agency's 2.5 percent allotment reduction and to improve instruction.

(9) Funding for the agricultural experimental stations shall not be reduced by more than 2.5 percent from the initial 1991-93 biennial allotted level.

Sec. 5. 1992 c ... s 605 is amended to read as follows:

**FOR EASTERN WASHINGTON UNIVERSITY**

General Fund Appropriation . . . . .	\$	<del>((87,661,000))</del>
		<u>87,777,000</u>
Eastern Washington University Operating Fees Account		
Appropriation . . . . .	\$	<del>((12,906,000))</del>
		<u>12,790,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>100,567,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$390,000 of the general fund appropriation is provided solely for assessment of student outcomes.

(2) \$195,000 of the general fund appropriation is provided solely to recruit and retain minorities.

(3) Eastern Washington University shall reduce spending by \$216,000 for travel. These funds are to be used to improve instruction.

Sec. 6. 1992 c ... s 606 is amended to read as follows:

**FOR CENTRAL WASHINGTON UNIVERSITY**

General Fund Appropriation . . . . .	\$	<del>((75,863,000))</del>
		<u>75,926,000</u>
Central Washington University Operating Fees		
Account Appropriation . . . . .	\$	<del>((9,790,000))</del>
		<u>9,727,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>85,653,000</b>

The appropriations in this section are subject to the following conditions and limitations:

- (1) \$390,000 of the general fund appropriation is provided solely for assessment of student outcomes.
- (2) \$147,000 of the general fund appropriation is provided solely to recruit and retain minorities.
- (3) Central Washington University shall reduce spending by \$111,000 for travel. These funds are to be used to improve instruction.

Sec. 7. 1992 c ... s 607 is amended to read as follows:

**FOR THE EVERGREEN STATE COLLEGE**

General Fund Appropriation . . . . .	\$	<del>((47,290,000))</del>
		<u>47,322,000</u>
The Evergreen State College Operating Fees Account		
Appropriation . . . . .	\$	<del>((6,899,000))</del>
		<u>6,867,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>54,189,000</b>

The appropriations in this section are subject to the following conditions and limitations:

- (1) \$390,000 of the general fund appropriation is provided solely for assessment of student outcomes.
- (2) \$98,000 of the general fund appropriation is provided solely to recruit and retain minorities.
- (3) The Evergreen State College shall reduce spending by \$92,000 for travel. These funds are to be used to improve instruction.

Sec. 8. 1992 c ... s 608 is amended to read as follows:

**FOR WESTERN WASHINGTON UNIVERSITY**

General Fund Appropriation . . . . .	\$	<del>((98,377,000))</del>
		<u>98,486,000</u>
Western Washington University Operating Fees		
Account Appropriation . . . . .	\$	<del>((13,903,000))</del>
		<u>13,794,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>112,280,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$390,000 of the general fund appropriation is provided solely for assessment of student outcomes.

(2) \$195,000 of the general fund appropriation is provided solely to recruit and retain minorities.

(3) Western Washington University shall reduce spending by \$146,000 for travel. These funds are to be used to improve instruction.

**NEW SECTION. Sec. 9.** The sum of \$3,580,000, of which \$1,594,000 is from federal funds, or so much thereof as may be necessary, is appropriated from the state general fund to the department of social and health services for the biennium ending June 30, 1993, to provide:

(1) A 1.0 percent increase in vendor payment rates on July 1, 1992, in addition to the 2.0 percent vendor payment rate increase provided in section 201, chapter ... (ESHB 2470), Laws of 1992 for children's out-of-home residential providers except interim care, including but not limited to foster parents and child placement agencies;

(2) A 0.2 percent increase in vendor payment rates on January 1, 1993, in addition to the 3.0 percent vendor payment rate increase provided in section 201, chapter ... (ESHB 2470), Laws of 1992 for other providers not specified in subsection (1) of this section;

(3) A 1.0 percent increase in vendor payment rates on July 1, 1992, in addition to the 2.0 percent vendor payment rate increase provided in section 202, chapter ... (ESHB 2470), Laws of 1992 for juvenile rehabilitation group homes;

(4) A 0.2 percent increase in vendor payment rates on January 1, 1993, in addition to the 3.0 percent vendor payment rate increase provided in section 202, chapter ... (ESHB 2470), Laws of 1992 for the other vendors not specified in subsection (3) of this section;

(5) A 0.2 percent increase in vendor payment rates on January 1, 1993, in addition to the 3.0 percent vendor payment rate increase provided in section 203, chapter ... (ESHB 2470), Laws of 1992;

(6) A 1.0 percent increase in vendor payment rates on July 1, 1992, in addition to the 2.0 percent vendor payment rate increase provided in section 209, chapter ... (ESHB 2470), Laws of 1992; and

(7) A 0.2 percent increase in vendor payment rates on January 1, 1993, in addition to the 3.0 percent vendor payment rate increase provided in sections 210, 211, 212, 213, 215, and 217 chapter ... (ESHB 2470), Laws of 1992.

Passed the Senate March 12, 1992.

Passed the House March 12, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

**CHAPTER 239**

[Engrossed Substitute Senate Bill 6286]

**STATE RETIREMENT SYSTEMS—BASIC CONTRIBUTION RATES SET**

**Effective Date: 9/1/92**

AN ACT Relating to adjusting pension contribution rates to reflect the state actuary's 1990 valuations; amending RCW 41.45.060; amending 1992 c ... ss 712 [709] and 714; adding a new section to chapter 41.45 RCW; making an appropriation; and providing an effective date.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 41.45 RCW to read as follows:

Beginning September 1, 1992, through June 30, 1993, the basic state contribution rate for the law enforcement officers' and fire fighters' retirement system, and the basic employer contribution rates for the public employees' retirement system, the teachers' retirement system, and the Washington state patrol retirement system shall be as follows:

- (1) 7.27% for all members of the public employees' retirement system;
- (2) 12.08% for all members of the teachers' retirement system;
- (3) 12.99% for all members of the law enforcement officers' and fire fighters' retirement system; and
- (4) 17.16% for all members of the Washington state patrol retirement system.

Sec. 2. RCW 41.45.060 and 1990 c 18 s 1 are each amended to read as follows:

Beginning ~~((September 1, 1994))~~ July 1, 1993, the basic state contribution rate for the law enforcement officers' and fire fighters' retirement system, and the basic employer contribution rates for the public employees' retirement system, the teachers' retirement system, and the Washington state patrol retirement system shall be as follows:

- (1) 7.47% for all members of the public employees' retirement system;
- (2) 12.60% for all members of the teachers' retirement system;
- (3) 16.44% for all members of the law enforcement officers' and fire fighters' retirement system; and
- (4) 15.53% for all members of the Washington state patrol retirement system.

Sec. 3. 1992 c ... s 712 [709] is amended to read as follows:

**FOR THE GOVERNOR—COMPENSATION—SALARY AND INSURANCE BENEFITS**

General Fund—State Appropriation . . . . .	\$ ((106,280,000))
	<u>107,310,000</u>
General Fund—Federal Appropriation . . . . .	\$ ((16,278,000))
	<u>16,475,000</u>

## Special Fund Salary and Insurance Contribution

Increase Revolving Fund Appropriation . . . . .	\$ ((109,008,000))
	<u>109,512,000</u>
TOTAL APPROPRIATION . . . . .	\$ ((231,566,000))
	<u>233,297,000</u>

The appropriations in this section, or so much thereof as may be necessary, shall be expended solely for the purposes designated in this section and are subject to the conditions and limitations specified in this section.

(1) \$57,979,000 of the general fund—state appropriation, \$15,700,000 of the general fund—federal appropriation, and \$39,700,000 of the special fund salary and insurance contribution increase revolving fund appropriation are provided solely for a 3.6 percent across-the-board salary increase effective January 1, 1992, and an additional 3.0 percent across-the-board salary increase effective January 1, 1993, for all classified and exempt employees under the state personnel board and commissioned officers of the Washington state patrol.

(2) \$3,100,000 of the general fund—state appropriation, \$735,000 of the general fund—federal appropriation, and \$107,000 of the special fund salary and insurance contribution are provided solely to:

(a) Grant a 3.1 percent salary increase effective January 1, 1992, and an additional 3.6 percent salary increase effective January 1, 1993, to registered nurses and related job classes requiring licensure as a registered nurse; and

(b) Increase shift differential pay for registered nurses and related job classes requiring licensure as a registered nurse from \$1.00 per hour to \$1.50 per hour for evening shift and from \$1.50 per hour to \$2.50 per hour for night shift.

The salary increases granted in this subsection shall be in addition to any increase granted under subsection (1) of this section, and shall be granted only to employees classified under the state personnel board.

(3) \$779,000 of the general fund—state appropriation and \$235,000 of the general fund—federal appropriation are provided solely to grant a five-range, or approximately 12.5 percent, salary increase effective July 1, 1991, to the psychologist 5 and psychologist 6 job classes (classes 6816 and 6820) to address problems with recruitment and retention.

(4) \$75,000 of the general fund—state appropriation, \$8,000 of the general fund—federal appropriation, and \$4,030,000 of the special fund salary and insurance contribution increase revolving fund appropriation are provided for a four range, or approximately ten percent, salary increase effective July 1, 1991, for the transportation technician 2, transportation engineer 2, transportation engineer 5, and right-of-way agent 2 job classes, and all job classes directly indexed to one of those four benchmark job classes.

(5) \$719,000 of the general fund—state appropriation, \$147,000 of the general fund—federal appropriation, and \$873,000 of the special fund salary and insurance contribution increase revolving fund appropriation are provided for a two-range, or approximately 5 percent, salary increase effective January 1, 1992,

for the environmental engineer 2, architect 1, and civil engineer 2 job classes, and all job classes directly indexed to one of those three benchmark job classes.

The salary increase granted in this subsection shall be in addition to any increase granted under subsection (1) of this section.

(6) The governor shall allocate to state agencies \$14,910,000 from the general fund—state appropriation, and \$15,000,000 from the special fund salary and insurance contribution increase revolving fund appropriation to fulfill the 1991-93 obligations of the comparable worth agreement ratified by 1986 Senate Concurrent Resolution No. 126. The amounts allocated under this subsection are for employees classified under both the state personnel board and the higher education personnel board systems.

(7) The salary increases granted in this section shall be implemented in compliance and conformity with all requirements of the comparable worth agreement ratified by the 1986 Senate Concurrent Resolution No. 126, where applicable.

(8)(a) The monthly contributions for insurance benefit premiums shall not exceed \$289.95 per eligible employee for fiscal year 1992, and \$317.79 for fiscal year 1993.

(b) The monthly contributions for the margin in the self-insured medical and dental plans and for the operating costs of the health care authority shall not exceed \$8.36 per eligible employee for fiscal year 1992, and \$6.41 for fiscal year 1993.

(c) Any returns of funds to the health care authority resulting from favorable claims experienced during the 1991-93 biennium shall be held in reserve within the state employees insurance account until appropriated by the legislature.

(d) Funds provided under this section, including funds resulting from dividends or refunds, shall not be used to increase employee insurance benefits over the level of services provided on the effective date of this act. Contributions by any county, municipal, or other political subdivision to which coverage is extended after the effective date of this act shall not receive the benefit of any surplus funds attributable to premiums paid prior to the date on which coverage is extended.

(9) To facilitate the transfer of moneys from dedicated funds and accounts, the state treasurer is directed to transfer sufficient moneys from each dedicated fund or account to the special fund salary and insurance contribution increase revolving fund in accordance with schedules provided by the office of financial management.

(10) In calculating individual agency allocations for this section, the office of financial management shall calculate the allocation of each subsection separately. The separate allocations for each agency may be combined under a single appropriation code for improved efficiency. The office of financial management shall transmit a list of agency allocations by subsection to the senate committee on ways and means and the house of representatives committee on appropriations.

(11) No salary increase may be paid under this section to any person whose salary has been Y-rated pursuant to rules adopted by the state personnel board.

(12) A maximum of \$7,079,000 of the special fund salary and insurance contribution increase revolving fund appropriation in this section may be expended for salary and benefit increases for ferry workers consistent with the 1991-93 transportation appropriations act.

(13) The general fund—state appropriation has been reduced by \$((2,875,000)) 1,845,000, the general fund—federal appropriation has been reduced by \$((548,000)) 351,000, and the special fund salary and insurance contribution increase revolving fund appropriation has been reduced by \$((1,401,000)) 897,000 as a result of the revised public employees' and teachers' retirement system contribution rates provided in Substitute House Bill No. 2693 or Substitute Senate Bill No. 6286 (adjusting pension contribution rates). The office of financial management shall reduce allocations for individual state agencies and institutions of higher education accordingly.

(14) \$39,000 of the general fund—state appropriation is provided solely for the Washington state patrol to implement Substitute House Bill No. 2693 or Substitute Senate Bill No. 6286 (adjusting pension contribution rates).

**Sec. 4.** 1991 sp.s. c 16 s 714 is amended to read as follows:

**FOR THE DEPARTMENT OF RETIREMENT SYSTEMS—CONTRIBUTIONS TO RETIREMENT SYSTEMS**

The appropriations in this section are subject to the following conditions and limitations: The appropriations shall be made on a quarterly basis.

(1) There is appropriated for state contributions to the law enforcement officers' and fire fighters' retirement system:

	FY 1992	FY 1993
General Fund Appropriation . . . . .	\$ 76,000,000	((58,125,000))
		<u>66,492,000</u>
TOTAL APPROPRIATION . . . . .	\$ ((134,125,000))	<u>142,492,000</u>

(2) There is appropriated for contributions to the judicial retirement system:

	FY 1992	FY 1993
General Fund Appropriation . . . . .	\$ 3,371,000	3,371,000
TOTAL APPROPRIATION . . . . .	\$ 6,742,000	

The appropriation in this subsection is subject to the following conditions and limitations: \$92,000 is provided solely to implement chapter 159, Laws of 1991 (Substitute House Bill No. 1721, judicial retirement system).

(3) There is appropriated for contributions to the judges retirement system:

	FY 1992	FY 1993
General Fund Appropriation . . . . .	\$ 506,000	506,000
TOTAL APPROPRIATION . . . . .	\$ 1,012,000	

The appropriation in this subsection is subject to the following conditions and limitations: \$2,000 is provided solely to implement chapter 159, Laws of 1991 (Substitute House Bill No. 1721 judicial retirement system).

**NEW SECTION. Sec. 5.** The sum of \$4,784,000 or so much thereof as may be necessary, is appropriated from the state general fund for the biennium ending June 30, 1993, to the superintendent of public instruction for allocation to school districts and educational service districts for the 1992-93 school year to:

(1) Increase the fringe benefit allocations specified in section 502(4), c ... (ESHB 2470), Laws of 1992 from 20.30 percent to 20.59 percent of certificated salary allocations and from 18.53 percent to 18.64 percent of classified salary allocations; and

(2) Increase the incremental fringe benefit factors specified in section 503(3), c ... (ESHB 2470), Laws of 1992 from 1.1966 to 1.1995 for certificated salaries and from 1.1503 to 1.1514 for classified salaries.

(3) Increase the rates specified in section 504(2), c ... (ESHB 2470), Laws of 1992 as follows:

(a) For transitional bilingual instruction from \$32.99 to \$33.21

(b) For learning assistance from \$25.12 to \$25.19

(c) For highly capable students from \$17.59 to \$17.70

(d) For pupil transportation from \$1.28 to \$1.29 and

(4) Increase the rates specified in section 504(3), c ... (ESHB 2470), Laws of 1992 as specified in subsection (2) of this section.

**NEW SECTION. Sec. 6.** This act shall take effect September 1, 1992.

Passed the Senate March 12, 1992.

Passed the House March 12, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

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## CHAPTER 240

[Engrossed House Bill 2053]

UTILITY EMPLOYEES—

EXEMPTION FROM ELECTRICAL LICENSING REQUIREMENTS

Effective Date: 6/11/92

AN ACT Relating to electrical licensing exemptions; and amending RCW 19.28.200, 19.28.210, and 19.28.610.

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

**Sec. 1.** RCW 19.28.200 and 1980 c 30 s 15 are each amended to read as follows:

(1) No license under the provision of this chapter shall be required from any utility or any person, firm, partnership, corporation, or other entity employed by a utility because of work in connection with the installation (~~and~~), repair, or

maintenance of lines ((~~or~~)), wires, apparatus, or equipment owned by or under the control of a utility and used for transmission or distribution of electricity from the source of supply to the point of contact at the premises and/or property to be supplied((~~, or for work in installing or maintaining or repairing on the premises of customers,~~)) and service connections and meters((~~,~~)) and other apparatus or appliances used in the measurement of the consumption of electricity by the customer((~~s, or for work in connection with~~)).

(2) No license under the provisions of this chapter shall be required from any utility because of work in connection with the installation, repair, or maintenance of the following:

(a) Lines, wires, apparatus, or equipment used in the lighting of streets, alleys, ways, or public areas or squares((~~, or for the work of installing, maintaining or repairing wires, apparatus or appliances used in their business, or in making or distributing electricity, upon the property owned or operated and managed by them; or for~~));

(b) Lines, wires, apparatus, or equipment owned by a commercial, industrial, or public institution customer that are an integral part of a transmission or distribution system, either overhead or underground, providing service to such customer and located outside the building or structure: PROVIDED, That a utility does not initiate the sale of services to perform such work;

(c) Lines and wires, together with ancillary apparatus, and equipment, owned by a customer that is an independent power producer who has entered into an agreement for the sale of electricity to a utility and that are used in transmitting electricity from an electrical generating unit located on premises used by such customer to the point of interconnection with the utility's system.

(3) Any person, firm, partnership, corporation, or other entity licensed under RCW 19.28.120 may enter into a contract with a utility for the performance of work under subsection (2) of this section.

(4) No license under the provisions of this chapter shall be required from any person, firm, partnership, corporation, or other entity because of the work of installing and repairing ignition or lighting systems for motor vehicles((~~, or as~~)).

(5) No license under the provisions of this chapter shall be required from any person, firm, partnership, corporation, or other entity because of work in connection with the installation, repair, or maintenance of wires and equipment, and installations thereof, exempted in RCW 19.28.010.

**Sec. 2.** RCW 19.28.210 and 1989 c 344 s 1 are each amended to read as follows:

(1) The director shall cause an inspector to inspect all wiring, appliances, devices, and equipment to which this chapter applies. Nothing contained in this chapter may be construed as providing any authority for any subdivision of government to adopt by ordinance any provisions contained or provided for in this chapter except those pertaining to cities and towns pursuant to RCW 19.28.010(2).

(2) Upon request, electrical inspections will be made by the department within forty-eight hours, excluding holidays, Saturdays, and Sundays. If, upon written request, the electrical inspector fails to make an electrical inspection within twenty-four hours, the serving utility may immediately connect electrical power to the installation if the necessary electrical work permit is displayed: **PROVIDED**, That if the request is for an electrical inspection that relates to a mobile home installation, the applicant shall provide proof of a current building permit issued by the local government agency authorized to issue such permits as a prerequisite for inspection approval or connection of electrical power to the mobile home.

(3) Whenever the installation of any wiring, device, appliance, or equipment is not in accordance with this chapter, or is in such a condition as to be dangerous to life or property, the person, firm, partnership, corporation, or other entity owning, using, or operating it shall be notified by the department and shall within fifteen days, or such further reasonable time as may upon request be granted, make such repairs and changes as are required to remove the danger to life or property and to make it conform to this chapter. The director, through the inspector, is hereby empowered to disconnect or order the discontinuance of electrical service to conductors or equipment that are found to be in a dangerous or unsafe condition and not in accordance with this chapter. Upon making a disconnection the inspector shall attach a notice stating that the conductors have been found dangerous to life or property and are not in accordance with this chapter. It is unlawful for any person to reconnect such defective conductors or equipment without the approval of the department, and until the conductors and equipment have been placed in a safe and secure condition, and in a condition that complies with this chapter.

(4) The director, through the electrical inspector, has the right during reasonable hours to enter into and upon any building or premises in the discharge of his or her official duties for the purpose of making any inspection or test of the installation of new construction or altered electrical wiring, electrical devices, equipment, or material contained in or on the buildings or premises. No electrical wiring or equipment subject to this chapter may be concealed until it has been approved by the inspector making the inspection.

(5) Persons, firms, partnerships, corporations, or other entities making electrical installations shall obtain inspection and approval from an authorized representative of the department as required by this chapter before requesting the electric utility to connect to the installations. Electric utilities may connect to the installations if approval is clearly indicated by certification of the electrical work permit required to be affixed to each installation or by equivalent means, except that increased or relocated services may be reconnected immediately at the discretion of the utility before approval if an electrical work permit is displayed. The permits shall be furnished upon payment of the fee to the department.

(6) The director, subject to the recommendations and approval of the board, shall set by rule a schedule of license and electrical work permit fees that will cover the costs of administration and enforcement of this chapter. The rules shall be adopted in accordance with the administrative procedure act, chapter 34.05 RCW. No fee may be charged for plug-in mobile homes, recreational vehicles, or portable appliances.

(7) Nothing in this chapter shall authorize the inspection of any wiring, appliance, device, or equipment, or installations thereof, by any utility or by any person, firm, partnership, corporation, or other entity employed by a utility in connection with the installation, repair, or maintenance of lines, wires, apparatus, or equipment owned by or under the control of the utility. All work covered by the national electric code not exempted by the 1981 edition of the national electric code 90-2(B)(5) shall be inspected by the department.

**Sec. 3.** RCW 19.28.610 and 1986 c 156 s 16 are each amended to read as follows:

Nothing in RCW 19.28.510 through 19.28.620 shall be construed to require that a person obtain a license or a certified electrician in order to do electrical work at his or her residence or farm or place of business or on other property owned by him: PROVIDED, HOWEVER, That nothing in RCW 19.28.510 through 19.28.620 shall be intended to derogate from or dispense with the requirements of any valid electrical code enacted by a city or town pursuant to RCW 19.28.010(2), except that no code shall require the holder of a certificate of competency to demonstrate any additional proof of competency or obtain any other license or pay any fee in order to engage in the electrical construction trade: AND PROVIDED FURTHER, That RCW 19.28.510 through 19.28.620 shall not apply to common carriers subject to Part I of the Interstate Commerce Act, nor to their officers and employees: AND PROVIDED FURTHER, That nothing in RCW 19.28.510 through 19.28.620 shall be deemed to apply to the installation or maintenance of telephone, telegraph, radio, or television wires and equipment; nor to any electrical utility or its employees((;)) in the installation((s)), repair, and maintenance of electrical wiring, circuits, and equipment by or for the utility, or comprising a part of its plants, lines or systems. The licensing provisions of RCW 19.28.510 through 19.28.620 shall not apply to:

- (1) Persons making electrical installations on their own property ((or to));
- (2) Regularly employed employees working on the premises of their employer; or

(3) Employees of an employer while the employer is performing utility type work of the nature described in RCW 19.28.200 so long as such employees have registered in the state of Washington with or graduated from a state-approved outside lineman apprenticeship course that is recognized by the department and that qualifies a person to perform such work:

AND PROVIDED FURTHER, That nothing in RCW 19.28.510 through 19.28.620 shall be construed to restrict the right of any householder to assist or

receive assistance from a friend, neighbor, relative or other person when none of the individuals doing the electrical installation hold themselves out as engaged in the trade or business of electrical installations. Nothing precludes any person who is exempt from the licensing requirements of this chapter under this section from obtaining a journeyman or specialty certificate of competency if they otherwise meet the requirements of this chapter.

Passed the House March 12, 1992.

Passed the Senate March 12, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.

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## CHAPTER 241

[Engrossed Senate Bill 6054]

### CHIROPRACTIC PRACTICE ACT—REVISIONS

Effective Date: 6/11/92

AN ACT Relating to chiropractic; amending RCW 18.25.005 and 18.25.006; adding a new section to chapter 18.25 RCW; creating a new section; and declaring an emergency.

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

**NEW SECTION. Sec. 1.** This act is intended to expand the scope of practice of chiropractic only with regard to adjustment of extremities in connection with a spinal adjustment.

**Sec. 2.** RCW 18.25.005 and 1974 ex.s. c 97 s 7 are each amended to read as follows:

~~((For the purpose of chapters 18.25 and 18.26 RCW, the term "chiropractic" shall mean and include that practice of health care which deals with the detection of subluxations, which shall be defined as any alteration of the biomechanical and physiological dynamics of contiguous spinal structures which can cause neuronal disturbances, the chiropractic procedure preparatory to, and complementary to the correction thereof, by adjustment or manipulation of the articulations of the vertebral column and its immediate articulations for the restoration and maintenance of health; it includes the normal regimen and rehabilitation of the patient, physical examination to determine the necessity for chiropractic care, the use of x ray and other analytical instruments generally used in the practice of chiropractic: PROVIDED, That no chiropractor shall prescribe or dispense any medicine or drug nor practice obstetrics or surgery nor use x rays for therapeutic purposes: PROVIDED, HOWEVER, That the term "chiropractic" as defined in this act shall not prohibit a practitioner licensed under chapter 18.71 RCW from performing accepted medical procedures, except such procedures shall not include the adjustment by hand of any articulation of the spine: AND PROVIDED FURTHER, That nothing herein shall be construed to prohibit the rendering of dietary advice.))~~

(1) Chiropractic is the practice of health care that deals with the diagnosis or analysis and care or treatment of the vertebral subluxation complex and its effects, articular dysfunction, and musculoskeletal disorders, all for the restoration and maintenance of health and recognizing the recuperative powers of the body.

(2) Chiropractic treatment or care includes the use of procedures involving spinal adjustments, and extremity manipulation insofar as any such procedure is complementary or preparatory to a chiropractic spinal adjustment. Chiropractic treatment also includes the use of heat, cold, water, exercise, massage, trigger point therapy, dietary advice and recommendation of nutritional supplementation except for medicines of herbal, animal, or botanical origin, the normal regimen and rehabilitation of the patient, first aid, and counseling on hygiene, sanitation, and preventive measures. Chiropractic care also includes such physiological therapeutic procedures as traction and light, but does not include procedures involving the application of sound, diathermy, or electricity.

(3) As part of a chiropractic differential diagnosis, a chiropractor shall perform a physical examination, which may include diagnostic x-rays, to determine the appropriateness of chiropractic care or the need for referral to other health care providers. The chiropractic disciplinary board shall provide by rule for the type and use of diagnostic and analytical devices and procedures consistent with this chapter.

(4) Chiropractic care shall not include the prescription or dispensing of any medicine or drug, the practice of obstetrics or surgery, the use of x-rays or any other form of radiation for therapeutic purposes, colonic irrigation, or any form of venipuncture.

(5) Nothing in this chapter prohibits or restricts any other practitioner of a "health profession" defined in RCW 18.120.020(4) from performing any functions or procedures the practitioner is licensed or permitted to perform, and the term "chiropractic" as defined in this chapter shall not prohibit a practitioner licensed under chapter 18.71 RCW from performing medical procedures, except such procedures shall not include the adjustment by hand of any articulation of the spine.

**Sec. 3.** RCW 18.25.006 and 1991 c 3 s 36 are each amended to read as follows:

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

(1) "Department" means the department of health.

(2) "Secretary" means the secretary of the department of health or the secretary's designee.

(3) "Chiropractor" means an individual licensed under this chapter.

(4) "Board" means the Washington state board of chiropractic examiners.

(5) "Vertebral subluxation complex" means a functional defect or alteration of the biomechanical and physiological dynamics in a joint that may cause

neuronal disturbances, with or without displacement detectable by x-ray. The effects of the vertebral subluxation complex may include, but are not limited to, any of the following: Fixation, hypomobility, hypermobility, periarticular muscle spasm, edema, or inflammation.

(6) "Articular dysfunction" means an alteration of the biomechanical and physiological dynamics of a joint of the axial or appendicular skeleton.

(7) "Musculoskeletal disorders" means abnormalities of the muscles, bones, and connective tissue.

(8) "Chiropractic differential diagnosis" means a diagnosis to determine the existence of a vertebral subluxation complex, articular dysfunction, or musculoskeletal disorder, and the appropriateness of chiropractic care or the need for referral to other health care providers.

(9) "Chiropractic adjustment" means chiropractic care of a vertebral subluxation complex, articular dysfunction, or musculoskeletal disorder. Such care includes manual or mechanical adjustment of any vertebral articulation and contiguous articulations beyond the normal passive physiological range of motion.

(10) "Extremity manipulation" means a corrective thrust or maneuver applied to a joint of the appendicular skeleton. The use of extremity manipulation shall be complementary and preparatory to a chiropractic spinal adjustment to support correction of a vertebral subluxation complex and is considered a part of a spinal adjustment and shall not be billed separately from or in addition to a spinal adjustment.

**NEW SECTION. Sec. 4.** A new section is added to chapter 18.25 RCW to read as follows:

All state health care purchasers shall have the authority to set service and fee limitations on chiropractic costs. The health care authority shall establish pilot projects in defined geographic regions of the state to contract with organizations of chiropractors for a prepaid capitated amount.

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

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

Passed the Senate March 8, 1992.

Passed the House March 6, 1992.

Approved by the Governor April 3, 1992, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 3, 1992.

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

"I am returning herewith, without my approval as to section 5, Engrossed Senate Bill No. 6054 entitled:

"AN ACT Relating to Chiropractic."

Section 5 of Engrossed Senate Bill No. 6054 implements this bill immediately. The language in the bill is ambiguous concerning the ability of chiropractors to treat problems originating in the extremities. The proponents of the bill assure me that the expansion in the scope of practice does not include disorders that originate in the extremities. I have asked the Chiropractic Disciplinary Board to clarify this issue in rule.

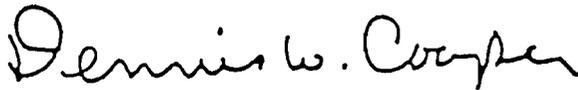
For these reasons, I have vetoed section 5 of Engrossed Senate Bill No. 6054.

With the exception of section 5, Engrossed Senate Bill No. 6054 is approved."

### AUTHENTICATION

I, Dennis W. Cooper, Code Reviser of the State of Washington, certify that, with the exception of such corrections as I have made in accordance with the powers vested in me by RCW 44.20.060, the laws published in this volume are a true and correct reproduction of the copies of the enrolled laws of the 1992 regular session, chapters 1 through 241 (52nd Legislature), as certified and transmitted to the Statute Law Committee by the Secretary of State pursuant to RCW 44.20.020.

IN TESTIMONY WHEREOF, I have hereunto set my hand at Olympia, Washington, this 12th day of May, 1992.

A handwritten signature in cursive script that reads "Dennis W. Cooper". The signature is written in black ink and is positioned above the printed name and title.

DENNIS W. COOPER  
Code Reviser

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**BILL NO. TO CHAPTER NO. OF 1992 STATUTES**

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Init	120	1	SSB	6138
			SB	6140
			SSB	6141
			SB	6155
			ESB	6161
			ESSB	6174
			ESSB	6180
			ESB	6184
			SSB	6186
			SSB	6193
			SB	6199
			SB	6212
			ESB	6213
			SB	6220
			SB	6221
			SB	6226
			SSB	6241
			ESB	6261
			SB	6276
			ESB	6284
			ESB	6285
			ESSB	6286
			SB	6289
			ESB	6292
			SB	6295
			SB	6296
			SSB	6306
			ESB	6319
			SSB	6321
			ESSB	6326
			SSB	6327
			SSB	6328
			SB	6329
			SSB	6330
			SB	6339
			E2SSB	6347
			SB	6351
			SSB	6354
			SB	6357
			SSB	6377
			SSB	6386
			SSB	6393
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			ESB	6401
			ESB	6407
			ESB	6408
			ESB	6427
			SSB	6428
			ESB	6441
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"PV" Denotes parital veto by Governor [ 1405 ]

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SB	6452	202	HB	2358	12
SB	6457	4	SHB	2359	137 PV
SSB	6460	114	EHB	2360	13
SSB	6461	107	HB	2368	225
SSB	6483	237	SHB	2370	125
SSB	6494	228	HB	2371	70
			SHB	2373	168
			HB	2374	65 PV
			ESHB	2389	73
			SHB	2391	14
			SHB	2394	93
			HB	2398	97
			HB	2417	148
			HB	2448	170
			SHB	2457	151 PV
			ESHB	2459	189
			SHB	2465	68
			ESHB	2466	205 PV
			ESHB	2470	232 PV
			SHB	2479	138
			ESHB	2490	75
			SHB	2495	161
			SHB	2498	197 PV
			SHB	2501	211
			SHB	2502	71
			HB	2514	187
			HB	2516	77
			ESHB	2518	159
			HB	2543	15
			SHB	2551	180
			ESHB	2552	233 PV
			ESHB	2553	166 PV
			HB	2554	5
			SHB	2555	59
			SHB	2560	63
			SHB	2594	153
			ESHB	2609	190
			ESHB	2610	101
			HB	2633	17
			SHB	2635	175
			SHB	2639	213
			ESHB	2640	174
			ESHB	2643	216
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			HB	2662	181
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EHB	1185	133	
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2ESHB	1378	54	
SHB	1392	110	
SHB	1481	98	
ESHB	1495	191	PV
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SHB	2281	102	
SHB	2284	62	
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HB	2290	116	
ESHB	2293	103	
HB	2294	9	
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ESHB	2305	74	
HB	2314	8	
EHB	2316	95	
SHB	2319	163	PV
SHB	2330	52	
ESHB	2333	10	
ESHB	2337	113	
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**"PV"** Denotes partial veto by Governor [ 1406 ]

**BILL NO. TO CHAPTER NO. OF 1992 STATUTES**

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SHB 2673	79		
EHB 2680	206		
HB 2681	169		
HB 2682	48		
SHB 2686	217		
ESHB 2702	186		
SHB 2714	16		
SHB 2720	209	PV	
SHB 2727	154		
SHB 2735	66		
SHB 2745	143		
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SHB 2766	164		
SHB 2768	19		
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SHB 2831	173		
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SHB 2845	94		
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ESHB 2876	139		
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ESHB 2928	69	PV	
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**"PV"** Denotes parital veto by Governor [ 1407 ]



## RCW SECTIONS AFFECTED BY 1992 STATUTES

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2.08.061	AMD 189	1	9.16.020	AMD 7	4
	(Effective 7/1/92)		9.24.020	AMD 7	5
2.08.062	AMD 189	2	9.24.030	AMD 7	6
	(Effective 7/1/93)		9.24.050	AMD 7	7
2.08.063	AMD 189	3	9.41.010	AMD 205	117
	(Effective 7/1/92)		9.41.010	AMD 145	5
2.08.064	AMD 189	4	9.41.040	AMD 168	2
	(Effective 7/1/93)		9.41.040	AMD 205	118
2.08.065	AMD 189	5	9.41.070	AMD 168	1
	(Effective 7/1/92)		9.41.180	AMD 7	8
2.32.070	AMD 140	1	9.45	ADD 116	1
2.32.180	AMD 189	6	9.45.020	AMD 7	9
	(Effective 7/1/93)		9.45.070	AMD 7	10
2.36.010	AMD 93	1	9.45.124	AMD 7	11
2.36.080	AMD 93	2	9.45.126	AMD 7	12
2.36.093	AMD 93	3	9.46	ADD 172	2
2.36.095	AMD 93	4	9.47.090	AMD 7	13
2.36.100	AMD 93	5	9.47.120	AMD 7	14
2.48.200	AMD 225	1	9.61.230	AMD 186	6
2.56.030	AMD 205	115	9.62.010	AMD 7	15
3.34.030	REP 31	1	9.68.050	AMD 5	1
3.34.100	AMD 76	1	9.68.060	AMD 5	2
3.54	ADD 29	1	9.68.070	AMD 5	4
3.62	ADD 62	7	9.68.090	AMD 5	3
3.62.060	AMD 62	8	9.68A.110	AMD 178	1
4.08.050	AMD 111	9	9.82.030	AMD 7	16
4.24.130	AMD 30	1	9.91.025	AMD 77	1
4.24.190	AMD 205	116	9.91.090	AMD 7	17
4.24.210	REMD 52	1	9.92.050	REP 7	64
4.24.560	AMD 132	2	9.92.090	AMD 7	18
4.44.160	AMD 93	6	9.94.020	AMD 7	19
7.48	ADD 38	10	9.94.030	AMD 7	20
7.48.300	AMD 52	2	9.94.049	AMD 7	21
7.48.305	AMD 52	3	9.94.050	AMD 7	22
7.48.305	AMD 151	1	9.94A.030	REMD 75	1
7.48.310	AMD 52	4	9.94A.030	REMD 145	6
7.68.070	AMD 203	1	9.94A.120	REMD 45	5
7.69A.020	AMD 188	2	9.94A.120	REMD 75	2
9.02	ADD 1	1-8,10-12	9.94A.120	REMD 145	7
9.02.010	REP 1	9	9.94A.150	AMD 145	8
9.02.020	REP 1	9	9.94A.151	AMD 45	1
9.02.030	REP 1	9	9.94A.155	AMD 45	2
9.02.040	REP 1	9	9.94A.155	AMD 186	7
9.02.060	REP 1	9	9.94A.310	AMD 145	9
9.02.070	REP 1	9	9.94A.320	AMD 75	3
9.02.080	REP 1	9	9.94A.320	AMD 145	4
9.02.090	REP 1	9	9.94A.360	AMD 75	4
9.05.020	AMD 7	1	9.94A.360	AMD 145	10
9.05.030	AMD 7	2	9.94A.440	AMD 75	5
9.16.010	AMD 7	3	9.94A.440	AMD 145	11

**RCW SECTIONS AFFECTED BY 1992 STATUTES**

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9.95.040	AMD	7	24	13.32A.150	AMD 205 208
9.95.055	AMD	7	25	13.34.130	AMD 145 14
9.95.080	AMD	7	26	13.34.190	AMD 145 15
9.95.140	AMD	7	27	13.40.010	AMD 205 101
9.95.190	AMD	7	28	13.40.027	AMD 205 103
9.95.210	AMD	86	1	13.40.038	AMD 205 105
9A	ADD	210	1-4	13.40.050	AMD 205 106
9A.36	ADD	145	1-3	13.40.070	AMD 205 107
9A.46	ADD	186	1	13.40.080	AMD 205 108
9A.46.020	AMD	186	2	13.40.150	AMD 205 109
9A.46.030	AMD	186	3	13.40.160	AMD 45 6
9A.46.060	AMD	186	4	13.50.050	AMD 188 7
9A.46.060	AMD	145	12	15.13	ADD 23 1
9A.46.100	AMD	186	5		(Effective 7/1/92)
9A.82.010	AMD	145	13	15.28.180	AMD 87 1
9A.82.010	AMD	210	6	15.35	ADD 58 2
10.13.010	REP	31	1	15.35.080	AMD 58 1
10.13.020	REP	31	1	15.35.110	AMD 58 4
10.13.030	REP	31	1	15.35.150	AMD 58 5
10.13.040	REP	31	1	15.35.310	AMD 58 6
10.13.050	REP	31	1	15.36	ADD 160 1,2
10.13.060	REP	31	1	15.58.030	AMD 170 1
10.13.070	REP	31	1	15.58.200	AMD 170 2
10.13.075	REP	31	1	15.58.210	REMD 170 3
10.13.080	REP	31	1	15.58.245	AMD 170 4
10.13.090	REP	31	1	15.86	ADD 71 6,8,9
10.13.100	REP	31	1		11,13
10.13.110	REP	31	1	15.86.010	AMD 71 1
10.13.120	REP	31	1	15.86.020	AMD 71 2
10.13.130	REP	31	1	15.86.030	AMD 71 3
10.13.140	REP	31	1	15.86.031	AMD 71 4
10.13.150	REP	31	1	15.86.050	AMD 71 5
10.14	ADD	143	12,13 17,18	15.86.060	AMD 71 7
				15.86.070	AMD 71 10
10.14.070	AMD	143	10	17.21	ADD 176 2-5
10.14.080	AMD	143	11	17.21.020	AMD 176 1
10.14.090	AMD	143	14	17.21.100	AMD 173 1
10.14.100	AMD	143	15	17.21.110	AMD 170 5
10.14.110	AMD	143	16	17.21.122	AMD 170 6
10.14.160	AMD	127	1	17.21.126	AMD 170 7
10.52	ADD	188	9	17.21.129	AMD 170 8
10.70.140	AMD	7	29	17.21.200	AMD 170 9
10.77.205	AMD	186	8	17.21.910	AMD 170 10
10.97	ADD	188	8	18	ADD 125 1,3-5
10.99.040	AMD	86	2	18.04	ADD 103 18
11.92.095	REP	224	1	18.04.015	AMD 103 1
12.04.140	AMD	111	10	18.04.025	AMD 103 2
12.04.150	AMD	111	11	18.04.035	AMD 103 3
13.04.011	AMD	205	119	18.04.045	AMD 103 4

**RCW SECTIONS AFFECTED BY 1992 STATUTES**

<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>
18.04.055	AMD	103	5	18.85.040	AMD 92 1
18.04.065	AMD	103	6		(Effective 7/1/93)
18.04.105	AMD	103	7	18.104	ADD 67 2
18.04.180	AMD	103	8	18.130.040	AMD 128 6
18.04.205	AMD	103	9	18.160	ADD 116 3,4
18.04.215	AMD	103	10	18.160.030	AMD 116 2
18.04.295	AMD	103	11	19.02	ADD 107 4
18.04.305	AMD	103	12	19.02.020	AMD 107 1
18.04.335	AMD	103	13	19.02.075	AMD 107 2
18.04.345	AMD	103	14	19.02.080	AMD 107 3
18.04.350	AMD	103	15	19.02.085	AMD 107 5
18.04.390	AMD	103	16		(Effective 7/1/92)
18.04.405	AMD	103	17	19.27	ADD 132 1
18.06	ADD	110	2	19.27.180	AMD 79 1
18.06.010	AML	110	1	19.28.010	REMD 79 2
18.06.030	REP	110	5	19.28.120	AMD 217 2
18.06.040	REP	110	5	19.28.200	AMD 240 1
18.06.080	AMD	110	3	19.28.210	AMD 240 2
18.06.120	AMD	110	4	19.28.610	AMD 240 3
18.06.910	REP	110	5	19.52.010	REMD 134 13
18.06.911	REP	110	5	19.56	ADD 43 2
18.25	ADD	241	4	19.56.020	AMD 43 1
18.25.005	AMD	241	2	19.62.010	REP 91 1
18.25.006	AMD	241	3	19.62.020	REP 91 1
18.27.030	AMD	217	1	19.62.900	REP 91 1
18.32.195	AMD	59	1	19.72	ADD 115 1,2
18.52	ADD	53	2,6,7	19.80.035	REP 107 8
18.52.020	AMD	53	1	19.80.075	AMD 107 6
18.52.030	AMD	53	3	19.85	ADD 197 1,2
18.52.040	AMD	53	4	19.94	ADD 237 1,6-8
18.52.050	AMD	53	5		10-12,19,23,31
18.52.060	REP	53	11		(Effective 7/1/92)
18.52.070	REP	53	12	19.94.010	AMD 237 3
					(Effective 7/1/92)
18.52.100	REP	53	11	19.94.020	REP 237 37
18.52.110	AMD	53	8		(Effective 7/1/92)
18.52.130	AMD	53	9	19.94.030	REP 237 37
18.52.140	AMD	53	10		(Effective 7/1/92)
18.52.170	REP	53	11	19.94.040	REP 237 37
18.57A.020	AMD	28	1		(Effective 7/1/92)
18.64A.040	AMD	40	1	19.94.050	REP 237 37
18.71.205	AMD	128	1		(Effective 7/1/92)
18.71A.020	AMD	28	2	19.94.060	REP 237 37
18.73	ADD	128	5		(Effective 7/1/92)
18.73.130	AMD	128	2	19.94.070	REP 237 37
18.73.140	AMD	128	3		(Effective 7/1/92)
18.73.150	AMD	128	4	19.94.080	REP 237 37
18.73.920	REP	84	1		(Effective 7/1/92)
18.73.921	REP	84	1	19.94.090	REP 237 37
18.83.135	AMD	12	1		(Effective 7/1/92)

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19.94.110	REP 237 (Effective 7/1/92)	37	19.94.340	AMD 237 (Effective 7/1/92)	24
19.94.120	REP 237 (Effective 7/1/92)	37	19.94.350	AMD 237 (Effective 7/1/92)	25
19.94.130	REP 237 (Effective 7/1/92)	37	19.94.370	AMD 237 (Effective 7/1/92)	26
19.94.140	REP 237 (Effective 7/1/92)	37	19.94.380	REP 237 (Effective 7/1/92)	37
19.94.150	AMD 237 (Effective 7/1/92)	4	19.94.440	AMD 237 (Effective 7/1/92)	27
19.94.160	AMD 237 (Effective 7/1/92)	5	19.94.450	AMD 237 (Effective 7/1/92)	28
19.94.170	REP 237 (Effective 7/1/92)	37	19.94.460	AMD 237 (Effective 7/1/92)	29
19.94.180	REP 237 (Effective 7/1/92)	37	19.94.480	AMD 237 (Effective 7/1/92)	30
19.94.190	AMD 237 (Effective 7/1/92)	9	19.94.490	AMD 237 (Effective 7/1/92)	32
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19.94.210	REP 237 (Effective 7/1/92)	37	19.94.505	AMD 237 (Effective 7/1/92)	34
19.94.215	REP 237 (Effective 7/1/92)	37	19.94.510	AMD 237 (Effective 7/1/92)	35
19.94.220	AMD 237 (Effective 7/1/92)	13	19.94.530	AMD 237 (Effective 7/1/92)	36
19.94.230	AMD 237 (Effective 7/1/92)	14	23B.01.220	AMD 107 (Effective 7/1/92)	7
19.94.240	AMD 237 (Effective 7/1/92)	15	26.04.230	AMD 7	30
19.94.250	AMD 237 (Effective 7/1/92)	16	26.09.006	AMD 229	1
19.94.260	AMD 237 (Effective 7/1/92)	18	26.09.060	AMD 229	9
19.94.270	REP 237 (Effective 7/1/92)	37	26.09.170	AMD 229	2
19.94.280	AMD 237 (Effective 7/1/92)	20	26.09.175	AMD 229	3
19.94.290	REP 237 (Effective 7/1/92)	37	26.10.015	AMD 229	4
19.94.300	REP 237 (Effective 7/1/92)	37	26.18.220	AMD 229	5
19.94.310	AMD 237 (Effective 7/1/92)	21	26.19.035	AMD 229	6
19.94.320	AMD 237 (Effective 7/1/92)	22	26.26.065	AMD 229	7
19.94.330	AMD 237 (Effective 7/1/92)	17	26.26.160	AMD 229	8
			26.28.015	AMD 111	12
			26.50	ADD 143	4,5 8,9
			26.50.010	AMD 86	3
			26.50.010	AMD 111	7
			26.50.020	AMD 111	8
			26.50.030	AMD 111	2
			26.50.050	AMD 143	1
			26.50.060	AMD 143	2
			26.50.060	AMD 86	4

## RCW SECTIONS AFFECTED BY 1992 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.
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26.50.070	AMD	143	3	28A.400	ADD 152 1,3
26.50.090	AMD	143	6	28A.400.210	AMD 234 12
26.50.100	AMD	143	7	28A.400.390	REP 152 5
26.50.110	AMD	86	5	28A.405.220	AMD 141 103
27.24.010	AMD	62	1		(Effective 7/1/92)
27.24.020	AMD	62	2	28A.410	ADD 159 5
27.24.040	AMD	62	3	28A.410.010	REMD 60 2
27.24.050	REP	62	9	28A.410.010	REMD 159 3
27.24.060	REP	62	9	28A.410.040	AMD 141 101
27.24.062	AMD	62	4	28A.410.050	AMD 141 102
27.24.063	REP	62	9	28A.410.090	AMD 159 4
27.24.064	REP	62	9	28A.410.100	AMD 159 6
27.24.065	REP	62	9	28A.500.010	AMD 49 2
27.24.066	AMD	62	5	28A.600	ADD 205 120
27.24.067	AMD	62	6	28A.600	ADD 155 1,2
27.24.070	AMD	54	6	28A.600	ADD 196 2-7
28A.150	ADD	141	502	28A.625.041	AMD 83 1
	(Effective 9/1/98)			28A.625.041	AMD 50 1
28A.150.210	AMD	141	501		(Effective 6/30/93)
	(Effective 9/1/98)			28A.625.060	AMD 50 3
28A.150.220	AMD	141	503		(Effective 6/30/93)
	(Effective 9/1/98)			28A.625.065	AMD 83 2
28A.150.260	AMD	141	303	28A.625.071	REP 83 5
28A.150.260	AMD	141	507	28A.630	ADD 137 1-4
	(Effective 9/1/98)				6-12
28A.150.290	AMD	141	504	28A.630	ADD 180 3
	(Effective 9/1/98)			28A.630	ADD 141 201
28A.195.010	AMD	141	505		202
	(Effective 9/1/98)			28A.630	ADD 112 2
28A.225	ADD	205	201	28A.630.140	AMD 112 1
28A.225.020	AMD	205	202	28A.630.820	AMD 180 1
28A.225.030	AMD	205	203	28A.630.840	AMD 180 2
28A.225.090	AMD	205	204	28B.10.016	AMD 231 1
28A.225.150	AMD	205	205		(Effective 7/1/92)
28A.230	ADD	141	401	28B.10.265	AMD 231 2
28A.230.090	AMD	60	1		(Effective 7/1/92)
28A.230.090	AMD	141	402	28B.15	ADD 231 32,33
28A.230.110	REP	141	403		36
28A.300	ADD	24	1		(Effective 7/1/92)
28A.300.040	AMD	198	6	28B.15.014	REMD 231 3
	(Effective 7/1/92)				(Effective 7/1/92)
28A.305.010	AMD	56	1	28B.15.067	AMD 231 4
28A.305.030	AMD	56	3		(Effective 7/1/92)
28A.305.080	AMD	56	2	28B.15.070	AMD 231 5
28A.305.140	AMD	141	302		(Effective 7/1/92)
28A.320	ADD	141	301	28B.15.100	REMD 231 6
28A.320.200	REP	141	506		(Effective 7/1/92)
	(Effective 9/1/98)			28B.15.202	AMD 231 7
28A.320.210	REP	141	304		(Effective 7/1/92)

## RCW SECTIONS AFFECTED BY 1992 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.
28B.15.225	AMD 231 (Effective 7/1/92)	8	28B.70.050	AMD 231 (Effective 7/1/92)	30
28B.15.380	AMD 231 (Effective 7/1/92)	9	28B.80.255	AMD 83	3
28B.15.402	AMD 231 (Effective 7/1/92)	10	28B.80.255	AMD 50 (Effective 6/30/93)	2
28B.15.502	AMD 231 (Effective 7/1/92)	11	28B.80.265	AMD 83	4
28B.15.520	AMD 231 (Effective 7/1/92)	12	28B.80.350	AMD 60	3
28B.15.522	AMD 231 (Effective 7/1/92)	13	28B.80.570	AMD 21	6
28B.15.527	AMD 231 (Effective 7/1/92)	14	28B.80.580	AMD 231 (Effective 7/1/92)	31
28B.15.535	AMD 231 (Effective 7/1/92)	15	29	ADD 163	3,4
28B.15.540	AMD 231 (Effective 7/1/92)	16	29	ADD 163 (Effective 7/1/93)	5-11
28B.15.543	AMD 231 (Effective 7/1/92)	17	29.01.080	AMD 7	31
28B.15.545	AMD 231 (Effective 7/1/92)	18	29.04.120	AMD 7	32
28B.15.556	AMD 231 (Effective 7/1/92)	19	29.13.010	AMD 37	1
28B.15.558	AMD 231 (Effective 7/1/92)	20	29.13.020	AMD 37	2
28B.15.615	AMD 231 (Effective 7/1/92)	21	29.30	ADD 181 (Effective 7/1/92)	1
28B.15.620	AMD 231 (Effective 7/1/92)	22	29.30.085	AMD 181 (Effective 7/1/92)	2
28B.15.628	AMD 231 (Effective 7/1/92)	23	34.05	ADD 197	3,4
28B.15.725	AMD 231 (Effective 7/1/92)	24	34.05.010	AMD 44 (Effective 1/1/93)	10
28B.15.730	AMD 231 (Effective 7/1/92)	25	34.05.320	AMD 197	8
28B.15.740	AMD 231 (Effective 7/1/92)	26	34.05.325	AMD 57	1
28B.15.750	AMD 231 (Effective 7/1/92)	27	34.12	ADD 44	8,9
28B.15.756	AMD 231 (Effective 7/1/92)	28	35.20.270	AMD 99	1
28B.20	ADD 142	1,2 4-7	35.21	ADD 117	3,5-7
28B.20.285	AMD 142	3	35.21.775	AMD 117	4
28B.35.190	AMD 117	1	35.21.777	REP 117	8
28B.40.190	AMD 117	2	35.22	ADD 207	2
28B.50.030	REMD 21	5	35.58.273	REMD 194 (Effective 1/1/93)	11
28B.50.259	AMD 231 (Effective 7/1/92)	29	35.63	ADD 207	1
			35.92.052	AMD 11	1
			35.92.105	AMD 25	1
			35A.63	ADD 207	3
			36.18	ADD 54	5
			36.18.020	AMD 54	1
			36.18.025	AMD 54	2
			36.18.040	AMD 164	1
			36.18.170	AMD 7	33
			36.22	ADD 30	2
			36.22	ADD 163 (Effective 7/1/93)	12,13
			36.22	ADD 125	2
			36.28.110	AMD 225	2
			36.32	ADD 207	5
			36.57A.040	AMD 16	1

**RCW SECTIONS AFFECTED BY 1992 STATUTES**

<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>
36.58.040	REMD	131	3	41.32.010	REMD 3 3
36.58.090	AMD	131	4	41.32.010	REMD 212 1
36.70	ADD	207	4	41.32.013	AMD 212 16
36.70A	ADD	207	6	41.32.032	AMD 212 17
36.70A.160	AMD	227	1	41.32.042	AMD 212 9
36.93	ADD	162	2	41.32.067	AMD 212 13
36.93.100	AMD	162	1	41.32.215	AMD 72 5
36.94	ADD	25	2,3	41.32.260	AMD 212 8
36.95.060	AMD	150	1	41.32.300	AMD 212 14
37.16.020	REP	90	1	41.32.310	REEN 72 6
37.16.130	REP	90	1	41.32.345	AMD 212 18
38	ADD	117	9-13	41.32.380	AMD 212 10
39.04	ADD	223	5	41.32.520	REMD 212 7
	(Effective 9/1/92)			41.32.522	AMD 212 4
39.04	ADD	171	1	41.32.523	AMD 212 5
39.34.030	AMD	161	4	41.32.540	AMD 212 3
39.34.040	AMD	161	5	41.32.555	AMD 212 19
39.34.050	AMD	161	6	41.32.610	REP 72 12
39.34.060	AMD	161	7	41.32.620	REP 72 12
39.76	ADD	223	1	41.32.630	REP 72 12
	(Effective 9/1/92)			41.32.700	REP 72 12
40.16.010	AMD	7	34	41.32.755	AMD 72 7
40.16.020	AMD	7	35	41.32.810	AMD 119 2
40.16.030	AMD	7	36	41.32.812	AMD 212 20
41.04	ADD	192	2	41.33.020	AMD 212 12
41.04.190	AMD	146	13	41.40	ADD 157 3,4
41.04.205	AMD	199	1	41.40.005	AMD 72 8
41.04.230	AMD	192	1	41.40.145	AMD 72 9
41.04.445	AMD	212	15	41.40.150	AMD 195 1
41.06.084	AMD	58	3		(Effective 1/1/94)
41.16.040	AMD	89	1	41.40.605	REP 72 12
41.18.015	AMD	6	1	41.40.710	AMD 119 3
41.18.060	AMD	22	1	41.45	ADD 239 1
41.20.120	AMD	22	2		(Effective 9/1/92)
41.24.030	AMD	97	1	41.45.060	AMD 239 2
	(Effective 7/1/92)				(Effective 9/1/92)
41.24.170	AMD	97	2	41.50.133	AMD 212 21
	(Effective 7/1/92)			41.50.200	AMD 212 2
41.26	ADD	72	11	41.50.210	AMD 72 10
41.26	ADD	157	1,2	41.50.215	AMD 212 6
41.26.005	AMD	72	2	41.50.225	REP 212 22
41.26.052	RECD	72	11	41.50.260	AMD 212 11
41.26.054	RECD	72	11	41.56.020	AMD 36 1
41.26.058	RECD	72	11	41.56.030	AMD 36 2
41.26.075	AMD	72	3	42	ADD 44 1-7
41.26.150	AMD	22	3		(Effective 1/1/93)
41.26.405	REP	72	12	42.17	ADD 188 6
41.26.520	AMD	119	1	42.17	ADD 139 2,9-11
41.32	ADD	3	1,2	42.17	ADD 179 2
41.32.005	AMD	72	4	42.17.020	AMD 139 1

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RCW		CH.	SEC.	RCW		CH.	SEC.
42.17.260	AMD	139	3	43.31.601	AMD	21	2
42.17.290	AMD	139	4	43.33A	ADD	232	905
42.17.310	REMD	71	12	43.43	ADD	159	8
42.17.310	REMD	139	5	43.43	ADD	129	1,2
42.17.320	AMD	139	6	43.43.830	REMD	145	16
42.17.330	AMD	139	7	43.43.838	AMD	159	7
42.17.340	AMD	139	8	43.43.842	AMD	104	1
42.20.070	AMD	7	37	43.51	ADD	63	14
42.20.090	AMD	7	38	43.51.270	AMD	185	1
42.40.020	AMD	118	1	43.51.402	RECD	15	1
42.40.040	AMD	118	2	43.51.403	RECD	15	1
42.40.050	AMD	118	3	43.51.404	RECD	15	1
43	ADD	96	1-4	43.60A.080	AMD	35	1
43	ADD	153	1-5,7	43.63A	ADD	65	2
43.06.010	AMD	172	1	43.63A	ADD	63	1-7
43.06.230	AMD	7	39	43.63A.065	AMD	198	7
43.07	ADD	163	1,2		(Effective 7/1/92)		
43.08	ADD	54	4	43.70	ADD	98	14
43.08.140	AMD	7	40	43.70	ADD	113	2,3
43.08.250	REMD	54	3	43.70	ADD	63	12
43.09	ADD	44	11	43.70	ADD	120	1
	(Effective 7/1/92)			43.70.020	AMD	198	8
43.09.050	AMD	118	6		(Effective 7/1/92)		
43.17	ADD	197	5	43.84.092	AMD	235	4
43.19.1906	REMD	85	1	43.88	ADD	20	7
43.19A.010	AMD	174	12	43.88.160	AMD	118	8
43.20.050	REMD	34	4	43.88.160	REMD	118	7
43.20A	ADD	198	9	43.991	ADD	235	5,7,8
	(Effective 7/1/92)			43.991.010	AMD	235	1
43.20A.720	AMD	144	2	43.991.020	AMD	235	2
43.20A.725	AMD	144	3	43.991.040	AMD	235	3
43.20A.730	AMD	144	4	43.105	ADD	20	1-5
43.20A.750	AMD	21	4	43.105.017	AMD	20	6
43.21A	ADD	19	1,2	43.105.032	AMD	20	8
43.21A	ADD	63	9	43.105.047	AMD	20	9
43.21B.110	AMD	73	1	43.105.052	AMD	20	10
43.21B.110	AMD	174	13	43.105.057	AMD	20	11
43.21B.300	AMD	73	2	43.105.080	AMD	235	6
43.21B.310	AMD	73	3	43.131.329	AMD	95	1
43.21C	ADD	219	1	43.131.330	AMD	95	2
43.21C	ADD	208	1	43.131.333	AMD	121	2
	(Effective 9/1/92)			43.131.334	AMD	121	3
43.211.010	AMD	73	4	43.131.353	AMD	20	12
43.211.020	AMD	73	5	43.131.354	AMD	20	13
43.211.030	AMD	73	11	43.150.010	AMD	66	1
43.23	ADD	63	8	43.150.020	AMD	66	2
43.30	ADD	63	10	43.150.030	AMD	66	3
43.30	ADD	167	1	43.150.040	AMD	66	4
43.31	ADD	228	3	43.150.050	AMD	66	5
43.31.205	AMD	228	2	43.150.060	AMD	66	6

## RCW SECTIONS AFFECTED BY 1992 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.		
43.150.070	AMD	66	7	48.15.020	AMD	149	1
43.160.020	AMD	21	3	48.18.030	AMD	51	1
43.160.080	AMD	235	10	48.21	ADD	226	3
43.168.110	AMD	235	11	48.21.010	AMD	226	2
43.200.200	AMD	61	1	48.22	ADD	209	2-4
43.200.210	AMD	61	2	48.66	ADD	138	3
46.01	ADD	216	3	48.66.020	AMD	138	1
46.01.140	AMD	216	1	48.66.030	AMD	138	2
46.01.230	AMD	216	2	48.66.041	AMD	138	4
46.04	ADD	194	1	48.66.050	AMD	138	5
46.04	ADD	194	5	48.66.090	AMD	138	6
	(Effective 1/1/93)			48.66.100	AMD	138	7
46.16	ADD	194	6	48.66.110	AMD	138	8
	(Effective 1/1/93)			48.66.130	AMD	138	9
46.16.006	AMD	222	1	49.46.130	AMD	94	1
46.16.060	AMD	216	4	49.48	ADD	177	1-5
46.16.230	AMD	7	41	49.60.210	AMD	118	4
46.16.381	AMD	148	1	49.60.250	AMD	118	5
46.20.342	AMD	130	1	49.70.117	AMD	173	2
46.37.100	AMD	46	1	49.70.119	AMD	173	3
46.52.120	AMD	32	3	50.08	ADD	198	10
46.55	ADD	18	2		(Effective 7/1/92)		
46.55.035	AMD	18	1	50.22.090	AMD	47	2
46.55.140	AMD	200	1	50.70.010	AMD	21	1
46.61	ADD	39	1,2	51.44.070	AMD	124	1
46.61	ADD	64	1	52.06	ADD	74	3
46.63.020	AMD	32	4	52.06.085	AMD	74	1
46.64	ADD	32	2	52.14	ADD	74	2
46.64.020	AMD	32	1	53.04	ADD	147	2,3
46.68	ADD	216	5	53.04.020	AMD	147	1
46.70.090	AMD	222	2	53.08	ADD	190	2
46.72.020	AMD	114	1	53.12	ADD	146	3-7
46.72.030	AMD	114	2	53.12	ADD	147	5
46.72.070	AMD	114	3	53.12.010	AMD	146	1
46.72.080	AMD	114	4	53.12.020	REP	146	14
46.72.120	AMD	114	5	53.12.035	REP	146	14
46.72.130	AMD	114	6	53.12.050	REP	146	14
46.87	ADD	194	7	53.12.057	REP	146	14
	(Effective 1/1/93)			53.12.060	REP	146	14
46.90.700	AMD	32	5	53.12.120	AMD	146	8
47.17.830	REP	26	1	53.12.130	AMD	146	9
47.28.220	AMD	174	14	53.12.172	AMD	146	2
47.39.020	AMD	26	2	53.12.172	REP	146	14
47.42.140	AMD	26	3	53.12.180	REP	146	14
47.56.720	AMD	82	1	53.12.190	REP	146	14
47.60	ADD	158	1-5	53.12.200	REP	146	14
47.80	ADD	101	31	53.12.220	REP	146	14
	(Effective 7/1/92)			53.12.260	AMD	146	12
47.86.030	AMD	190	3	53.16	ADD	146	10
48.11.030	AMD	226	1	53.16.010	REP	146	14

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<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>
53.16.030	AMD	146	11	60.04.181	AMD 126 12
58.09.090	AMD	106	1	60.04.221	AMD 126 13
58.17.040	AMD	220	27	60.04.902	AMD 126 14
58.19	ADD	191	4,5,9	60.28	ADD 223 2-4
58.19.010	AMD	191	1		(Effective 9/1/92)
58.19.020	AMD	191	2	60.68.015	AMD 133 1
58.19.040	REP	191	13		(Effective 7/1/92)
58.19.050	REP	191	13	60.68.035	AMD 133 2
58.19.060	REP	191	13		(Effective 7/1/92)
58.19.070	REP	191	13	60.68.045	AMD 133 3
58.19.080	REP	191	13		(Effective 7/1/92)
58.19.090	REP	191	13	62A.1-201	AMD 134 14
58.19.100	REP	191	13	63	ADD 134 1-12
58.19.110	REP	191	13	63.10.020	AMD 134 15
58.19.120	AMD	191	6	63.14.010	AMD 134 16
58.19.150	REP	191	13	63.14.130	REMD 193 1
58.19.160	REP	191	13	63.14.135	AMD 193 2
58.19.170	REP	191	13	63.29	ADD 38 9
58.19.180	AMD	191	7		(Effective 6/1/92)
58.19.190	AMD	191	8	63.29	ADD 48 1
58.19.200	REP	191	13	63.29.020	AMD 122 1
58.19.210	REP	191	13	64.34	ADD 220 5,13
58.19.220	REP	191	13	64.34.010	AMD 220 1
58.19.230	REP	191	13	64.34.020	AMD 220 2
58.19.240	REP	191	13	64.34.040	AMD 220 3
58.19.250	REP	191	13	64.34.200	AMD 220 4
58.19.260	REP	191	13	64.34.204	AMD 220 6
58.19.270	AMD	191	10	64.34.216	AMD 220 7
58.19.290	REP	191	13	64.34.224	AMD 220 8
58.19.300	AMD	191	11	64.34.228	AMD 220 9
58.19.900	REP	191	13	64.34.232	AMD 220 10
58.19.910	REP	191	13	64.34.256	AMD 220 11
58.19.930	REP	191	13	64.34.268	AMD 220 12
58.19.940	AMD	191	12	64.34.300	AMD 220 14
59.18	ADD	38	1,5,6	64.34.308	AMD 220 15
			7,8	64.34.324	AMD 220 16
59.18.075	AMD	38	4	64.34.340	AMD 220 17
59.18.130	AMD	38	2	64.34.352	AMD 220 18
59.18.180	AMD	38	3	64.34.372	AMD 220 19
60.04	ADD	126	3	64.34.400	AMD 220 20
60.04.011	AMD	126	1	64.34.410	AMD 220 21
60.04.031	AMD	126	2	64.34.415	AMD 220 22
60.04.041	AMD	126	4	64.34.425	AMD 220 23
60.04.051	AMD	126	5	64.34.430	AMD 220 24
60.04.081	AMD	126	6	64.34.440	AMD 220 25
60.04.091	AMD	126	7	64.34.445	AMD 220 26
60.04.141	AMD	126	8	66.24.370	AMD 42 1
60.04.151	AMD	126	9	66.28.010	AMD 78 1
60.04.161	AMD	126	10	66.44.120	AMD 7 42
60.04.171	AMD	126	11	67.24.010	AMD 7 43

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<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>
67.28.183	AMD 206 (Effective 7/1/92)	5	70.93.130	RECD 175 (Effective 7/1/92)	10
67.28.210	AMD 202	1	70.93.140	AMD 175 (Effective 7/1/92)	5
67.28.250	AMD 156	2	70.93.140	RECD 175 (Effective 7/1/92)	10
67.40.045	AMD 4	1	70.93.150	REP 175 (Effective 7/1/92)	9
68.50.140	AMD 7	44	70.93.160	AMD 175 (Effective 7/1/92)	6
68.50.145	AMD 7	45	70.93.160	RECD 175 (Effective 7/1/92)	10
68.50.150	AMD 7	46	70.93.170	AMD 175 (Effective 7/1/92)	7
68.50.160	AMD 108	1	70.93.170	RECD 175 (Effective 7/1/92)	10
69.04.008	AMD 34	2	70.93.180	AMD 175 (Effective 7/1/92)	8
69.07	ADD 34	1,6,7	70.93.194	REP 175 (Effective 7/1/92)	9
69.07.010	AMD 34	3	70.95.030	AMD 174	16
69.07.040	AMD 160	3	70.95.255	AMD 174	15
69.07.050	AMD 160	4	70.95G.020	AMD 131	1
69.07.120	AMD 160	5	70.95H.030	AMD 131	2
69.25.150	AMD 7	47	70.96A	ADD 205	306
69.40.030	AMD 7	48	70.98.095	AMD 61	3
69.50.505	REMD 211	1	70.98.098	AMD 61	4
69.50.505	REMD 210	5	70.104.055	AMD 173 (Effective 1/1/93)	4
70	ADD 14 (Effective 10/1/92)	4	70.105.220	AMD 17	1
70	ADD 14	1-3 5,6	70.119A	ADD 34	5
70	ADD 174	1-11	70.122	ADD 98	4,5 11-13
70	ADD 198 (Effective 7/1/92)	1,3-5	70.122.010	AMD 98	1
70	ADD 198	14-17	70.122.020	AMD 98	2
70.05	ADD 207	7	70.122.030	AMD 98	3
70.05	ADD 179	1	70.122.050	REP 98	15
70.38.105	AMD 27	1	70.122.060	AMD 98	6
70.38.111	AMD 27	2	70.122.070	AMD 98	7
70.41.090	AMD 27	3	70.122.080	AMD 98	8
70.44	ADD 161	2,3	70.122.090	AMD 98	9
70.47.030	REMD 232	907	70.122.100	AMD 98	10
70.47.060	REMD 232	908	70.175	ADD 27	5
70.47.115	AMD 21	7	70.175.130	AMD 27	4
70.54	ADD 109	2,3	71.05.240	AMD 168	3
70.74.270	AMD 7	49	71.05.425	AMD 186	9
70.74.280	AMD 7	50	71.09	ADD 45	3
70.93.010	AMD 175 (Effective 7/1/92)	1	71.09.020	AMD 145	17
70.93.020	AMD 175 (Effective 7/1/92)	2	71.09.030	AMD 45	4
70.93.120	AMD 175 (Effective 7/1/92)	3	71.09.090	AMD 45	7
70.93.120	RECD 175 (Effective 7/1/92)	10			
70.93.130	AMD 175 (Effective 7/1/92)	4			

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71.24.045	REMD 230 (Effective 7/1/95)	5	80.36	ADD 144	5
71.24.300	REMD 230	6	80.36.130	AMD 68	2
71.34	ADD 205	303,304	81	ADD 101 (Effective 7/1/92)	1-17
71.34.010	AMD 205	302	81.40.010	AMD 102	1
72.01.050	AMD 7	51	81.60.070	AMD 7	60
72.01.200	AMD 7	52	81.60.080	AMD 7	61
72.01.370	AMD 7	53	81.100.060	AMD 194 (Effective 1/1/93)	12
72.09.100	AMD 123	1	81.104	ADD 101 (Effective 7/1/92)	19
72.09.310	AMD 75	6	81.104.010	AMD 101 (Effective 7/1/92)	18
72.23	ADD 230	2	81.104.030	REMD 101 (Effective 7/1/92)	20
72.23.025	AMD 230	1	81.104.040	AMD 101 (Effective 7/1/92)	21
72.64.030	AMD 7	54	81.104.050	AMD 101 (Effective 7/1/92)	22
72.64.050	AMD 7	55	81.104.100	AMD 101 (Effective 7/1/92)	23
72.65.010	AMD 7	56	81.104.120	AMD 101 (Effective 7/1/92)	24
72.68.020	AMD 7	57	81.104.140	REMD 101 (Effective 7/1/92)	25
72.68.100	AMD 7	58	81.104.150	AMD 101 (Effective 7/1/92)	26
74	ADD 214	1-11	81.104.160	AMD 101 (Effective 7/1/92)	27
74.04.005	AMD 136	1	81.104.160	AMD 194 (Effective 1/1/93)	13
74.04.005	AMD 165	1	81.104.170	AMD 101 (Effective 7/1/92)	28
74.08	ADD 108	3	81.104.180	AMD 101 (Effective 7/1/92)	29
74.08.120	AMD 108	2	81.104.190	AMD 101 (Effective 7/1/92)	30
74.08.331	AMD 7	59	82	ADD 175 (Effective 7/1/92)	10
74.09.120	AMD 8	1	82	ADD 80	2-4
74.12.010	AMD 136	2	82.02	ADD 219	2
74.12.245	REP 136	3	82.03.130	AMD 206	9
74.13.033	AMD 205	213	82.04	ADD 81	1
74.13.034	AMD 205	214	82.04.170	AMD 206 (Effective 7/1/92)	1
74.14A	ADD 198 (Effective 7/1/92)	2	82.04.300	AMD 206 (Effective 1/1/93)	7
74.25.020	AMD 165	3	82.08	ADD 194	2
74.46.500	AMD 182	1	82.08	ADD 194 (Effective 1/1/93)	10
74.46.660	AMD 215	1			
75.08	ADD 13	2			
75.08	ADD 63	11			
75.30	ADD 9	2			
76.04.005	AMD 52	24			
76.09.060	AMD 52 (Effective 8/1/92)	22			
76.09.230	AMD 52	23			
76.09.330	AMD 52	5			
76.48.020	AMD 184	1			
76.48.060	AMD 184	2			
76.48.070	AMD 184	3			
76.56.020	AMD 121	1			
77.12	ADD 63	13			
77.32.350	AMD 41 (Effective 1/1/93)	1			
79.01	ADD 167	2			
80.04.130	AMD 68	1			

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82.08.050	AMD (Effective 7/1/92)	206	2	84.08.130	AMD	206 10
82.14	ADD	194	3	84.33	ADD	52 7-13
82.14.320	REMD	55	1	84.33.100	AMD	52 6
82.23B	ADD	73	8	84.33.120	AMD (Effective 1/1/93)	69 1
82.23B.010	AMD (Effective 10/1/92)	73	6	84.33.140	AMD (Effective 1/1/93)	69 2
82.23B.020	AMD (Effective 10/1/92)	73	7	84.33.145	AMD (Effective 1/1/93)	69 3
82.23B.030	AMD (Effective 10/1/92)	73	9	84.34	ADD (Effective 1/1/93)	69 20,21
82.23B.040	AMD (Effective 10/1/92)	73	10	84.34.020	AMD (Effective 1/1/93)	69 4
82.29A.050	AMD (Effective 7/1/92)	206	6	84.34.035	AMD (Effective 1/1/93)	69 5
82.29A.130	AMD	123	2	84.34.037	AMD (Effective 1/1/93)	69 6
82.32.030	AMD (Effective 1/1/93)	206	8	84.34.050	AMD (Effective 1/1/93)	69 7
82.32.040	REP (Effective 7/1/92)	206	15	84.34.060	AMD (Effective 1/1/93)	69 8
82.32.050	AMD (Effective 7/1/92)	169	1	84.34.065	AMD (Effective 1/1/93)	69 9
82.32.060	AMD (Effective 7/1/92)	169	2	84.34.070	AMD (Effective 1/1/93)	69 10
82.32.090	AMD (Effective 7/1/92)	206	3	84.34.080	AMD (Effective 1/1/93)	69 11
82.32.100	AMD (Effective 7/1/92)	169	3	84.34.108	AMD (Effective 1/1/93)	69 12
82.32.180	AMD (Effective 7/1/92)	206	4	84.34.145	AMD (Effective 1/1/93)	69 13
82.33.020	AMD (Effective 7/1/92)	231	34	84.34.150	AMD (Effective 1/1/93)	69 14
82.44	ADD (Effective 1/1/93)	194	8	84.34.155	AMD (Effective 1/1/93)	69 15
82.46.010	AMD	221	1	84.34.160	AMD (Effective 1/1/93)	69 16
82.46.030	AMD	221	2	84.34.300	AMD	52 14
82.46.035	AMD	221	3	84.34.310	AMD	52 15
82.48.020	AMD (Effective 7/1/92)	154	1	84.34.320	AMD	52 16
82.48.090	AMD (Effective 7/1/92)	154	2	84.34.320	AMD (Effective 1/1/93)	69 17
82.49.010	AMD (Effective 7/1/92)	154	3	84.34.330	AMD	52 17
82.49.065	AMD (Effective 7/1/92)	154	4	84.34.340	AMD	52 18
82.50.170	REMD (Effective 7/1/92)	154	6	84.34.360	AMD	52 19
				84.34.360	AMD (Effective 1/1/93)	69 18
				84.34.370	AMD	52 20

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84.36.041	AMD	213	1	88.46.090	AMD 73 23
84.36.381	REMD	187	1	88.46.110	AMD 73 24
84.36.385	AMD	206	13	89.08.400	AMD 70 1
	(Effective 7/1/92)			90	ADD 204 1-8
84.36.387	AMD	206	14	90.48	ADD 201 1
	(Effective 7/1/92)			90.48.120	AMD 73 25
84.40.038	AMD	206	11	90.48.140	AMD 73 26
84.48.065	AMD	206	12	90.48.144	AMD 73 27
84.52.0531	AMD	49	1	90.48.366	AMD 73 28
88	ADD	33	1	90.48.368	AMD 73 29
88.02.080	RECD	15	1	90.48.400	AMD 73 30
88.02.095	RECD	15	1	90.48.465	AMD 174 17
88.08.020	AMD	7	62	90.50A.020	AMD 235 9
88.08.050	AMD	7	63	90.56.010	AMD 73 31
88.08.070	RECD	15	1	90.56.100	AMD 73 32
88.08.080	RECD	15	1	90.56.210	AMD 73 33
88.12	ADD	15	1	90.56.300	AMD 73 34
88.12.060	RECD	15	1	90.56.310	AMD 73 35
88.12.070	RECD	15	1	90.56.330	AMD 73 36
88.20.010	RECD	15	1	90.56.380	AMD 73 37
88.20.020	RECD	15	1	90.56.390	AMD 73 38
88.20.030	RECD	15	1	90.56.400	AMD 73 39
88.20.040	RECD	15	1	90.56.450	AMD 73 40
88.20.050	RECD	15	1	90.56.510	AMD 73 41
88.20.060	RECD	15	1	90.56.520	AMD 73 42
88.20.070	RECD	15	1	90.58.020	AMD 105 1
88.36	ADD	100	8	90.58.100	AMD 105 2
88.36.010	RECD	15	1	90.58.140	AMD 105 3
88.36.020	RECD	15	1	90.70	ADD 63 15
88.36.030	RECD	15	1	90.72	ADD 100 1,4,5,7
88.36.040	RECD	15	1	90.72.010	REP 100 9
88.36.050	RECD	15	1	90.72.030	AMD 100 2
88.36.060	RECD	15	1	90.72.040	AMD 100 3
88.36.070	RECD	15	1	90.72.050	REP 100 9
88.36.080	RECD	15	1	90.72.070	AMD 100 6
88.36.090	RECD	15	1	91.14.005	RECD 15 1
88.36.100	RECD	15	1	91.14.010	RECD 15 1
88.36.110	RECD	15	1	91.14.020	RECD 15 1
88.36.120	RECD	15	1	91.14.030	RECD 15 1
88.40.011	AMD	73	12	91.14.040	RECD 15 1
88.40.020	AMD	73	13	91.14.050	RECD 15 1
88.40.040	AMD	73	14	91.14.060	RECD 15 1
88.44.010	AMD	73	15	91.14.070	RECD 15 1
88.44.100	AMD	73	16	91.14.080	RECD 15 1
88.44.110	AMD	73	17	91.14.090	RECD 15 1
88.46.010	AMD	73	18	91.14.100	RECD 15 1
88.46.050	AMD	73	19	91.14.110	RECD 15 1
88.46.060	AMD	73	20		
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234	2	AMD	205	402	15	10	AMD	166	8
236	10	REP	232	403	15	11	AMD	166	9
314	26	AMD	21	8	15	12	AMD	166	10
342	15	REP	166	31	15	13	AMD	166	11
					15	14	AMD	166	5
					15	18	AMD	166	12
					15	21	AMD	166	2
					15	22	AMD	166	14
					15	23	AMD	166	15
					15	25	AMD	166	16
					15	27	AMD	166	17
					15	28	AMD	166	18
					15	32	AMD	166	19
					15	33	AMD	166	20
					15	35	AMD	166	21
					15	36	AMD	166	22
					15	38	AMD	166	23
					15	39	AMD	166	24
					15	41	AMD	166	25
					15	57	AMD	166	26
					16		ADD	232	101
					16		ADD	232	102
					16		ADD	232	103
					16		ADD	232	104
					16		ADD	232	105
	6	AMD	233	2	16		ADD	232	106
	7	AMD	233	3	16		ADD	232	107
	10	AMD	233	5	16		ADD	232	108
	13	AMD	233	8	16		ADD	232	109
	16	AMD	233	11	16		ADD	232	110
	18	AMD	233	12	16		ADD	232	111
	20	AMD	233	17	16		ADD	232	112
	26	AMD	233	21	16		ADD	232	113
	29	AMD	166	27	16		ADD	232	114
	30	AMD	233	24	16		ADD	232	115
	31	AMD	2	1	16		ADD	232	116
	34	AMD	233	26	16		ADD	232	117
	35	AMD	233	27	16		ADD	232	118
	44	AMD	233	29	16		ADD	232	119
	47	AMD	233	31	16		ADD	232	120
	54	AMD	233	32	16		ADD	232	121
	59	AMD	233	33	16		ADD	232	122
		ADD	166	13	16		ADD	232	123
		ADD	166	28	16		ADD	232	124
		ADD	166	30	16		ADD	232	126
	1	AMD	166	1	16		ADD	232	129
	5	AMD	166	3	16		ADD	232	130
	6	AMD	166	4	16		ADD	232	131
	8	AMD	166	6	16		ADD	232	132

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16		ADD	232	133	16	227	AMD	232	229
16		ADD	232	134	16	228	AMD	232	230
16		ADD	232	135	16	229	AMD	232	231
16		ADD	232	136	16	230	AMD	232	232
16		ADD	232	137	16	231	AMD	232	233
16		ADD	232	138	16	232	AMD	232	234
16		ADD	232	139	16	301	AMD	232	301
16		ADD	232	140	16	302	AMD	232	302
16		ADD	232	141	16	303	AMD	232	303
16		ADD	232	142	16	305	AMD	232	304
16		ADD	232	143	16	306	AMD	232	305
16		ADD	232	144	16	307	AMD	232	306
16		ADD	232	145	16	308	AMD	232	307
16		ADD	232	146	16	309	AMD	232	308
16		ADD	232	147	16	310	AMD	232	309
16		ADD	232	148	16	311	AMD	232	310
16		ADD	232	149	16	312	AMD	232	311
16		ADD	232	150	16	313	AMD	232	312
16		ADD	232	151	16	314	AMD	232	313
16		ADD	232	152	16	315	AMD	232	314
16		ADD	232	153	16	316	AMD	232	315
16		ADD	232	204	16	401	AMD	232	401
16		ADD	232	207	16	402	AMD	232	402
16		ADD	232	220	16	501	AMD	232	501
16		ADD	232	705	16	502	AMD	232	502
16		ADD	232	901	16	503	AMD	232	503
16		ADD	232	902	16	504	AMD	232	504
16		ADD	232	904	16	505	AMD	232	505
16	202	AMD	232	201	16	506	AMD	232	506
16	203	AMD	232	202	16	507	AMD	232	507
16	204	AMD	232	203	16	509	AMD	232	508
16	205	AMD	232	205	16	510	AMD	232	509
16	207	REP	232	206	16	511	AMD	232	510
16	208	AMD	232	208	16	512	AMD	232	511
16	209	AMD	232	209	16	513	AMD	232	512
16	210	AMD	232	210	16	514	AMD	232	513
16	211	AMD	232	211	16	515	AMD	232	514
16	212	AMD	232	212	16	516	AMD	232	515
16	213	AMD	232	213	16	517	AMD	232	516
16	214	AMD	232	215	16	519	AMD	232	517
16	215	AMD	232	216	16	520	AMD	232	518
16	216	AMD	232	217	16	521	AMD	232	519
16	217	AMD	232	218	16	522	AMD	232	520
16	218	AMD	232	219	16	523	AMD	232	521
16	219	AMD	232	221	16	601	AMD	232	601
16	220	AMD	232	222			AMD	238	1
16	222	AMD	232	224	16	602	AMD	232	602
16	223	AMD	232	225			AMD	238	2
16	224	AMD	232	226	16	603	AMD	232	603
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16	604	AMD	232	604	210	5	REP	211	2
		AMD	238	4	232	601	AMD	238	1
16	605	AMD	232	605	232	602	AMD	238	2
		AMD	238	5	232	603	AMD	238	3
16	606	AMD	232	606	232	604	AMD	238	4
		AMD	238	6	232	605	AMD	238	5
16	607	AMD	232	607	232	606	AMD	238	6
		AMD	238	7	232	607	AMD	238	7
16	608	AMD	232	608	232	608	AMD	238	8
		AMD	238	8	232	709	AMD	239	3
16	609	AMD	232	609					
16	610	AMD	232	610					
16	611	AMD	232	611					
16	612	AMD	232	612					
16	613	AMD	232	613					
16	614	REP	232	622					
16	615	AMD	232	614					
16	616	AMD	232	615					
16	617	AMD	232	616					
16	618	AMD	232	617					
16	619	AMD	232	618					
16	620	AMD	232	619					
16	621	AMD	232	620					
16	622	AMD	232	621					
16	701	AMD	232	701					
16	706	AMD	232	702					
16	707	AMD	232	703					
16	709	AMD	232	706					
16	710	AMD	232	707					
16	711	AMD	232	708					
16	712	AMD	232	709					
		AMD	239	3					
16	714	AMD	239	4					
16	714	AMD	232	710					
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# HISTORY OF STATE MEASURES FILED WITH THE SECRETARY OF STATE

## INITIATIVES TO THE PEOPLE (SUPPLEMENTING 1990 LAWS, PAGE 2201)

- 
- INITIATIVE MEASURE NO. 533 (Shall child custody laws be revised and court custody orders normally direct equal continued and frequent contacts with each parent?)—Filed on January 8, 1990 by Bill Harrington of Edmonds. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 534 (Shall the display and distribution to minors of sexually explicit materials and performances be further restricted, and criminal defenses limited?)—Filed on January 9, 1990 by Andrea K. Vangor of Kirkland. The sponsor submitted 180,373 signatures for checking and they were found insufficient to qualify the measure for the state general election ballot.
- INITIATIVE MEASURE NO. 535 (Shall property value for tax purposes be, the January 1, 1985 value or subsequent sale price, revised annually reflecting cost of living?)—Filed on January 9, 1990 by Marijke V. Clapp of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 536 (Shall minimum sentences ranging from five to forty years be established for each of twenty-one crimes listed in this initiative?)—Filed on January 19, 1990 by Thomas R. Connon of Tacoma. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 537 (Shall a transaction tax, not to exceed 1%, on transfers of money and property replace present state and local taxes?)—Filed on January 22, 1990 by Clarence P. Keating of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 538 (Shall political contributions be limited regarding amount, timing and residency of contributors, and elected officials restricted on mailings and honoraria?)—Filed on January 29, 1990 by Robert E. Adams of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 539 (Shall a two-thirds vote of approval be required to impose new taxes, increase tax rates, or enlarge a tax base?)—Filed on January 26, 1990 by D. E. Jewett of Langley. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 540 (Shall the state be required to include in the medical program coverage for chiropractic services?)—Filed on January 22, 1990 by Roxanne Dubarry of Everett. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 541 (Shall the state and local tax levies on buildings be limited to a maximum of 50% of the current tax rate?)—Filed on February 5, 1990 by Charles Caussey of Spokane. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 542 (Shall the reappraisal of real property for property tax purposes only occur when ownership changes or building construction is completed?)—Filed on February 23, 1990 by Gary C. Hoyt of Vashon Island. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 543 (Relating to state fiscal matters.)—Filed on March 8, 1990 by Linda W. Matson of Olympia. The initiative was withdrawn by the sponsor.
- INITIATIVE MEASURE NO. 544 (Relating to state fiscal matters.)—Filed on March 8, 1990 by John H. Wright of Elma. The initiative was withdrawn by the sponsor.

## INITIATIVES TO THE PEOPLE

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- INITIATIVE MEASURE NO. 545 (Relating to comprehensive land use planning and economic development.)—Filed on March 15, 1990 by David A. Bricklin of Seattle. The initiative was withdrawn by the sponsor.
- INITIATIVE MEASURE NO. 546 (Relating to fiscal matters.)—Filed on March 26, 1990 by Linda W. Matson of Olympia. The initiative was withdrawn by the sponsor.
- INITIATIVE MEASURE NO. 547 (Shall state growth and environmental protection goals be implemented by measures including local comprehensive land use planning and development fees?)—Filed on March 27, 1990 by Jeffrey D. Parsons of Seattle. 229,489 signatures were submitted and found sufficient. The measure was subsequently certified to the ballot and was submitted to the voters at the November 6, 1990 general election. It was defeated by the following vote: For—327,339; Against—986,505.
- INITIATIVE MEASURE NO. 548 (Shall some state revenues be placed in reserve and 60% legislative approval required for new or increased general revenue taxes?)—Filed on March 29, 1990 by Linda W. Matson of Olympia. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 549 (Shall state growth and environmental protection goals be implemented by measures including local comprehensive land use planning and development fees?)—Filed on March 29, 1990 by Theodore A. Mahr of Olympia. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 550 (Relating to managing growth and economic development.)—Filed on March 29, 1990 by Theodore A. Mahr of Olympia. The initiative was withdrawn by the sponsor.
- INITIATIVE MEASURE NO. 551 (Shall changes be made relating to real property taxes, including valuing property by its purchase price and costs of improvements?)—Filed on April 30, 1990 by Karl Thun of Graham. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 552 (Shall limitations be placed on political campaign contributions and contributors, consecutive terms of office, publicly funded incumbent mailings, and honoraria?)—Filed on January 17, 1991 by Robert E. Adams of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 553 (Shall there be limitations on terms of office for Governor, Lieutenant Governor, state legislators and Washington state members of Congress?)—Filed on January 9, 1991 by Gene J. Morain of Tacoma. 254,263 signatures were submitted and were found sufficient.
- INITIATIVE MEASURE NO. 554 (Shall the display and distribution to minors of sexually explicit materials and performances be further restricted, and criminal defenses limited?)—Filed on January 10, 1991 by Andrea K. Vangor of Kirkland. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 555 (Shall limits be placed on campaign contributions and contributors, consecutive terms of office, publicly funded incumbent mailings, gifts, and honoraria?)—Filed on January 17, 1991 by Robert E. Adams of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 556 (Shall the first \$1,000,000 of appraised value of residential property, and \$2,000,000 for farm residences, be exempt from property taxes?)—Filed on January 8, 1991 by David S. Henshaw of Belfair. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 557 (Shall campaign expenditures be limited to 50% of the elected office term salary and violations result in forfeiture of office?)—Filed on January 22, 1991 by Douglas N. Maynard of Sedro Woolley. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 558 (Shall a limit, three consecutive terms or twelve consecutive years, be set for elected national, state, county, and municipal officers?)—Filed on January

## INITIATIVES TO THE PEOPLE

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- 22, 1991 by Douglas N. Maynard of Sedro Woolley. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 559 (Shall property value for tax purposes be the January 1, 1985 value or subsequent sales price, adjusted for cost of living changes?)—Filed on January 23, 1991 by Marijke Clapp of Seattle. 276,653 signatures were submitted and were found sufficient.
- INITIATIVE MEASURE NO. 560 (Shall abortion laws be revised, restricting availability, requiring tests and reports, and prohibiting public funding unless necessary to save life?)—Filed on January 17, 1991 by Paul Keister of Pasco. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 561 (Shall a transaction tax, not exceeding 1% be levied on money and property transfers, and present state taxes be repealed?)—Filed on January 22, 1991 by Clarence P. Keating, Jr. of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 562 (Shall a two-thirds vote of approval be required to impose new taxes, increase tax rates, or enlarge a tax base?)—Filed on January 29, 1991 by Don E. Jewett of Langley. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 563 (Shall elected and appointed state legislative and executive branch officials be limited to serving a cumulative maximum of twelve years?)—Filed on February 11, 1991 by Eric McAtee of Tacoma. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 564 (Shall Washington residents elected to Congress have a lifetime limit of not more than twelve years of elected congressional service?)—Filed on February 11, 1991 by Craig A. McMillan of Tacoma. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 565 (Shall the state be required to include chiropractic services in the medical service assistance program available under the medical program?)—Filed on January 17, 1991 by Roxanne Lea Dubarry of Everett. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 566 (Shall campaign spending, for offices subject to the state public disclosure act, be limited to the office term's total salary?)—Filed on February 8, 1991 by Edward M. Duke of Gig Harbor. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 567 (Shall it be unlawful after life is created by conception to intentionally hasten or cause death except for capital punishment?)—Filed on February 25, 1991 by Mary L. Jarrard of Everett. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 568 (Shall pit bull dog owners be required to register, confine, and insure the dogs and remove newborns from the state?)—Filed on February 25, 1991 by Laurence C. Mathews of Yakima. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 569 (Shall Utilities and Transportation regulate some medical service rates, some political contributions be prohibited, and motorcycle helmet requirements be changed?)—Filed on February 28, 1991 by Jack Zektzer of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 570 (Shall the state dangerous dog act be amended to require hearings and restrict the regulatory authority of cities and counties?)—Filed on March 4, 1991 by Cherie R. Graves of Newport. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 571 (Shall contributions to state legislative and executive campaigns be limited; and may candidates agreeing to expenditure limitations receive matching funds?)—Filed on May 15, 1991 by Calvin B. Anderson of Seattle. Sponsor failed to submit signatures for checking.

## INITIATIVES TO THE PEOPLE

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**INITIATIVE MEASURE NO. 572 (Shall cannabis (marijuana) be legalized for adults; amnesty provided for prior cannabis convictions, tax imposed, and provide liquor board regulation?)—Filed on May 15, 1991 by Kevin Clark Keyes of Bellingham. Sponsor failed to submit signatures for checking.**

**INITIATIVES TO THE LEGISLATURE**  
**(SUPPLEMENTING 1990 LAWS, PAGE 2211)**

- INITIATIVE TO THE LEGISLATURE NO. 118 (Shall state and local tax rates, fees and charges be reduced to January 1, 1990 rates, and increases require 60% voter approval?)—**Filed on March 14, 1990 by Judith Anderson of Bush Prairie. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 119 (Shall adult patients who are in a medically terminal condition be permitted to request and receive from a physician aid-in-dying?)—**Filed on March 14, 1990 by Bradley K. Robinson of Seattle. 218,327 signatures were submitted and were found sufficient.
- INITIATIVE TO THE LEGISLATURE NO. 120 (Shall state abortion laws be revised, including declaring a woman's right to choose physician performed abortion prior to fetal viability?)—**Filed on April 2, 1990 by Lee Minto of Seattle. 242,004 signatures were submitted and were found sufficient.
- INITIATIVE TO THE LEGISLATURE NO. 121 (Shall mandatory minimum jail sentences and fines be required for certain drug offenses and other drug maximum sentences be increased?)—**Filed on April 17, 1990 by James K. Linderman of Yacolt. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 122 (Shall jurors be advised they could consider the merits of laws and the wisdom of applying laws to a defendant?)—**Filed on April 19, 1990 by Richard Shepard of Tacoma. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 123 (Shall constitutional impact statements be required before adopting or implementing governmental policies which effect a taking or deprivation of property?)—**Filed on May 11, 1990 by Merrill H. English of Dayton. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 124 (Shall changes be made relating to real property taxes, including valuing property as its purchase price and any improvement costs?)—**Filed on May 30, 1990 by Karl Thun of Graham. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 125 (Shall private vehicles be required to purchase automobile insurance from a newly created state administered program, and \$200,000,000 be appropriated?)—**Filed on August 1, 1990 by Edward G. Patton of Yakima. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 126 (Shall political contributions be limited regarding amount, timing, and contributor's voting residence and elected officials mailings and honoraria be restricted?)—**Filed on August 9, 1990 by Robert E. Adams of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 127 (Shall property value for tax purposes be, the January 1, 1985 value or subsequent sales price, with future cost of living adjustments?)—**Filed on August 14, 1990 by Marijcke V. Clapp of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 128 (Shall mandatory minimum jail sentences and fines be required for certain drug offenses and other drug maximum sentences be increased?)—**Filed on August 21, 1990 by James K. Linderman of Yacolt. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 129 (Shall property value for tax purposes be the January 1, 1985 value or subsequent sales price, adjusted for cost of living changes?)—**Filed on September 12, 1990 by Marijcke V. Clapp of Seattle. Sponsor failed to submit signatures for checking.

## INITIATIVES TO THE LEGISLATURE

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- INITIATIVE TO THE LEGISLATURE NO. 130 (Shall real property be assessed at 70% of true and fair value and increases in property tax rates be limited?)—Filed on August 29, 1990 by Pam Roach of Auburn. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 131 (Shall mandatory minimum prison sentences and fines be required for certain drug offenses and some maximum drug sentences be increased?)—Filed on March 18, 1991 by James K. Linderman, Sr. of Yacolt. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 132 (Shall no strike pledges be required in all teaching contracts at state-supported institutions of learning and violations cause employment terminations?)—Filed on April 16, 1991 by Glenn L. Blubaugh of Tacoma. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 133 (Shall there be restrictions on contributions to legislators, state officials, and candidates, and on other campaign related activities and financing?)—Filed on April 29, 1991 by Arthur Wuerth of Olympia. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 134 (Shall campaign contributions be limited; public funding of state and local campaigns be prohibited; and campaign related activities be restricted?)—Filed on June 7, 1991 by Carl R. Erickson of Olympia. 227,060 signatures were submitted and were found sufficient. The Legislature referred the measure to the November 1992 general election ballot.
- INITIATIVE TO THE LEGISLATURE NO. 135 (Shall a transaction tax, not exceeding 1%, levied on the transfers of money and property replace present state authorized taxes?)—Filed on June 24, 1991 by Clarence P. Keating of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 136 (Shall cannabis (marijuana) be legalized for adults and taxed; amnesty provided for prior cannabis convictions, and cannabis testing be prohibited?)—Filed on June 24, 1991 by Kevin Clark Keyes of Bellingham. The sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 137 (Shall inmates with indeterminate sentences change to determinative sentences, and sentences which are outside the standard sentencing range be reviewed?)—Filed on August 7, 1991 by Carrie D. Roth of Kent. This measure was refiled as Initiative to the Legislature No. 139.
- INITIATIVE TO THE LEGISLATURE NO. 138 (Shall private vehicles be required to have automobile insurance purchased from a new state administered program, and \$200,000,000 be appropriated?)—Filed on August 12, 1991 by Ed G. Patton of Yakima. The sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 139 (Shall the criminal sentences for offenses committed prior to July 1, 1984 be changed; and the Indeterminate Sentencing Review Board be abolished?)—Filed on October 29, 1991 by Carrie D. Roth of Kent. The sponsor failed to submit signatures for checking.

**REFERENDUM MEASURES**  
**(SUPPLEMENTING 1990 LAWS, PAGE 2216)**

**REFERENDUM MEASURE NO. 46 (Chapter 1, Laws of 1991, First Extraordinary Session, Shall the salary increases, established by the constitutionally created Citizens Commission, for elected state officers, legislators, and judges be approved?)—Filed on June 5, 1991 by Michael G. Cahill of Walla Walla. No signatures presented for checking.**

**REFERENDUM BILLS**  
**(SUPPLEMENTING 1990 LAWS, PAGE 2216)**

**REFERENDUM BILL NO. 42 (Chapter 54, Laws of 1991, Regular Session, Shall enhanced 911 emergency telephone dialing be provided throughout the state and be funded by a tax on telephone lines?)—Filed May 1, 1991. Measure submitted to the voters for decision at the state general election and was approved by the following vote: For—901,854 Against—573,251.**