VOLUME 9
1993 RCW SUPPLEMENT

1992
REVISED CODE OF WASHINGTON

Published under the authority of chapter 1.08 RCW.

I. SCOPE OF SUPPLEMENT

This volume supplements the 1992 edition of The Revised Code of Washington by adding the following materials:

1. All laws of a general and permanent nature enacted in the 1993 regular session (adjourned sine die April 25, 1993) and the 1993 first special session (adjourned May 6, 1993) of the fifty-third legislature.
2. Appropriate supplementation of the various tables and the general index.

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REVISED CODE OF WASHINGTON

1993 Supplement

CERTIFICATE

This 1993 supplement of the 1992 edition of the Revised Code of Washington, published officially by the Statute Law Committee, is, in accordance with RCW 1.08.037, certified to comply with the current specifications of the committee.

RAYMOND W. HAMAN, Chairman,
STATUTE LAW COMMITTEE

1993 REGULAR SESSION LAWS

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	15	*Sev.* n29.79.500
	16	*Em.* n29.79.500
257	1	76.09.030
258	1	67.32.110
259	1	18.19.130
260	1	*Intent Constr.* 18.185.005
	2	18.185.010
	3	18.185.020
	4	18.185.030
	5	18.185.040
	6	18.185.050
	7	18.185.060
	8	18.185.070
	9	18.185.080
	10	18.185.090
	11	18.185.100
	12	18.185.110
	13	18.185.120
	14	18.185.130
	15	18.185.140
	16	18.185.150
	17	18.185.160
	18	18.185.170
	19	18.185.180
	20	18.185.190
	21	18.185.200
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	23	*Sev.* 18.185.900
	24	n18.185.901
	25	*Eff. date* 18.185.901
	26	*Leg. dir.*
261	1	43.115.010
	2	43.115.030
	3	43.115.040
	4	43.115.045
	5	43.131.341
	6	43.131.342
	7	*Repealer*
262	1	52.04.161
	2	52.08.025
	3	35.02.190
	4	35.02.205
263	1	38.08.040
	2	38.08.500
264	1	74.09.757
	2	*Leg. rev.*
265	1	79.66.090
266	1	79.01.760
267	1	43.51.430
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	4	43.51.436
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	6	*Leg. dir.*
268	1	*Repealer*
	2	82.36.2251
269	1	23.86.070
	2	23B.01.220
	3	23B.01.530
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	5	24.03.405
	6	24.03.410
	7	24.06.450
	8	24.06.455
	9	24.06.520
	10	24.20.020
	11	24.24.100
	12	31.12.085
	13	33.28.010
	14	43.07.125
	15	43.07.120
	16	46.64.040
	17	*Eff. date* n23.86.070
270	1	41.50.730
	2	41.50.740
	3	41.50.750
271	1	51.32.090
	2	*Em.* n51.32.090
272	1	43.20B.347

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273	1	*Findings*
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	4	39.96.040
	5	39.96.050
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	7	39.96.070
	8	39.96.080
	9	*Constr.*
		39.96.900
	10	39.96.901
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274	1	46.61.687
275	1	19.28.005
	2	19.28.010
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276	1	82.65A.030
	2	*Contingent*
		Eff. date
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277	1	34.05.630
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278	1	*Temporary*
	2	*Temporary*
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	8	67.08.002
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	13	67.08.030
	14	67.08.040
	15	67.08.050
	16	67.08.055
	17	67.08.060
	18	67.08.080
	19	67.08.090
	20	67.08.100
	21	67.08.110
	22	67.08.120
	23	67.08.130
	24	67.08.140
	25	67.08.170
	26	*Repealer*
	27	*Sev.*
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	28	*Eff. date*
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279	1	*Intent*
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	2	43.17.320
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280	1	*Intent*
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	2	43.330.007
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	5	43.330.030
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	7	43.330.050
	8	n43.330.007
	9	43.330.060
	10	43.330.070
	11	43.330.080
	12	43.330.090
	13	43.330.100
	14	43.330.110
	15	43.330.120
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	17	28C.18.060
	18	43.17.010
	19	43.17.020
	20	*Temporary*
	21	*Temporary*
	22	*Temporary*
	23	*Temporary*
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	26	*Temporary*
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	34	19.85.020
	35	42.17.310
	36	42.17.319
	37	43.17.065
	38	43.20A.750
	39	43.31.057
	40	43.31.085
	41	43.31.205
	42	43.31.409
	43	43.31.411
	44	43.31.422
	45	43.31.504
	46	43.31.522
	47	43.31.524
	48	43.31.526
	49	43.31.621
	50	43.31.641
	51	43.31.651
	52	43.31.800
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	78	43.105.020
	79	43.330.900
	80	43.31.091
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	82	*Repealer*
	83	43.330.901
	84	*Leg. dir.*
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	86	*Eff. date*
		43.330.902
	87	*Sev.*
		43.330.903
	88	*Temporary*
281	1	*Temporary*
	2	*Temporary*
	3	*Temporary*
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	8	41.06.022
	9	41.06.500
	10	41.06.510
	11	41.06.520
	12	41.06.530
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	14	28B.12.060
	15	34.05.030
	16	34.12.020
	17	41.04.340
	18	41.04.670
	19	41.06.020
	20	41.06.030
	21	41.06.070
	22	41.06.076
	23	41.06.079
	24	41.06.093
	25	41.06.110
	26	41.06.130
	27	41.06.150
	28	41.06.155
	29	41.06.160
	30	41.06.163
	31	41.06.170
	32	41.06.186
	33	41.06.196
	34	41.06.280
	35	41.06.340
	36	41.06.350
	37	41.06.450
	38	41.06.475
	39	41.48.140
	40	41.50.804
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	42	42.16.010
	43	42.17.2401
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	45	43.03.028
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	48	43.06.425
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	50	43.33A.100
	51	43.43.832
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	55	48.03.060
	56	49.46.010
	57	49.74.020
	58	49.74.030
	59	50.13.060
	60	70.24.300
	61	70.87.120
	62	72.01.210
	63	72.02.045
	64	72.09.220
	65	72.19.050
	66	74.09.150
	67	88.46.927
	68	*Repealer*
	69	*Repealer*
	70	*Leg. rev.*
	71	*Leg. rev.*
	72	*Temporary*
	73	*Eff. date*
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282	1	*Finding*
		n69.04.932
	2	69.04.932
	3	69.04.933
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	5	69.04.935
283	1	*Findings*
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	2	79.01.800
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	4	79.01.810
	5	79.01.815
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	8	*Temporary*
	9	*Leg. dir.*
284	1	27.12.470
	2	27.12.010
	3	27.12.070
	4	84.52.052
285	1	*Finding*
		Intent
		36.110.010
	2	36.110.020
	3	36.110.030
	4	36.110.040
	5	36.110.050
	6	36.110.060
	7	36.110.070
	8	36.110.080
	9	36.110.090
	10	36.110.100
	11	36.110.110
	12	36.110.120
	13	36.110.130
	14	36.110.140
	15	36.110.150
	16	*Leg. dir.*
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286	1	*Findings*
		70.95.217
	2	70.95.218
	3	*Sev.*
		n70.95.217
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287	1	21.35.005
	2	21.35.010
	3	21.35.015
	4	21.35.020
	5	21.35.025
	6	21.35.030
	7	21.35.035
	8	21.35.040
	9	21.35.045
	10	21.35.050
	11	*Short t.*
		Constr.
		21.35.900
	12	*Applic.*
		21.35.901
	13	*Leg. dir.*
288	1	*Applic.*
		10.105.900
	2	10.105.010
	3	*Finding*
		7.68.300
	4	7.68.310
	5	7.68.320
	6	7.68.330
	7	7.68.340
	8	*Leg. dir.*
289	1	26.09.220
	2	26.10.130
	3	26.12.060
	4	26.12.175
290	1	18.100.120
	2	50.04.165
	3	23B.14.300
	4	23B.07.320
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291	1	11.62.010
	2	11.02.091
	3	11.02.130
	4	*Repealer*
	5	*Leg. dir.*
292	1	70.93.060
	2	70.93.070
	3	70.95.240
293	1	70.74.010
	2	70.74.022
	3	70.74.160
	4	70.74.275
	5	70.74.191
	6	70.74.270
	7	70.74.295
	8	70.74.400
	9	70.74.410
	10	*Leg. dir.*
	11	*Sev.*
		n70.74.010
294	1	13.64.010
	2	13.64.020
	3	13.64.030
	4	13.64.040
	5	13.64.050
	6	13.64.060
	7	13.64.070
	8	13.64.080
	9	49.12.121
	10	*Leg. dir.*
	11	*Eff. date*
		13.64.900
295	1	79.96.010
	2	79.96.050
296	1	90.48.220
	2	*Contingency*
297	1	68.50.160
298	1	28A.310.200
	2	*Temporary*
299	1	51.32.090
	2	*Eff. date*
		n51.32.090
300	1	81.04.130
	2	81.28.050
	3	70.95.212
301	1	46.44.030
302	1	50.65.030
	2	50.65.040
	3	50.65.060
	4	50.65.065
	5	50.65.150
	6	50.65.080
	7	*Repealer*
	8	*Leg. dir.*
	9	*Eff. date*
		n50.65.030
	10	50.65.240
303	1	35.21.770
	2	35A.11.110
304	1	*Temporary*
305	1	70.119A.030
	2	70.119A.040
	3	70.119A.050
	4	70.119A.150
306	1	70.119.100
	2	70.119.120
	3	70.119.150
	4	70.119.160
307	1	46.12.050
	2	46.68.010
	3	82.44.120
	4	46.70.021
	5	46.70.023
	6	46.70.041
	7	46.70.051
	8	46.70.083
	9	46.70.140
	10	46.70.290
	11	46.70.300
	12	46.87.020
	13	46.87.030
	14	46.87.080
	15	46.87.310
	16	46.87.340
	17	46.87.085
	18	*Leg. rev.*
	19	*Repealer*
308	1	42.23.030
309	1	49.46.020
	2	*Eff. date*
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310	1	84.64.270
	2	84.64.320
311	1	80.04.130
	2	*Em.*

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	2	74.12A.010
	3	*Failed to become law. See 1993 c 312 § 15.*
	4	*Failed to become law. See 1993 c 312 § 16.*
	5	*Failed to become law. See 1993 c 312 § 17.*
	6	*Vetoed*
	7	74.25.020
	8	74.12A.020
	9	n74.12A.010
	10	74.12.360
	11	74.04.0051
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	13	*Leg. dir.*
	14	*Contingency*
		Eff. date
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	15	*Contingency*
		Eff. date
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		Eff. date
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		Eff. date
	18	*Contingency*
		Eff. date
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	19	*Em.*
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313	1	18.35.010
	2	18.35.050
	3	18.35.060
	4	18.35.110
	5	18.35.140
	6	18.35.150
	7	18.35.161
	8	18.35.170
	9	18.35.185
	10	18.35.220
	11	18.35.240
	12	18.35.095
314	1	46.55.105
315	1	43.09.270
	2	*Eff. date*
		n43.09.270
316	1	43.31.611
	2	43.31.621
	3	43.31.631
	4	43.160.200
	5	*Uncod.*
	6	*Uncod.*
	7	*Exp. date*
		n43.160.200
	8	*Eff. date*
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	9	*Uncod.*
	10	50.22.090
	11	*Em.*
		n50.22.090
	12	*Eff. date*
		n43.31.611
317	1	3.46.155
	2	3.50.810
	3	3.46.063
	4	3.50.055
	5	3.46.067
	6	3.50.057
	7	3.62.100
	8	3.62.070
	9	42.12.010
	10	29.15.025
	11	*Sev.*
		n3.46.155
	12	*Eff. date*
		n3.46.155
318	101	26.21.005
	102	26.21.015
	103	26.21.025
	201	26.21.075
	202	26.21.085
	203	26.21.095
	204	26.21.105
	205	26.21.115
	206	26.21.127
	207	26.21.135
	208	26.21.145
	209	26.21.155
	301	26.21.205
	302	26.21.215
	303	26.21.225
	304	26.21.235
	305	26.21.245
	306	26.21.255
	307	26.21.265
	308	26.21.275
	309	26.21.285
	310	26.21.295
	311	26.21.305
	312	26.21.315
	313	26.21.325
	314	26.21.335
	315	26.21.345
	316	26.21.355
	317	26.21.365
	318	26.21.375
	319	26.21.385
	401	26.21.420
	501	26.21.450
	502	26.21.460
	601	26.21.480
	602	26.21.490
	603	26.21.500
	604	26.21.510
	605	26.21.520
	606	26.21.530
	607	26.21.540
	608	26.21.550
	609	26.21.560
	610	26.21.570
	611	26.21.580
	612	26.21.590
	701	26.21.620
	801	26.21.640
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	901	*Applic.*
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	902	*Short t.*
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	903	*Sev.*
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	906	26.21.915
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319	1	41.40.023
320	1	43.160.020
	2	43.160.030
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	4	43.160.060
	5	43.160.076
	6	43.160.077
	7	43.160.200
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	9	42.17.310
	10	*Uncod.*
	11	*Eff. date*
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321	1	*Intent*
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	2	70.118.020
	3	70.118.060
322	1	41.26.030
	2	*Applic.*
		n41.26.030
	3	*Em.*
		n41.26.030
323	1	n18.29.190
	2	18.29.190
	3	18.29.200
	4	18.29.210
	5	28B.125.030
	6	*Exp. date*
		n18.29.190
	7	n18.29.190
324	1	19.174.020
	2	*Intent*
		19.174.010
	3	19.174.030
	4	19.174.040
	5	19.174.050
	6	19.174.060
	7	19.174.070
	8	19.174.080
	9	19.174.090
	10	30.04.650
	11	31.12.740
	12	32.04.310
	13	33.04.120
	14	*Leg. dir.*
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		19.174.900
325	1	43.82.150
	2	*Purpose*
		n27.34.310
	3	27.34.310
	4	27.34.320
	5	*Leg. dir.*
326	1	70.105D.080
	2	*Em.*
		n70.105D.080
	3	*Sev.*
		n70.105D.080
327	1	84.36.037
	2	84.36.030
328	1	46.61.502
	2	46.61.504
329	1	90.50A.020
	2	43.84.092
	3	*Em.*
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330	1	3.34.130
331	1	41.24.010
	2	41.24.330
	3	41.24.340
	4	41.24.350
	5	*Leg. dir.*
332	1	44.68.020
333	1	28A.235.140
	2	28A.235.145
	3	28A.235.150
	4	28A.235.155
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	6	*Contingency*
334	1	28A.630.885
	2	*Em.*
		n28A.630.885
335	1	*Findings*
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	2	28A.630.862
	3	28A.630.864
	4	28A.630.866
	5	28A.630.868
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	7	28A.630.874
	8	28A.630.876
	9	28A.630.878
	10	28A.630.880
	11	28A.630.861
	12	*Repealer*
	13	*Contingency*
	14	*Em.*
		n28A.630.862
336	1	*Findings*
		Intent
		n28A.150.210
	101	28A.150.210
	102	*Eff. date*
		n28A.150.210
	201	28A.630.883
	202	28A.630.885
	301	28A.300.138
	302	28A.305.145
	401	28A.415.250
	402	28A.415.260
	403	28A.405.140
	404	28A.415.270
	405	28A.415.280
	406	28A.415.290
	407	28A.415.300
	408	28A.415.310
	501	28A.300.130
	502	28A.300.135
	601	*Findings*
		n28A.630.879
	602	28A.630.879
	603	28A.630.878
	604	*Exp. date*
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	701	*Findings*
		Intent
		28A.650.005
	702	28A.650.010
	703	28A.650.015
	704	*Temporary*
	705	28A.650.020
	706	28A.650.025
	707	28A.650.030
	708	28A.650.035
	709	28A.650.040
	710	*Leg. dir.*
	801	28A.410.030
	901	*Finding*
		70.190.040
	1001	28A.630.950
	1002	28A.630.951
	1003	28A.630.952
	1004	28A.630.953
	1005	28A.630.954
	1006	28A.320.205
	1007	n28A.150.250
	1008	28A.225.220
	1009	*Leg. dir.*
	1010	*Exp. date*
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	1101	28A.195.010
	1102	*Repealer*
	1103	28A.200.010
	1201	*Repealer*
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	1203	*Repealer*
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337	1	*Finding*
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	2	84.52.105
	3	84.52.043
	4	84.52.010
	5	84.52.069
338	1	*Findings*
		Intent
		72.09.400
	2	9.94A.030
	3	72.09.410
	4	9.94A.137
	5	*Vetoed*
	6	72.09.420
	7	*Leg. dir.*
	8	*Sev.*
		n72.09.400
	9	*Eff. date*
		n72.09.400
339	1	11.97.010
	2	11.98.200
	3	11.98.210
	4	11.98.220
	5	11.98.230
	6	11.98.240
	7	11.95.100
	8	11.95.110
	9	11.95.120
	10	11.95.130
	11	11.95.140
	12	11.95.150
	13	*Leg. dir.*
	14	*Sev.*
		n11.98.200
340	1	*Finding*
		Intent
		n75.28.010
	2	75.28.010
	3	75.28.014
	4	75.28.020
	5	75.28.030
	6	75.28.040
	7	75.28.045
	8	*Repealed by 1993 1st sp.s. c 17 § 47.*
	9	75.28.046
	10	75.28.047
	11	*Repealed by 1993 1st sp.s. c 17 § 47.*
	12	75.28.110
	13	75.28.113
	14	75.28.116
	15	75.28.120
	16	75.28.125
	17	75.28.130
	18	75.28.740
	19	75.28.280
	20	75.28.290
	21	75.28.095
	22	75.28.690
	23	*Repealed by 1993 1st sp.s. c 17 § 47.*
	24	75.28.750
	25	75.28.048
	26	75.28.710
	27	75.30.050
	28	75.30.065
	29	75.30.070
	30	75.30.090
	31	75.30.100
	32	75.30.120
	33	75.30.125
	34	75.30.130
	35	75.30.140
	36	75.30.260
	37	75.30.270
	38	75.30.160
	39	75.30.170
	40	75.30.180
	41	75.30.210
	42	75.30.220
	43	75.30.240
	44	75.30.250
	45	75.30.011
	46	75.30.280
	47	75.08.011
	48	75.08.230
	49	75.12.127
	50	75.12.440
	51	75.24.100
	52	75.28.302
	53	75.50.100
	54	*Leg. rev.*
	55	*Leg. rev.*
	56	*Repealer*
	57	n75.28.010
	58	*Eff. date*
		n75.28.010
	59	*Sev.*
		n75.28.010
341	1	12.20.060
342	1	*Temporary*
343	1	18.76.010
	2	18.76.030
	3	18.76.041

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	4	18.76.060
	5	18.76.090
	6	*Repealer*
	7	*Contingency*
344	1	9.46.070
	2	*Eff. date*
		n9.46.070
345	1	*Short t.*
		15.35.010
	2	15.35.030
	3	15.35.060
	4	15.35.080
	5	15.35.070
	6	15.35.100
	7	15.35.105
	8	15.35.110
	9	15.35.115
	10	15.35.150
	11	15.35.250
346	1	*Temporary*
347	1	9.41.280
	2	28A.320.130
	3	28A.635.060
	4	*Vetoed*
348	1	18.11.075
349	1	28A.400.285
350	1	*Findings*
		n26.50.035
	2	26.50.035
	3	10.99.030
	4	*Contingency*
		n26.50.035
	5	7.69.020
	6	7.69.030
	7	7.69A.020
	8	7.69A.030
	9	*Sev.*
		n26.50.035
351	1	41.56.475
352	1	*Temporary*
	2	*Temporary*
	3	*Temporary*
	4	*Temporary*
	5	*Temporary*
	6	*Temporary*
353	1	70.94.650
	2	70.94.654
354	1	16.65.030
	2	16.65.090
	3	16.58.050
	4	16.58.130
	5	16.57.080
	6	16.57.090
	7	16.57.140
	8	16.57.220
	9	16.57.400
	10	16.57.015
	11	16.57.410
	12	*Repealer*
355	1	10.64.130
356	1	24.03.046
	2	24.03.047
	3	24.03.055
	4	24.03.240
	5	24.03.302
	6	24.03.345
	7	24.03.370
	8	24.03.386
	9	24.03.388
	10	24.03.395
	11	24.03.400
	12	*Vetoed*
	13	24.06.046
	14	24.06.047
	15	24.06.050
	16	24.06.055
	17	24.06.275
	18	24.06.290
	19	24.06.380
	20	24.06.415
	21	24.06.433
	22	24.06.440
	23	24.06.445
	24	*Vetoed*
	25	*Eff. date*
		n24.03.046
357	1	60.04.904
	2	n60.04.904
	3	*Em.*
		n60.04.904
358	1	13.34.070
	2	13.34.160
	3	13.34.180
	4	26.19.071
	5	26.19.075
	6	*Repealer*
359	1	81.80.145
360	1	18.130.085
	2	42.17.310
	3	*Em.*
		n18.130.085
361	1	36.89.120
	2	36.94.470
362	1	70.96A.140
	2	*Purpose*
		Constr.
		n70.96A.140
363	1	*Findings*
		n28B.80.610
	2	28B.80.610
	3	28B.80.612
	4	28B.80.614
	5	28B.80.616
	6	28B.80.330
	7	*Eff. date*
		n28B.80.610
364	1	*Temporary*
	2	*Temporary*
	3	*Temporary*
	4	*Temporary*
	5	*Temporary*
	6	*Exp. date*
365	1	43.150.080
366	1	43.210.110
367	1	18.130.090
	2	18.130.095
	3	18.130.175
	4	18.130.040
	5	18.130.050
	6	18.130.160
	7	18.130.172
	8	18.130.185
	9	18.130.186
	10	18.130.300
	11	18.135.070
	12	18.135.100
	13	18.64.160
	14	18.64.163
	15	18.64A.050
	16	18.64A.055
	17	18.72.340
	18	18.72.380
	19	18.130.190
	20	18.130.165
	21	18.130.050
	22	18.130.180
	23	*Repealer*
368	1	29.79.200
	2	*Eff. date*
		n29.79.200
369	1	74.18.230
370	1	*Finding*
		47.46.010
	2	47.46.020
	3	47.46.030
	4	47.46.040
	5	47.46.050
	6	*Leg. dir.*
	7	*Eff. date*
		47.46.900
371	1	28A.150.220
	2	28A.150.220
	3	28A.230.090
	4	28A.600.060
	5	*Contingent*
		Eff. date
		n28A.150.220
372	1	28B.108.060
	2	28B.108.070
373	1	13.40.020
	2	13.40.430
	3	*Sev.*
		n13.40.020
374	1	13.50.010
375	1	51.32.110
376	1	*Findings*
		n75.28.720
	2	75.28.720
	3	75.28.125
	4	75.28.730
	5	75.30.290
	6	75.30.300
	7	75.30.310
	8	75.30.320
	9	75.30.050
	10	75.30.330
	11	*Vetoed*
	12	*Eff. date*
		n75.28.720
377	1	29.64.015
378	1	39.30.060
	2	*Applic.*
		n39.30.060
379	1	*Intent*
		n28B.10.029
	101	28B.10.029
	102	43.19.190
	103	43.19.1906
	104	43.78.030
	105	43.78.105
	106	43.78.100
	107	43.78.110
	108	28B.50.330
	109	28B.10.350
	110	28B.10.355
	111	39.04.020
	112	39.04.150
	201	28B.15.031
	202	28B.15.202
	203	28B.15.402
	204	28B.15.502
	205	28B.15.066
	206	*Repealer*
	301	41.56.023
	302	41.56.030
	303	41.58.020
	304	41.56.201
	305	28B.16.040
	306	41.06.070
	307	28B.16.200
	308	41.06.285
	309	41.06.280
	310	28B.16.015
	401	*Contingency*
	402	*Contingency*
	403	*Contingency*
	404	*Contingency*
	405	*Contingency*
	406	*Vetoed*
	407	*Sev.*
		n28B.10.029
	408	*Eff. date*
		n28B.10.029
380	1	*Findings*
		28C.22.005
	2	28C.22.010
	3	28C.22.020
	4	*Leg. dir.*
381	1	47.79.010
	2	47.79.020
	3	47.79.030
	4	47.79.040
	5	*Eff. date*
		47.79.900
382	1	28B.80.800
	2	28B.80.801
	3	28B.80.802
	4	28B.80.803
	5	*Exp. date*
		n28B.80.800
383	1	29.07.152
	2	29.07.160
384	1	46.37.430
385	1	28B.15.820
	2	28B.101.040
	3	28B.12.040
386	1	*Intent*
		n28A.400.391
	2	28A.400.391
	3	41.04.205
	4	41.04.235
	5	41.05.011
	6	41.05.021
	7	41.05.050
	8	*Failed to become law. See 1993 c 386 § 19.*
	9	41.05.065
	10	41.05.075
	11	41.05.080
	12	41.05.140
	13	28A.400.400
	14	41.05.250
	15	41.05.260
	16	41.05.270
	17	*Eff. date*
		n41.04.205
	18	*Em.*
		n28A.400.391
	19	*Contingency*
387	1	18.104.010
	2	18.104.020
	3	18.104.030
	4	18.104.040
	5	18.104.043
	6	18.104.048
	7	18.104.049
	8	18.104.050
	9	18.104.055
	10	18.104.060
	11	18.104.065
	12	18.104.070
	13	18.104.093
	14	18.104.095
	15	18.104.097
	16	18.104.080
	17	18.104.100
	18	18.104.110
	19	18.104.120
	20	18.104.150
	21	18.104.155
	22	43.21B.110
	23	43.21B.300
	24	18.104.180
	25	18.104.190
	26	18.104.900
	27	89.16.055
	28	*Exp. date*
		n18.104.043
	29	*Eff. date*
		18.104.930
388	1	48.66.041
389	1	67.28.280
	2	67.28.200
390	1	82.04.368
	2	*Vetoed*
391	1	70.79.240
	2	70.79.250
392	1	81.80.132
393	1	82.44.180
	2	81.104.090
	3	47.66.010
	4	47.66.020
	5	47.66.030
	6	47.66.040
	7	47.66.050
	8	47.66.060
	9	*Leg. dir.*
	10	*Em.*
		47.66.900
394	1	*Finding*
		Purpose
		n43.01.220
	2	43.01.220
	3	43.41.140
	4	46.08.172
	5	43.01.225
	6	43.01.230
	7	43.01.235
395		
	6-101	*Repealer*
	6-102	62A.1-105
	6-103	62A.2-403
396	1	9.41.300
397	1	41.56.030
	2	41.56.460
398	1	41.56.030
	2	41.56.460
	3	41.56.465
	4	41.56.123
	5	*Repealer*
	6	*Repealer*
	7	*Eff. dates*
		n41.56.030
399	1	70.93.097
400	1	46.90.005
	2	46.90.010
	3	46.90.300
	4	46.90.406
	5	46.90.427
	6	*Repealer*
	7	*Eff. dates*
		n46.90.005
401	1	46.61.220
	2	46.37.190
	3	46.37.191
402	1	26.44.020
	2	26.44.160
	3	74.13.075
	4	74.13.077
403	1	46.32.005
	2	46.32.010
	3	46.32.020
	4	46.44.105
	5	*Repealer*
404	1	39.12.070
	2	39.12.080
	3	39.12.042
	4	*Eff. date*
		n39.12.070
405	1	31.04.115
406	1	*Finding*
		Intent
		n43.88.020
	2	43.88.020
	3	43.88.090
	4	43.88.160
	5	44.28.180
	6	44.28.085
	7	*Short t.*
		n43.88.020
	8	*Contingency*
407	1	*Findings*
		70.83D.005
	2	70.83D.010
	3	70.83D.020
	4	70.83D.030
	5	70.83D.040
	6	70.83D.050
	7	70.83D.060
	8	*Exp. date*
		70.83D.900
	9	74.09.790
	10	74.09.800
	11	*Leg. dir.*
	12	70.83D.901
	13	*Contingency*
408	1	2.36.057
	2	2.36.0571
	3	2.36.054
	4	2.36.010
	5	2.36.055
	6	2.36.063
	7	2.36.065

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	8	2.36.095
	9	2.36.072
	10	29.04.160
	11	29.07.220
	12	46.20.157
	13	*Contingency*
	14	*Sev.*
		n2.36.054
	15	*Eff. dates*
		n2.36.054
409	1	70.48.130
	2	*Em.*
		n70.48.130
410	1	28A.500.010
411	1	*Finding*
		n28B.35.751
	2	28B.35.751
	3	43.79.150
412	1	13.34.145
	2	13.34.180
	3	13.34.190
	4	13.34.232
	5	13.34.174
	6	13.34.176
	7	13.34.110
	8	13.34.120
	9	13.34.150
	10	13.34.162
	11	26.44.015
	12	26.44.020
	13	26.44.030
	14	26.44.040
	15	26.44.063
	16	26.44.067
	17	26.44.100
	18	26.44.150
413	1	83.100.160
414	1	*Findings*
		28B.10.690
	2	28B.10.691
	3	28B.10.692
	4	28B.10.693
	5	*Leg. dir.*
415	1	*Intent*
		n2.56.031
	2	2.56.031
	3	2.56.030
	4	43.101.280
	5	2.56.130
	6	13.04.043
	7	13.06.050
	8	*Temporary*
	9	13.40.027
	10	*Contingency*
416	1	28A.315.030
	2	28A.315.060
	3	28A.315.080
	4	*Eff. date*
		n28A.315.030
417	1	29.36.120
	2	29.36.121
	3	29.36.122
	4	29.36.126
	5	29.36.130
	6	29.36.139
	7	29.36.150
	8	29.10.180
418	1	29.36.013
	2	*Repealer*
419	1	9.94A.280
420	1	2.06.020
	2	2.06.076
	3	*Em.*
		n2.06.020
421	1	*Finding*
		Intent
		n43.06.115
	2	43.06.115
422	1	*Finding*
		n66.16.110
	2	66.16.110
	3	*Intent*
		70.83C.005
	4	70.83C.010
	5	70.83C.020
	6	*Contingency*
	7	*Leg. dir.*
423	1	28B.102.060
	2	28B.115.120
424	1	46.71.005
	2	46.71.011
	3	46.71.015
	4	46.71.021
	5	46.71.025
	6	46.71.031
	7	46.71.035
	8	46.71.041
	9	46.71.045
	10	46.71.051
	11	46.71.060
	12	46.71.070
	13	46.71.090
	14	*Temporary*
	15	*Sev.*
		n46.71.005
	16	*Repealer*
	17	*Leg. dir.*
	18	*Eff. date*
		n46.71.005
425	1	43.20A.725
	2	*Em.*
		n43.20A.725
426	1	26.18.010
	2	26.18.020
	3	26.18.030
	4	26.18.040
	5	26.18.050
	6	26.18.070
	7	26.18.090
	8	26.18.100
	9	26.18.110
	10	26.18.120
	11	26.18.140
	12	26.18.150
	13	26.18.160
	14	26.18.170
427	1	47.60.120
	2	81.84.010
	3	81.84.020
	4	81.84.025
	5	81.84.030
	6	81.84.050
	7	81.84.060
	8	81.84.070
	9	81.04.010
	10	81.24.030
428	1	81.104.030
	2	81.104.120
429	1	35.87A.010
	2	35.87A.020
	3	35.87A.030
	4	35.87A.050
	5	35.87A.060
	6	35.87A.080
	7	35.87A.090
	8	35.87A.100
	9	35.87A.140
	10	35.87A.170
	11	64.34.304
	12	64.34.010
430	1	47.17.001
	2	47.17.305
	3	47.17.328
	4	47.17.556
	5	47.17.577
	6	*Repealer*
	7	47.39.020
	8	47.39.080
	9	47.39.090
	10	47.42.020
	11	47.42.100
	12	47.42.140
431	1	47.10.812
	2	47.10.813
	3	47.10.814
	4	47.10.815
	5	47.10.816
	6	47.10.817
	7	*Leg. dir.*
	8	*Sev.*
		47.10.818
432	1	47.10.819
	2	47.10.820
	3	47.10.821
	4	47.10.822
	5	47.10.823
	6	47.10.824
	7	*Leg. dir.*
	8	*Sev.*
		47.10.825
433	1	39.29.003
	2	39.29.006
	3	39.29.025
	4	39.29.035
	5	39.29.018
	6	39.29.008
	7	39.29.055
	8	39.29.068
	9	39.80.070
434	1	29.08.010
	2	29.08.020
	3	29.08.030
	4	29.08.040
	5	29.08.050
	6	29.08.060
	7	29.08.070
	8	29.08.080
	9	29.08.090
	10	29.10.180
	11	*Leg. dir.*
	12	*Repealer*
	13	*Eff. date*
		29.08.900
435	1	36.18.020
	2	26.12.240
436	1	84.40.030
437	1	*Repealer*
438	1	43.43.115
439	1	35.21.470
	2	35A.21.250
	3	36.32.590
440	1	47.26.500
	2	47.26.501
	3	47.26.502
	4	47.26.503
	5	47.26.504
	6	47.26.505
	7	47.26.506
	8	47.26.507
	9	*Leg. dir.*
441	1	29.04.150
	2	29.04.160
	3	*Eff. date*
		n29.04.150
442	1	10.34.030
	2	*Eff. date*
		n10.34.030
443	1	76.09.010
	2	76.09.040
	3	76.09.050
	4	76.09.060
	5	76.09.065
	6	*Em.*
		n76.09.010
444	1	82.08.0273
445	1	28C.10.020
	2	28C.10.084
	3	28C.10.120
	4	43.84.092
	5	*Repealer*
446	1	*Findings*
		47.06.010
	2	47.06.020
	3	47.06.030
	4	47.06.040
	5	47.06.050
	6	47.06.060
	7	47.06.070
	8	47.06.080
	9	47.06.090
	10	47.06.100
	11	47.06.110
	12	47.06.120
	13	47.06.130
	14	*Vetoed*
	15	*Leg. dir.*
	16	47.06.900
447	1	*Findings*
		Intent
		28B.130.005
	2	28B.130.010
	3	28B.130.020
	4	28B.130.030
	5	28B.130.040
	6	*Leg. dir.*
448	1	70.02.010
	2	70.02.020
	3	70.02.030
	4	70.02.050
	5	70.02.080
	6	71.05.390
	7	71.05.400
	8	71.05.395
	9	*Eff. date*
		n70.02.010
449	1	*Purpose*
		n4.96.010
	2	4.96.010
	3	4.96.020
	4	4.96.041
	5	4.96.050
	6	6.17.080
	7	35.31.020
	8	35.31.040
	9	35A.31.030
	10	36.45.010
	11	54.16.110
	12	87.03.440
	13	*Repealer*
	14	*Leg. rev.*
	15	*Sev.*
		n4.96.010
450	1	*Repealer*
451	1	26.04.160
452	1	46.20.035
	2	46.20.116
	3	46.20.117
453	1	*Finding*
		n74.13.0903
	2	74.13.0903
	3	*Em.*
		n74.13.0903
454	1	*Finding*
		n18.27.010
	2	18.27.010
	3	18.27.100
	4	18.27.102
	5	18.27.110
	6	18.27.020
	7	18.27.200
	8	18.27.210
	9	18.27.230
	10	18.27.310
	11	18.27.320
455	1	48.17.270
456	1	19.178.110
	2	19.178.010
	3	19.178.020
	4	*Applic.*
		19.178.900
	5	19.178.030
	6	19.178.040
	7	19.178.050
	8	19.178.060
	9	19.178.070
	10	19.178.080
	11	19.178.090
	12	19.178.100
	13	19.178.120
	14	19.178.130
	15	19.178.140
	16	*Sev.*
		19.178.901
	17	*Leg. dir.*
457	1	9A.60.040
458	1	48.62.121
	2	48.62.123
	3	n43.72.040
459	1	72.09.350
	2	*Em.*
		n72.09.350
460	1	79.64.020
	2	79.64.030
	3	*Eff. date*
		n79.64.020
461	1	*Finding*
		n43.63A.510
	2	43.63A.510
	3	28A.335.310
	4	35.21.687
	5	36.34.137
	6	36.34.135
	7	43.19.19201
	8	43.20A.037
	9	*Failed to become law. See 1993 c 500 § 13.*
	10	47.12.064
	11	47.12.063
	12	72.09.055
	13	*Contingency*
462	1	*Short t.*
		48.31B.900
	2	48.31B.005
	3	48.31B.010
	4	48.31B.015
	5	48.31B.020
	6	48.31B.025
	7	48.31B.030
	8	48.31B.035
	9	48.31B.040
	10	48.31B.045
	11	48.31B.050
	12	48.31B.055
	13	48.31B.060
	14	48.31B.065
	15	48.31B.070
	16	*Short t.*
		48.97.900
	17	48.97.005
	18	*Applic.*
		48.97.010
	19	48.97.015
	20	48.97.020
	21	48.97.025
	22	*Short t.*
		48.94.900
	23	48.94.005
	24	48.94.010
	25	48.94.015
	26	48.94.020
	27	48.94.025
	28	48.94.030
	29	48.94.035
	30	48.94.040
	31	48.94.045
	32	48.94.050
	33	48.94.055
	34	*Short t.*
		48.98.900
	35	48.98.005
	36	48.98.010
	37	48.98.015
	38	48.98.020
	39	48.98.025
	40	48.98.030
	41	48.98.035
	42	48.98.040
	43	48.03.010
	44	48.03.025
	45	48.03.040
	46	48.03.050
	47	48.03.060
	48	48.03.065

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	51	48.01.210
	52	48.08.030
	53	48.11.140
	54	48.12.180
	55	48.12.190
	56	48.12.200
	57	48.14.010
	58	48.31.105
	59	48.31.111
	60	48.31.115
	61	48.31.121
	62	48.31.125
	63	48.31.131
	64	48.31.135
	65	48.31.141
	66	48.31.145
	67	48.31.151
	68	48.31.155
	69	48.31.161
	70	48.31.165
	71	48.31.171
	72	48.31.175
	73	48.31.181
	74	48.31.184
	75	48.31.030
	76	48.31.040
	77	48.31.045
	78	48.99.010
	79	48.99.060
	80	48.99.080
	81	*Leg. rev.*
	82	48.31.190
	83	48.31.280
	84	48.31.300
	85	48.74.025
	86	48.74.030
	87	48.74.040
	88	48.74.050
	89	48.74.060
	90	48.74.090
	91	48.92.010
	92	48.92.020
	93	48.92.030
	94	48.92.040
	95	48.92.050
	96	48.92.070
	97	48.92.080
	98	48.92.090
	99	48.92.095
	100	48.92.100
	101	48.92.120
	102	48.92.130
	103	48.92.140
	104	48.01.220
	105	*Repealer*
	106	48.31B.902
	107	*Leg. dir.*
	108	*Leg. dir.*
	109	*Leg. dir.*
	110	*Leg. dir.*
	111	*Leg. dir.*
	112	*Sev.*
		48.31B.901
463	1	n10.95.185
	2	10.95.185
	3	*Sev.*
		n10.95.185
464	1	85.22.010
	2	85.38.213
	3	85.38.140
	4	85.38.145
	5	*Repealer*
465	1	84.52.0531
	2	28A.500.010
	3	*Exp. date*
		n28A.500.010
466	1	13.40.220
467	1	41.60.010
	2	41.60.015
	3	41.60.020
	4	41.60.100
	5	41.60.110
	6	41.60.120
	7	41.60.160
	8	*Eff. date*
		n41.60.010
468	1	19.146.005
	2	19.146.010
	3	19.146.020
	4	19.146.0201
	5	19.146.200
	6	19.146.205
	7	19.146.210
	8	19.146.220
	9	19.146.225
	10	19.146.230
	11	19.146.235
	12	19.146.030
	13	19.146.070
	14	19.146.240
	15	19.146.245
	16	19.146.250
	17	19.146.260
	18	19.146.265
	19	19.146.270
	20	19.146.110
	21	19.146.280
	22	n19.146.0201
	23	*Sev.*
		n19.146.0201
	24	*Leg. dir.*
	25	*Temporary*
	26	*Eff. dates*
		n19.146.200
	27	*Exp. date*
		n19.146.280
469	1	*Findings*
		88.12.500
	2	88.12.510
	3	88.12.520
	4	88.12.530
	5	88.12.540
	6	*Leg. dir.*
	7	*Sev.*
		n88.12.500
	8	*Em.*
		n88.12.500
470	1	21.20.035
	2	21.20.702
	3	21.20.110
	4	21.20.005
471	1	19.09.020
	2	19.09.065
	3	19.09.075
	4	19.09.076
	5	19.09.079
	6	19.09.085
	7	19.09.097
	8	19.09.271
	9	19.09.100
	10	19.09.190
	11	19.09.200
	12	19.09.210
	13	19.09.230
	14	19.09.240
	15	19.09.275
	16	19.09.305
	17	19.09.315
	18	19.09.400
	19	19.09.410
	20	19.09.277
	21	19.09.279
	22	19.09.430
	23	19.09.420
	24	43.07.125
	25	11.110.010
	26	11.110.040
	27	11.110.050
	28	11.110.060
	29	11.110.070
	30	11.110.075
	31	11.110.080
	32	11.110.125
	33	11.110.130
	34	*Temporary*
	35	*Temporary*
	36	*Temporary*
	37	*Temporary*
	38	*Temporary*
	39	*Temporary*
	40	*Repealer*
	41	*Leg. dir.*
	42	19.09.440
	43	*Sev.*
		19.09.914
	44	*Eff. date*
		19.09.915
472	1	*Finding*
		43.320.005
	2	43.320.010
	3	43.320.020
	4	43.320.030
	5	43.320.040
	6	43.320.011
	7	43.320.012
	8	43.320.050
	9	43.320.013
	10	43.320.014
	11	43.320.015
	12	43.320.016
	13	43.320.017
	14	21.20.005
	15	21.20.450
	16	21.20.720
	17	43.17.010
	18	43.17.020
	19	43.19.010
	20	43.320.060
	21	43.320.070
	22	43.320.080
	23	43.320.090
	24	43.320.100
	25	43.320.110
	26	43.320.120
	27	43.320.130
	28	*Repealer*
	29	*Leg. dir.*
	30	*Leg. rev.*
	31	*Eff. date*
		43.320.900
	32	43.320.901
473	1	41.56.492
474	1	88.26.010
	2	88.26.020
	3	*Leg. dir.*
475	1	18.08.350
	2	18.08.350
	3	*Eff. date*
		n18.08.350
476	1	*Findings*
		19.182.005
	2	*Short t.*
		19.182.900
	3	19.182.010
	4	19.182.020
	5	19.182.030
	6	19.182.040
	7	19.182.050
	8	19.182.060
	9	19.182.070
	10	19.182.080
	11	19.182.090
	12	19.182.100
	13	19.182.110
	14	19.182.120
	15	19.182.130
	16	19.182.140
	17	19.182.150
	18	*Sev.*
		19.182.901
	19	*Leg. dir.*
	20	*Eff. date*
		19.182.902
477	1	9A.44.010
	2	9A.44.050
	3	9A.44.100
478	1	*Finding*
		43.185B.005
	2	43.185B.007
	3	43.185B.009
	4	43.185B.010
	5	43.185B.020
	6	43.185B.030
	7	43.63A.215
	8	35.63.210
	9	35A.63.230
	10	36.70.677
	11	36.70A.400
	12	43.185B.040
	13	43.63A.650
	14	43.63A.660
	15	43.185.110
	16	43.185A.020
	17	35.82.070
	18	43.63A.670
	19	43.63A.680
	20	35.63.220
	21	35A.63.240
	22	36.70.990
	23	36.70A.410
	24	*Short t.*
		43.185B.900
	25	*Leg. dir.*
479	1	10.95.030
	2	10.95.070
	3	10.95.130
	4	10.95.140
480	1	26.23.040
	2	*Em.*
		n26.23.040
481	1	63.14.090
482	1	76.09.140
	2	76.09.170
	3	*Eff. date*
		n76.09.170
483	1	50.04.293
	2	50.04.323
	3	50.06.010
	4	50.06.020
	5	50.06.030
	6	50.13.040
	7	50.16.010
	8	50.20.050
	9	50.20.060
	10	50.20.080
	11	50.20.065
	12	50.20.120
	13	50.20.190
	14	50.20.195
	15	50.22.010
	16	50.22.020
	17	50.22.030
	18	50.22.050
	19	50.29.020
	20	50.24.014
	21	50.29.025
	22	*Temporary*
	23	*Eff. dates*
		Applic.
		n50.04.293
	24	n50.04.293
	25	*Sev.*
		n50.04.293
484	1	9A.56.280
	2	9A.56.290
485	1	43.147.040
	2	43.147.050
	3	43.147.060
	4	43.147.070
	5	43.147.080
	6	*Leg. dir.*
486	1	58.17.280
487	1	69.50.505
	2	46.61.511
	3	46.61.512
	4	46.12.400
	5	46.12.410
	6	46.12.270
488	1	*Finding*
		n82.08.0287
	2	82.08.0287
	3	82.44.015
	4	82.12.0282
	5	46.16.023
	6	n82.08.0287
	7	*Repealer*
489	1	70.44.200
490	1	47.05.010
	2	47.05.021
	3	47.05.030
	4	47.05.035
	5	47.05.051
	6	47.05.090
	7	*Repealer*
491	1	82.44.110
	2	82.44.150
	3	*Eff. date*
		n82.44.110
492	101	*Findings*
		n43.72.005
	102	*Intent*
		n43.72.005
	201	70.47.005
	202	*Temporary*
	203	*Temporary*
	204	*Temporary*
	205	*Temporary*
	206	*Temporary*
	207	*Temporary*
	208	70.47.010
	209	70.47.020
	210	70.47.030
	211	70.47.040
	212	70.47.060
	213	70.47.080
	214	41.05.011
	215	41.05.021
	216	41.05.050
	217	41.05.055
	218	41.05.065
	219	41.05.120
	220	41.05.140
	221	41.05.190
	222	41.05.195
	223	41.05.197
	224	47.64.270
	225	28A.400.200
	226	28A.400.350
	227	41.05.022
	228	41.05.200
	229	41.05.210
	230	*Repealer*
	231	74.09.055
	232	41.05.220
	233	19.68.010
	234	70.05.010
	235	70.05.030
	236	70.05.040
	237	70.05.035
	238	70.05.050
	239	70.05.070
	240	70.05.080
	241	70.05.120
	242	70.05.130
	243	70.05.150
	244	70.05.037
	245	70.12.030
	246	70.12.050
	247	70.46.020
	248	70.46.060
	249	70.46.080
	250	70.46.085
	251	70.46.090
	252	70.46.120
	253	82.44.110
	254	82.44.155
	255	43.20.030
	256	*Leg. rev.*
	257	*Repealer*
	258	*Temporary*
	259	70.170.100
	260	70.170.110
	261	70.170.120

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264		n70.170.110
265		70.41.250
266		n18.64.430
267		18.64.430
268		18.51.540
269		*Finding*
		n28B.125.010
270		28B.125.010
271		28B.115.080
272		41.05.230
273		70.185.030
274		70.185.090
275		70.185.100
276		43.70.460
277		43.70.470
278		*Temporary*
279		n70.185.030
280		*Intent*
		n48.01.200
281		48.18.540
282		48.21.200
283		48.20.540
284		48.21.340
285		48.44.480
286		48.46.550
287		48.30.300
288		48.44.490
289		48.46.560
290		48.44.260
291		48.46.380
292		*Repealer*
293		*Repealer*
294		48.01.200
295		48.44.095
296		48.46.080
301		48.14.0201
302		48.14.080
303		82.04.322
304		82.04.260
305		82.04.4289
306		*Repealer*
307		82.24.020
308		82.24.080
309		82.26.020
310		82.08.150
311		66.24.290
312		82.02.030
401		*Intent*
		43.72.005
402		43.72.010
403		43.72.020
404		43.72.060
405		43.72.030
406		43.72.040
407		43.72.050
408		18.130.320
409		43.72.070
410		43.70.500
411		43.70.320
412		18.130.330
413		48.22.080
414		48.05.410
415		70.41.200
416		70.41.230
417		43.70.510
418		n7.70.100
419		7.70.100
420		7.70.110
421		7.70.120
422		5.60.070
423		7.70.130
424		*Vetoed*
425		43.72.080
426		48.43.160
427		43.72.090
428		43.72.100
429		43.72.110
430		43.72.120
431		48.43.170
432		48.43.010
433		48.43.020
434		48.43.030
435		48.43.040
436		48.43.050
437		48.43.060
438		48.43.070
439		48.43.080
440		48.43.090
441		48.43.100
442		48.43.110
443		48.43.120
444		48.43.130
445		48.43.140
446		48.43.150
447		*Findings*
		Intent
		43.72.300
448		43.72.310
449		43.72.130
450		43.72.140
451		43.72.150
452		43.72.160
453		43.72.170
454		43.72.180
455		43.72.190
456		43.72.200
457		43.72.800
458		48.85.010
459		48.85.020
460		48.85.030
461		48.85.040
462		48.85.050
463		43.72.210
464		43.72.220
465		43.72.230
466		43.72.240
467		43.70.520
468		41.05.240
469		43.72.900
470		43.72.902
471		43.72.904
472		43.72.906
473		43.84.092
474		43.72.810
475		43.72.820
476		43.72.830
477		*Temporary*
478		43.72.840
479		*Temporary*
480		*Temporary*
481		*Temporary*
482		*Temporary*
483		n43.72.850
484		*Temporary*
485		43.72.850
486		43.72.860
487		*Short t.*
		43.72.910
488		42.17.2401
489		43.20.050
490		*Sev.*
		43.72.911
491		*Savings*
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492		43.72.913
493		*Leg. dir.*
494		43.72.914
495		*Eff. dates*
		43.72.915
496		*Contingency*
493	1	47.60.770
	2	47.60.772
	3	*Vetoed*
	4	47.60.774
	5	47.60.776
	6	47.60.778
	7	*Leg. dir.*
	8	*Em.*
		n47.60.770
494	1	43.72.010
	2	43.72.040
	3	43.72.220
	4	43.72.240
	5	43.72.870
	6	70.47.065
	7	*Leg. dir.*
	8	*Eff. date*
		43.72.916
495	1	*Findings*
		n90.03.470
	2	90.03.470
	3	*Temporary*
	4	*Temporary*
496	1	4.22.070
	2	51.24.060
	3	*Eff. date*
		n4.22.070
	4	*Applic.*
		n4.22.070
497	1	*Finding*
		43.310.005
	2	*Intent*
		43.13.007
	3	43.310.010
	4	43.310.020
	5	*Vetoed*
	6	43.310.030
	7	*Vetoed*
	8	*Vetoed*
	9	*Vetoed*
	10	*Vetoed*
	11	43.310.040
	12	*Leg. dir.*
	13	*Contingency*
498	1	*Vetoed*
	2	63.29.130
	3	*Vetoed*
	4	63.29.165
	5	19.150.060
	6	19.150.080
	7	63.29.170
	8	63.29.190
	9	63.29.180
	10	63.29.220
	11	*Vetoed*
	12	*Vetoed*
499	1	19.31.020
	2	19.31.030
	3	19.31.040
	4	19.31.100
	5	19.31.150
	6	19.31.170
	7	19.31.190
	8	19.31.245
500	1	*Finding*
		n43.41.180
	2	43.41.180
	3	43.08.015
	4	43.41.040
	5	43.79A.040
	6	43.84.092
	7	43.88.160
	8	43.88.195
	9	67.40.020
	10	*Vetoed*
	11	*Repealer*
	12	*Sev.*
		n43.41.180
	13	*Eff. date*
		n43.41.180
501	1	46.20.289
	2	46.20.031
	3	46.20.207
	4	46.20.291
	5	46.20.311
	6	46.20.342
	7	46.61.515
	8	46.63.020
	9	46.63.060
	10	46.63.070
	11	46.63.110
	12	46.52.120
	13	*Repealer*
502	1	41.26.030
	2	41.26.450
	3	41.40.093
	4	*Vetoed*
	5	41.56.460
	6	*Eff. date*
		n41.26.030
503	1	*Temporary*
	2	*Temporary*
	3	*Temporary*
	4	*Vetoed*
	5	*Exp. date*
504	1	*Findings*
		n41.05.280
	2	*Vetoed*
	3	41.05.280
	4	*Em.*
		n41.05.280
505	1	13.70.005
	2	13.70.100
	3	*Vetoed*
	4	13.70.140
	5	74.14A.050
506	1	*Vetoed*
	2	41.40.262
	3	*Contingency*
507	1	*Finding*
		70.155.005
	2	70.155.010
	3	70.155.020
	4	70.155.030
	5	70.155.040
	6	70.155.050
	7	70.155.060
	8	70.155.070
	9	70.155.080
	10	70.155.090
	11	70.155.100
	12	70.155.110
	13	70.155.120
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	18	43.172.030
	19	43.172.040
	20	43.172.050
	21	43.172.060
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	99	75.08.058
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	103	*Leg. dir.*
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	105	*Eff. date* 75.54.900
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	4	72.36.020
	5	72.36.030
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8	1	43.84.092
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9	1	28B.10.660
10	1	*Purpose* n43.19.190
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11	1	47.10.761
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12	1	43.99J.010
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14	1	2.08.064
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15	1	*Findings* n28B.10.776
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	10	*Eff. date* n28B.10.776
16	1	67.28.290
	2	*Vetoed*
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17	1	*Finding* n75.25.091
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	9	75.25.150
	10	75.25.180
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	12	82.27.020
13-30		*Failed to become law. See 1993 1st sp.s. c 17 § 32.*
	31	*Repealer*
	32	*Contingent Eff. date* n75.25.091
	33	*Vetoed*
	34	75.28.011
	35	75.28.110
	36	75.28.113
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	38	75.28.120
	39	75.28.125
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	43	75.28.300
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	47	*Repealer*
	48	*Contingent Eff. date* n75.28.011
	49	*Approp.*
	50	*Vetoed*
	51	*Vetoed*
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18	1	28B.10.265
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	14	*Repealer*
	15	*Approp.* n28B.15.031
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	31	28B.15.910
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	34	28B.80.580
	35	28B.101.040
	36	28B.102.020
	37	82.04.170
	38	*Eff. date* n28B.10.265
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	5	17.21.110
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	8	17.21.129
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20	1	43.19.534
	2	72.09.111
	3	72.09.070
	4	72.09.080
	5	72.09.110
	6	*Temporary*
	7	*Temporary*
	8	*Repealer*
	9	*Sev.* n43.19.534
	10	*Eff. date* n72.09.111
21	1	82.14.310
	2	82.14.320
	3	82.14.330
	4	82.14.335
	5	43.101.200
	6	82.14.340
	7	82.44.110
	8	72.09.300
	9	*Approp.*
	10	*Eff. dates* n82.14.310
22	1-	*Par. veto*
	1022	*Omnibus Approp. Act (Uncod.)*
	1023	*Vetoed*
	1024	*Sev.*

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23	1-17	*Par. veto Omnibus Approp. Act (Uncod.)*
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	19	*Repealer*
	20-45	*Uncod.*
	46	46.01.330
	47-59	*Uncod.*
	60	46.16.070
	61	82.44.020
	62	81.112.030
	63	43.89.010
	64	82.44.180
	65	*Eff. dates* n47.86.030
	66	*Eff. date* n46.16.070
24		
	1-519	*Par. veto Omnibus Approp. Act (Uncod.)*
	520	28A.165.070
	521	*Uncod.*
	522	28A.310.020
	601-911	*Uncod.*
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	914	43.03.040
	915	*Uncod.*
	916	41.50.255
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	919	43.88.535
	920	43.101.200
	921	43.155.050
	922	43.210.110
	923	70.146.020
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	926	74.20A.030
	927	79.24.580
	928	86.26.007
	929	20.01.130
	930	*Eff. dates* n39.19.200
	931	*Eff. date* n18.39.290
	932	*Sev.* n28A.165.070
	933	*Eff. dates* n28A.165.070
25	101	82.04.230
	102	82.04.240
	103	82.04.250
	104	82.04.260
	105	82.04.270
	106	82.04.280
	107	82.02.030
	108	*Repealer*
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	202	82.04.255
	203	82.04.290
	204	82.04.2201
	205	82.04.300
	301	82.04.050
	302	82.04.213
	303	82.04.280
	304	82.04.214
	305	82.04.330
	306	*Vetoed*
	307	*Finding* n82.08.0281
	308	82.08.0281
	309	82.12.0275
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	402	43.63A.710
	403	82.60.020
	404	82.60.050
	405	*Vetoed*
	406	*Vetoed*
	407	*Vetoed*
	408	82.61.040
	409	82.61.070
	410	82.62.010
	411	82.62.040
	501	*Findings Intent* n82.45.010
	502	82.45.010
	503	82.45.030
	504	82.45.032
	505	82.45.033
	506	82.45.090
	507	82.45.100
	508	82.46.900
	509	82.45.150
	510	82.45.180
	511	43.84.092
	512	*Repealer*
	513	*Savings Table of Dispo.* n82.45A.010
	601	48.14.0201
	602	48.14.080
	603	*Eff. dates* 43.72.915
	701	82.04.470
	702	82.08.130
	703	82.32.291
	704	82.08.050
	801	*Repealer*
	901	48.32.145
	902	48.32A.090
	1001	*Vetoed*
	1002	*Sev.* n82.04.230
	1003	*Eff. dates* n82.04.230
	1004	n82.04.230
26	1	43.03.011
	2	43.03.012
	3	43.03.013

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Chap.	Sec.	Rev. Code of Wash.

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DISPOSITION OF FORMER RCW SECTIONS

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

section number ↓ caption ↓ session law source ↓ disposition ↓

2.36.031 Grand jury—How summoned. [1951 c 90 § 1.] Repealed by 1971 ex.s. c 67 § 20. Later enactment, see RCW 10.27.030.

↑ similar section (where applicable)

Title 11
PROBATE AND TRUST LAW

Chapter 11.02
GENERAL PROVISIONS

11.02.090 Certain provisions of written instruments deemed nontestamentary—Creditors' rights—Safety deposit repository leases. [1974 ex.s. c 117 § 54.] Repealed by 1993 c 291 § 4.

Chapter 11.110
CHARITABLE TRUSTS

11.110.240 Tax Reform Act of 1969, state implementation—Construction of references to federal code. [1985 c 30 § 133. Prior: 1984 c 149 § 165; 1982 1st ex.s. c 41 § 3; 1971 c 58 § 5. Formerly RCW 19.10.240.] Repealed by 1993 c 73 § 12.

Title 13
JUVENILE COURTS AND JUVENILE OFFENDERS

Chapter 13.34
JUVENILE COURT ACT IN CASES RELATING TO DEPENDENCY OF A CHILD AND THE TERMINATION OF A PARENT AND CHILD RELATIONSHIP

13.34.162 Child support schedule. [1988 c 275 § 15.] Repealed by 1993 c 358 § 6.

Reviser's note: RCW 13.34.162 was both amended and repealed during the 1993 legislative session, each without reference to the other. It has been decodified for publication purposes pursuant to RCW 1.12.025.

Title 15
AGRICULTURE AND MARKETING

Chapter 15.36
FLUID MILK

15.36.580 Producers or distributors—Protest of enforcement. [1989 c 354 § 26; 1987 c 202 § 175; 1981 c 67 § 17; 1961 c 11 § 15.36.580. Prior: 1949 c 168 § 18, part; Rem. Supp. 1949 § 6266-46, part.] Repealed by 1993 c 212 § 4.

Chapter 15.54
FERTILIZERS, MINERALS, AND LIMES
(Washington commercial fertilizer act)

15.54.272 "Commercial fertilizer." [1987 c 45 § 2; 1967 ex.s. c 22 § 2.] Repealed by 1993 c 183 § 15.

15.54.274 "Specialty fertilizer." [1967 ex.s. c 22 § 3.] Repealed by 1993 c 183 § 15.

15.54.276 "Bulk fertilizer." [1987 c 45 § 3; 1967 ex.s. c 22 § 4.] Repealed by 1993 c 183 § 15.

15.54.278 "Brand." [1967 ex.s. c 22 § 5.] Repealed by 1993 c 183 § 15.

15.54.280 "Guaranteed analysis." [1987 c 45 § 4; 1967 ex.s. c 22 § 6.] Repealed by 1993 c 183 § 15.

15.54.281 "Calcium carbonate equivalent." [1987 c 45 § 6.] Repealed by 1993 c 183 § 15.

15.54.282 "Grade." [1967 ex.s. c 22 § 7.] Repealed by 1993 c 183 § 15.

15.54.284 "Total nutrients." [1967 ex.s. c 22 § 8.] Repealed by 1993 c 183 § 15.

15.54.286 "Lime." [1967 ex.s. c 22 § 9.] Repealed by 1993 c 183 § 15.

15.54.288 "Ton." [1967 ex.s. c 22 § 10.] Repealed by 1993 c 183 § 15.

15.54.290 "Percent," "percentage." [1967 ex.s. c 22 § 11.] Repealed by 1993 c 183 § 15.

15.54.292 "Department." [1967 ex.s. c 22 § 12.] Repealed by 1993 c 183 § 15.

15.54.294 "Person." [1967 ex.s. c 22 § 13.] Repealed by 1993 c 183 § 15.

15.54.296 "Customer-formula fertilizer." [1967 ex.s. c 22 § 14.] Repealed by 1993 c 183 § 15.

15.54.297 "Manipulation." [1987 c 45 § 5.] Repealed by 1993 c 183 § 15.

15.54.298 "Registrant." [1967 ex.s. c 22 § 15.] Repealed by 1993 c 183 § 15.

15.54.300 "Official sample." [1967 ex.s. c 22 § 16.] Repealed by 1993 c 183 § 15.

15.54.302 "Distribute." [1967 ex.s. c 22 § 17.] Repealed by 1993 c 183 § 15.

15.54.304 "Distributor." [1967 ex.s. c 22 § 18.] Repealed by 1993 c 183 § 15.

15.54.306 "Label." [1987 c 45 § 7.] Repealed by 1993 c 183 § 15.

15.54.307 "Labeling." [1987 c 45 § 8.] Repealed by 1993 c 183 § 15.

15.54.320 Brand and grade registration—Application, forms, fee—Expiration—Penalty for nonrenewal. [1987 c 45 § 11; 1967 ex.s. c 22 § 20.] Repealed by 1993 c 183 § 15.

Chapter 15.60
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15.60.200 Apiary coordinated areas—Violation of order—Misdemeanor. [1989 c 354 § 67.] Repealed by 1993 c 89 § 21.

Title 16
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Chapter 16.57
IDENTIFICATION OF LIVESTOCK

16.57.390 Horses—Brand inspection fees and charges. [1974 ex.s. c 38 § 2.] Repealed by 1993 c 354 § 12.

Chapter 16.67
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16.67.050 Designation of positions—Terms. [1993 c 40 § 2; 1991 c 9 § 2; 1969 c 133 § 4.] Expired June 30, 1993, pursuant to 1993 c 40 § 2.

Title 18
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COUNSELORS

18.19.910 Regulation of counselors, social workers, mental health counselors, and marriage and family counselors—Termination. [1990 c 297 § 13; 1987 c 512 § 25. Formerly RCW 43.131.357.] Repealed by 1993 c 165 § 1.

18.19.911 Regulation of counselors, social workers, mental health counselors, and marriage and family counselors—Repeal. [1990 c 297 § 14; 1987 c 512 § 26. Formerly RCW 43.131.358.] Repealed by 1993 c 165 § 1.

Chapter 18.36A
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18.36A.910 Naturopathy—Termination. [1990 c 297 § 11; 1987 c 447 § 21. Formerly RCW 43.131.351.] Repealed by 1993 c 90 § 1.

18.36A.911 Naturopathy—Repeal. [1990 c 297 § 12; 1987 c 447 § 22. Formerly RCW 43.131.352.] Repealed by 1993 c 90 § 1.

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18.64.260 Enforcement provisions—Disposition of fines—Remittance of district court fines, fees, penalties and forfeitures. [1987 c 202 § 184; 1969 ex.s. c 199 § 17; 1909 c 213 § 9; 1899 c 121 § 17; RRS § 10142.] Repealed by 1993 c 367 § 23.

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18.71A.070 Medical practice investigator—Appointment—Powers and duties. [1990 c 196 § 7; 1979 c 158 § 58; 1975 1st ex.s. c 190 § 3.] Repealed by 1993 c 367 § 23.

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18.76.040 Poison information centers—Activities. [1987 c 214 § 18; 1980 c 178 § 3. Formerly RCW 18.73.230.] Repealed by 1993 c 343 § 6.

Chapter 18.135
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18.135.080 Violations—Decertification. [1991 c 3 § 277; 1984 c 281 § 8.] Repealed by 1993 c 367 § 23.

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18.140.911 Effective dates—1989 c 414. [1989 c 414 § 27.] Repealed by 1993 c 30 § 24.

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Chapter 19.02
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19.02.038 Center—Duties—To be completed by date certain. [1982 c 182 § 13.] Repealed by 1993 c 142 § 1.

19.02.040 Board of review—Created—Members—Chairperson—Meetings—Duties. [1989 1st ex.s. c 9 § 316; 1987 c 505 § 6; 1985 c 466 § 37; 1982 c 182 § 5; 1979 c 158 § 77; 1977 ex.s. c 319 § 4.] Repealed by 1993 c 142 § 1.

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19.09.078 Nonprofit fund raisers—Application for registration—Contents—Fee. [1986 c 230 § 6.] Repealed by 1993 c 471 § 40, effective July 1, 1993.

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26.21.010 Definitions. [1972 ex.s. c 31 § 1; 1963 c 45 § 1; 1951 c 196 § 2.] Repealed by 1993 c 318 § 904, effective July 1, 1994. Later enactment, see RCW 26.21.005.

26.21.020 Remedies are additional. [1951 c 196 § 3.] Repealed by 1993 c 318 § 904, effective July 1, 1994. Later enactment, see RCW 26.21.025.

26.21.030 Residence, presence of obligee not material. [1963 c 45 § 2; 1951 c 196 § 4.] Repealed by 1993 c 318 § 904, effective July 1, 1994. Later enactment, see RCW 26.21.355(1).

26.21.040 Extradition or surrender of obligor. [1963 c 45 § 3; 1951 c 196 § 5.] Repealed by 1993 c 318 § 904, effective July 1, 1994. Later enactment, see RCW 26.21.640.

26.21.050 Extradition or surrender of obligor—Conditions. [1971 ex.s. c 46 § 30; 1963 c 45 § 4; 1951 c 196 § 6.] Repealed by 1993 c 318 § 904, effective July 1, 1994. Later enactment, see RCW 26.21.650.

26.21.060 Duty to support—Which law applies—Presumption of presence in responding state. [1963 c 45 § 5; 1951 c 196 § 7.] Repealed by 1993 c 318 § 904, effective July 1, 1994.

26.21.070 Subrogation by state or political subdivision for support furnished obligee—Continuing support. [1963 c 45 § 6; 1951 c 196 § 8.] Repealed by 1993 c 318 § 904, effective July 1, 1994.

26.21.080 Support and arrearages enforceable by action—Jurisdiction. [1963 c 45 § 7; 1951 c 196 § 9.] Repealed by 1993 c 318 § 904, effective July 1, 1994.

26.21.090 Petition—Contents. [1963 c 45 § 8; 1951 c 196 § 10.] Repealed by 1993 c 318 § 904, effective July 1, 1994.

26.21.092 Duty of prosecuting attorney to represent petitioner. [1963 c 45 § 9.] Repealed by 1993 c 318 § 904, effective July 1, 1994.

26.21.094 Petition on behalf of minor obligee. [1963 c 45 § 10.] Repealed by 1993 c 318 § 904, effective July 1, 1994. Later enactment, see RCW 26.21.215.

26.21.100 Findings of court—Certificate—Transmittal. [1963 c 45 § 11; 1951 c 196 § 11.] Repealed by 1993 c 318 § 904, effective July 1, 1994.

26.21.102 Responsibility for filing fees and court costs. [1963 c 45 § 12.] Repealed by 1993 c 318 § 904, effective July 1, 1994.

26.21.104 Jurisdiction by arrest. [1963 c 45 § 13.] Repealed by 1993 c 318 § 904, effective July 1, 1994.

26.21.106 Powers and duties of attorney general—Information agency. [1963 c 45 § 14.] Repealed by 1993 c 318 § 904, effective July 1, 1994.

26.21.110 Duties of court, responding—Duties of prosecuting attorney. [1963 c 45 § 15; 1951 c 196 § 12.] Repealed by 1993 c 318 § 904, effective July 1, 1994. Later enactment, see RCW 26.21.245.

26.21.112 Duty of prosecuting attorney to locate respondent or his property—Forwarding of documents when respondent in other jurisdiction—Notice to initiating court. [1963 c 45 § 16.] Repealed by 1993 c 318 § 904, effective July 1, 1994.

26.21.114 Proceedings to accord type of support claimed. [1963 c 45 § 17.] Repealed by 1993 c 318 § 904, effective July 1, 1994.

26.21.116 Continuance when petitioner absent from responding state. [1963 c 45 § 18.] Repealed by 1993 c 318 § 904, effective July 1, 1994.

26.21.120 Order to support—Enforcement against property—Enforcement in counties other than where order issued. [1963 c 45 § 19; 1951 c 196 § 13.] Repealed by 1993 c 318 § 904, effective July 1, 1994.

26.21.130 Orders—Transmittal to initiating state. [1963 c 45 § 20; 1951 c 196 § 14.] Repealed by 1993 c 318 § 904, effective July 1, 1994.

26.21.140 Orders—Enforcement—Particular powers. [1987 c 435 § 24; 1963 c 45 § 21; 1951 c 196 § 15.] Repealed by 1993 c 318 § 904, effective July 1, 1994.

26.21.150 Payments—Transmittal—Statement. [1987 c 435 § 25; 1963 c 45 § 22; 1951 c 196 § 16.] Repealed by 1993 c 318 § 904, effective July 1, 1994.

26.21.160 Payments—Receipt—Disbursement. [1987 c 435 § 26; 1963 c 45 § 23; 1951 c 196 § 17.] Repealed by 1993 c 318 § 904, effective July 1, 1994.

26.21.170 Evidence—Spouse as witness. [1963 c 45 § 24; 1951 c 196 § 18.] Repealed by 1993 c 318 § 904, effective July 1, 1994.

26.21.180 Proceedings not stayed by actions for divorce, separate maintenance, etc. [1963 c 45 § 25.] Repealed by 1993 c 318 § 904, effective July 1, 1994.

26.21.190 Multiple orders of support—Effect—Application of payments. [1963 c 45 § 26.] Repealed by 1993 c 318 § 904, effective July 1, 1994. Later enactment, see RCW 26.21.215.

26.21.200 Jurisdiction as to other proceedings not conferred. [1963 c 45 § 27.] Repealed by 1993 c 318 § 904, effective July 1, 1994.

26.21.210 Intercounty proceedings. [1963 c 45 § 28.] Repealed by 1993 c 318 § 904, effective July 1, 1994.

26.21.220 Foreign support order, additional remedies of obligee—Duty of prosecuting attorney. [1963 c 45 § 29.] Repealed by 1993 c 318 § 904, effective July 1, 1994.

26.21.230 Foreign support order—Registration of order—Jurisdiction of court. [1991 c 367 § 37; 1963 c 45 § 30.] Repealed by 1993 c 318 § 904, effective July 1, 1994. Later enactment, see RCW 26.21.480.

26.21.240 Foreign support order, additional remedies of obligee—Clerk to file in registry. [1963 c 45 § 31.] Repealed by 1993 c 318 § 904, effective July 1, 1994.

26.21.250 Foreign support order, additional remedies of obligee—Petition for registration. [1963 c 45 § 32.] Repealed by 1993 c 318 § 904, effective July 1, 1994. Later enactment, see RCW 26.21.490.

26.21.260 Foreign support order, additional remedies of obligee—Jurisdiction and procedure. [1963 c 45 § 33.] Repealed by 1993 c 318 § 904, effective July 1, 1994.

26.21.270 Foreign support order, additional remedies of obligee—Effect and enforcement. [1963 c 45 § 34.] Repealed by 1993 c 318 § 904, effective July 1, 1994. Later enactment, see RCW 26.21.500.

26.21.900 Purpose—1951 c 196. [1951 c 196 § 1.] Repealed by 1993 c 318 § 904, effective July 1, 1994.

Title 27
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27.34.090 State capital historical museum association account—Purposes. [1991 sp.s. c 13 § 36; 1985 c 57 § 7; 1983 c 91 § 9.] Repealed by 1993 c 101 § 15, effective July 1, 1993.

Title 28A
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Chapter 28A.300
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28A.300.260 Teachers recruiting future teachers program. [1993 c 217 § 1; 1991 c 252 § 1.] Recodified as RCW 28A.415.220 pursuant to 1993 c 217 § 2.

Chapter 28A.630
TEMPORARY PROVISIONS—SPECIAL PROJECTS

28A.630.860 Findings. [1992 c 137 § 1.] Repealed by 1993 c 335 § 12, effective May 12, 1993.

28A.630.884 Definitions. [1992 c 141 § 201.] Repealed by 1993 c 336 § 1201.

Title 28B
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Chapter 28B.10
COLLEGES AND UNIVERSITIES GENERALLY

28B.10.290 Use of state bank credit cards. [1977 ex.s. c 169 § 12; 1969 ex.s. c 269 § 10. Formerly RCW 28.76.560.] Repealed by 1993 c 500 § 11, effective July 1, 1993.

Chapter 28B.15
COLLEGE AND UNIVERSITY FEES

28B.15.824 Institutional operating fees accounts. [1992 c 231 § 36.] Repealed by 1993 c 379 § 206, effective July 1, 1993; and repealed by 1993 1st sp.s. c 18 § 14, effective July 1, 1993.

Chapter 28B.16
STATE HIGHER EDUCATION PERSONNEL LAW

28B.16.010 Purpose. [1969 ex.s. c 36 § 1. Formerly RCW 28.75.010.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.020 Definitions. [1985 c 461 § 8; 1985 c 365 § 2; 1983 1st ex.s. c 75 § 1; 1982 1st ex.s. c 53 § 14; 1977 ex.s. c 169 § 41; 1969 ex.s. c 36 § 2. Formerly RCW 28.75.020.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.030 Application. [1969 ex.s. c 36 § 3. Formerly RCW 28.75.030.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.040 Exempted personnel—Right of reversion to civil service status. [1990 c 60 § 201; 1982 1st ex.s. c 53 § 15; 1977 ex.s. c 94 § 1; 1969 ex.s. c 36 § 4. Formerly RCW 28.75.040.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.041 Exempted personnel—State internship program. [1985 c 442 § 9.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.042 Exempted personnel—Certain printing craft employees.[1985 c 266 § 1.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.043 Exempted personnel—Seattle Vocational Institute employees. [1991 c 238 § 107.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.060 State higher education personnel board—Members—Qualifications—Compensation and travel expenses of members—Officers—Quorum—Public record—Personnel director—Board personnel. [1984 c 287 § 63; 1981 c 338 § 19; 1975-'76 2nd ex.s. c 34 § 73; 1969 ex.s. c 36 § 6. Formerly RCW 28.75.060.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.070 State higher education personnel board—Meetings, hearings—Calling of, notice—Hearing officers, appointment—Majority of board to approve material released, findings—Oaths. [1983 c 23 § 1; 1969 ex.s. c 36 § 7. Formerly RCW 28.75.070.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.080 Personnel officers for institutions and related boards—Duties—Utilizing state department of personnel—Community college control in board. [1969 ex.s. c 36 § 8. Formerly RCW 28.75.080.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.090 Rules and regulations—To provide for employee participation in policy—Notice before board action—Rules available without charge. [1969 ex.s. c 36 § 9. Formerly RCW 28.75.090.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.100 Rules—Scope. [1990 c 60 § 202. Prior: 1985 c 461 § 9; 1985 c 365 § 1; 1983 1st ex.s. c 75 § 2; 1982 1st ex.s. c 53 § 16; 1979 c 151 § 15; 1977 ex.s. c 152 § 8; 1975 1st ex.s. c 122 § 1; 1973 1st ex.s. c 75 § 2; 1973 c 154 § 2; 1971 ex.s. c 19 § 1; 1969 ex.s. c 36 § 10. Formerly RCW 28.75.100. Former part of section, see RCW 28B.16.101.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.101 Rules—Areas for local administration and management. [1982 1st ex.s. c 53 § 19; 1977 ex.s. c 152 § 9. Prior: 1975 1st ex.s. c 122 § 1, part; 1973 1st ex.s. c 75 § 2, part; 1973 c 154 § 2, part; 1971 ex.s. c 19 § 1, part; 1969 ex.s. c 36 § 10, part. Formerly RCW 28B.16.100, part.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.105 Rules—Standardized employee performance evaluation procedures and forms. [1985 c 461 § 10; 1982 1st ex.s. c 53 § 17; 1977 ex.s. c 152 § 13.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.110 Rules—Salary schedules and compensation plans to reflect prevailing wages—Periodic wage surveys with recommended salary adjustments, report of with supporting data. [1985 c 94 § 1; 1980 c 11 § 3; 1979 c 151 § 16; 1977 ex.s. c 152 § 10; 1975 1st ex.s. c 122 § 2; 1969 ex.s. c 36 § 11. Formerly RCW 28.75.110.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.112 Rules—Salary schedules and compensation plans to reflect prevailing wages—Salary and fringe benefit surveys—Comprehensive plan—"Fringe benefits" defined. [1987 c 185 § 3; 1986 c 158 § 4; 1979 c 151 § 17; 1977 ex.s. c 152 § 11.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.113 Rules—Salary schedules and compensation plans to reflect prevailing wages—Criteria for salary surveys. [1977 ex.s. c 152 § 12.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.116 Salaries—Implementation of changes to achieve comparable worth. [1983 1st ex.s. c 75 § 3.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.120 Rules and regulations—Employee suspensions, reductions, dismissals or demotions—Notice of—Appeal to board—Appeals on exempt or nonexempt classification. [1969 ex.s. c 36 § 12. Formerly RCW 28.75.120.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.130 Hearings on appeals—Notice of—Subpoena power and oaths, certification to court of refusal to comply with—Record of hearing. [1969 ex.s. c 36 § 13. Formerly RCW 28.75.130.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.140 Hearings on appeals—Board findings, conclusions, and order. [1969 ex.s. c 36 § 14. Formerly RCW 28.75.140.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.150 Appeal from board order—Grounds—Notice of—Transcript, exhibits. [1969 ex.s. c 36 § 15. Formerly RCW 28.75.150.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.160 Appeal from board order—Court review, scope—Appellate review by supreme court or court of appeals. [1988 c 202 § 27; 1971 c 81 § 72; 1969 ex.s. c 36 § 16. Formerly RCW 28.75.160.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.170 Hearings in appeals—Hearing examiners may handle appeals—Appeals to board from. [1969 ex.s. c 36 § 26. Formerly RCW 28.75.170.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.180 Terminated employee can request placement on reemployment list—Reinstated employee entitled to employment rights. [1973 1st ex.s. c 46 § 3; 1969 ex.s. c 36 § 17. Formerly RCW 28.75.180.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.190 Employee's pay withheld unless compliance with chapter—Certification of payrolls. [1969 ex.s. c 36 § 19. Formerly RCW 28.75.190.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.200 Higher education personnel board service fund—Created—Contributions to—Use—Disbursements. [1979 c 151 § 18; 1969 ex.s. c 36 § 20. Formerly RCW 28.75.200.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.210 Employees currently under classified service system retain status—Rules, plans adopted under chapter 41.06 RCW, effective until superseded by board action. [1969 ex.s. c 36 § 29. Formerly RCW 28.75.210.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.220 Chapter not to alter existing collective bargaining unit or agreement. [1969 ex.s. c 36 § 31. Formerly RCW 28.75.220.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.230 Unfair labor practices provisions applicable to chapter. [1973 c 62 § 6; 1969 ex.s. c 215 § 14. Formerly RCW 28.75.230.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.240 Purchasing services by contract not prohibited—Limitations. [1979 ex.s. c 46 § 1.] Recodified as RCW 41.06.382, pursuant to 1993 c 281 § 70, effective July 1, 1993.

28B.16.255 Employee performance evaluations—Written notification of deficiencies. [1985 c 461 § 11.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.265 Employee performance evaluations—Termination of employment—Rules. [1985 c 461 § 12.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.275 Employee performance evaluations—Removal of supervisors tolerating deficient employees. [1985 c 461 § 13.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.300 Employee return-to-work program. [1990 c 204 § 4.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.900 Federal requirements make conflicts in chapter voidable—Rules and regulations to implement federal requirements. [1969 ex.s. c 36 § 18. Formerly RCW 28.75.900.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.910 Short title. [1969 ex.s. c 36 § 27. Formerly RCW 28.75.910.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.920 Effective date—1969 ex.s. c 36. [1969 ex.s. c 36 § 30. Formerly RCW 28.75.920.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

28B.16.930 Severability—1969 ex.s. c 36. [1969 ex.s. c 36 § 28. Formerly RCW 28.75.930.] Repealed by 1993 c 281 § 68, effective July 1, 1993.

Chapter 28B.35
REGIONAL UNIVERSITIES

28B.35.361 Exemption of certain veterans from payment of fees. [1990 c 154 § 3; 1985 c 390 § 46; 1977 ex.s. c 322 § 12; 1977 ex.s. c 169 § 59. Prior: 1973 1st ex.s. c 191 § 3; 1971 ex.s. c 279 § 16; 1969 ex.s. c 269 § 9. Cf. 1969 ex.s. c 269 § 5. Formerly RCW 28B.40.361, part; 28.81.084.] Repealed by 1993 1st sp.s. c 18 § 14, effective July 1, 1993.

Chapter 28B.40
THE EVERGREEN STATE COLLEGE

28B.40.361 Exemption of certain veterans from payment of fees. [1990 c 154 § 4; 1985 c 390 § 53; 1977 ex.s. c 322 § 11; 1977 ex.s. c 169 § 78; 1973 1st ex.s. c 191 § 3; 1971 ex.s. c 279 § 16; 1969 ex.s. c 269 § 9. Cf. 1969 ex.s. c 269 § 5. Formerly RCW 28.81.084.] Repealed by 1993 1st sp.s. c 18 § 14, effective July 1, 1993.

Chapter 28B.50
COMMUNITY AND TECHNICAL COLLEGES
(Formerly: Community colleges)

28B.50.858 Faculty tenure—Performance review and evaluation—Performance improvement plan—Revocation of tenure. [1991 c 294 § 5.] Repealed by 1993 c 188 § 4, effective July 1, 1993.

Title 28C
VOCATIONAL EDUCATION

Chapter 28C.10
PRIVATE VOCATIONAL SCHOOLS

28C.10.910 Schools registered under prior laws. [1986 c 299 § 28.] Repealed by 1993 c 445 § 5.

Title 29
ELECTIONS

Chapter 29.07
REGISTRATION OF VOTERS

29.07.040 Fees of deputy registrars. [1971 ex.s. c 202 § 6; 1965 c 9 § 29.07.040. Prior: 1957 c 251 § 7; prior: (i) 1945 c 74 § 1; 1933 c 1 § 28; Rem. Supp. 1945 § 5114-28; prior: 1915 c 16 § 14; RRS § 5132. (ii) 1933 c 1 § 10, part; RRS § 5114-10, part; prior: 1919 c 163 § 11, part; 1915 c 16 § 13, part; 1905 c 171 § 4, part; 1889 p 417 § 13, part; RRS § 5131, part.] Repealed by 1993 c 434 § 12, effective January 1, 1994.

Chapter 29.36
ABSENTEE VOTING

29.36.016 Ongoing absentee voters—Notice of termination of status—Renewal. [1985 c 273 § 3.] Repealed by 1993 c 418 § 2.

Title 35
CITIES AND TOWNS

Chapter 35.17
COMMISSION FORM OF GOVERNMENT

35.17.320 Legislative—Initiative—Ballots. [1965 c 7 § 35.17.320. Prior: 1911 c 116 § 21, part; RRS § 9110, part.] Repealed by 1993 c 256 § 14, effective May 7, 1993.

Chapter 35.24
THIRD CLASS CITIES

35.24.230 Ordinances—Prosecution for violations. [1965 c 7 § 35.24.230. Prior: 1915 c 184 § 20; 1890 p 187 § 122; RRS § 9134.] Repealed by 1993 c 83 § 10, effective July 1, 1994.

Chapter 35.27
TOWNS

35.27.320 Ordinances—Prosecution for violations. [1965 c 7 § 35.27.320. Prior: 1890 p 205 § 159; RRS § 9180.] Repealed by 1993 c 83 § 10, effective July 1, 1994.

Chapter 35.31
ACCIDENT CLAIMS AND FUNDS

35.31.010 Charter cities—Statement of residence required. [1967 c 164 § 11; 1965 c 7 § 35.31.010. Prior: 1957 c 224 § 2; 1909 c 83 § 1; RRS § 9478.] Repealed by 1993 c 449 § 13.

35.31.030 Compliance mandatory. [1965 c 7 § 35.31.030. Prior: 1909 c 83 § 3; RRS § 9480.] Repealed by 1993 c 449 § 13.

Chapter 35.58
METROPOLITAN MUNICIPAL CORPORATIONS

35.58.118 Commission or council form of management of metropolitan transportation function—Submission of proposition to

voters—Effect when no proposition submitted. [1971 ex.s. c 303 § 4; 1967 c 105 § 10.] Repealed by 1993 c 240 § 19.

35.58.440 County assessor's duties. [1965 c 7 § 35.58.440. Prior: 1957 c 213 § 44.] Repealed by 1993 c 240 § 19.

Title 35A
OPTIONAL MUNICIPAL CODE

Chapter 35A.57
INCLUSION OF CODE CITIES IN METROPOLITAN MUNICIPAL CORPORATIONS

35A.57.010 Code city may be component city of metropolitan municipal corporation. [1967 ex.s. c 119 § 35A.57.010.] Repealed by 1993 c 240 § 19.

Title 36
COUNTIES

Chapter 36.16
COUNTY OFFICERS—GENERAL

36.16.134 Action or proceeding against county officer or employee—Payment of damages and expenses of defense. [1993 c 449 § 4; 1989 c 250 § 1; 1979 ex.s. c 72 § 1.] Recodified as RCW 4.96.041 pursuant to 1993 c 449 § 14.

Chapter 36.45
CLAIMS AGAINST COUNTIES

36.45.020 Requisites of claim. [1963 c 4 § 36.45.020. Prior: 1957 c 224 § 8; prior: 1919 c 149 § 1, part; RRS § 4077, part.] Repealed by 1993 c 449 § 13.

36.45.030 Time for commencement of action. [1973 c 36 § 1; 1963 c 4 § 36.45.030. Prior: 1957 c 224 § 9; prior: 1919 c 149 § 1, part; RRS § 4077, part.] Repealed by 1993 c 449 § 13.

Title 41
PUBLIC EMPLOYMENT, CIVIL SERVICE AND PENSIONS

Chapter 41.05
STATE HEALTH CARE AUTHORITY

41.05.200 Washington state group purchasing association—Generally. [1993 c 492 § 228.] Repealed by 1993 c 492 § 230, effective June 30, 1998.

41.05.210 Washington state group purchasing association—Marketing plan. [1993 c 492 § 229.] Repealed by 1993 c 492 § 230, effective June 30, 1998.

Chapter 41.06
STATE CIVIL SERVICE LAW

41.06.230 Personnel board under prior law abolished—Transfer of personnel, equipment, records, etc. [1961 c 1 § 23 (Initiative Measure No. 207, approved November 8, 1960).] Decodified pursuant to 1993 c 281 § 71, effective July 1, 1993.

41.06.240 Status of persons employed prior to enactment of chapter—Prior state service considered in appointment rules. [1961 c 1 § 24 (Initiative Measure No. 207, approved November 8, 1960).] Decodified pursuant to 1993 c 281 § 71, effective July 1, 1993.

41.06.310 Abolishment of highway department personnel board and office of highway personnel director—Transfer to state personnel board. [1969 c 45 § 2.] Decodified pursuant to 1993 c 281 § 71, effective July 1, 1993.

41.06.430 Career executive program—Development—Policies and standards—Duties of board and director. [1990 c 60 § 102; 1980 c 118 § 7.] Repealed by 1993 c 281 § 69, effective July 1, 1993.

Chapter 41.32
TEACHERS' RETIREMENT

41.32.034 Service credit for leave of absence as elected official of an education association. [1992 c 3 § 1.] Repealed by 1993 c 95 § 10, effective April 21, 1993.

41.32.355 Service credit for leave of absence as elected official of an education association. [1992 c 3 § 2.] Repealed by 1993 c 95 § 10, effective April 21, 1993.

Chapter 41.56
PUBLIC EMPLOYEES' COLLECTIVE BARGAINING

41.56.460 Uniformed personnel—Interest arbitration panel—Basis for determination. [1988 c 110 § 1; 1987 c 521 § 2; 1983 c 287 § 4; 1979 ex.s. c 184 § 3; 1973 c 131 § 5.] Repealed by 1993 c 398 § 5, effective July 1, 1995.

Reviser's note: RCW 41.56.460 was amended four times during the 1993 legislative session, without cognizance of its repeal by 1993 c 398 § 5, effective July 1, 1995. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

41.56.495 Advanced life support technicians—Application of RCW 41.56.430 through 41.56.490. [1988 c 110 § 3; 1985 c 150 § 1.] Repealed by 1993 c 398 § 6, effective May 15, 1993.

Chapter 41.64
PERSONNEL APPEALS BOARD

41.64.900 Department of personnel—Transfer of civil service employees, documents, files, equipment, etc. [1981 c 311 § 2.] Decodified pursuant to 1993 c 281 § 71, effective July 1, 1993.

Title 42
PUBLIC OFFICERS AND AGENCIES

Chapter 42.17
DISCLOSURE—CAMPAIGN FINANCES—LOBBYING—RECORDS

42.17.243 Public office fund—What constitutes, restrictions on use—Reporting of—Disposal of remaining funds. [1991 sp.s. c 18 § 4; 1977 ex.s. c 336 § 5.] Repealed by 1993 c 2 § 35 (Initiative Measure No. 134, approved November 3, 1992).

Reviser's note: RCW 42.17.243 was repealed by 1993 c 2 § 35 (Initiative Measure No. 134), without cognizance of its amendment by 1991 sp.s. c 18 § 4. It has been decodified for publication purposes pursuant to RCW 1.12.025.

Title 43
STATE GOVERNMENT—EXECUTIVE

Chapter 43.08
STATE TREASURER

43.08.085 Electronic deposit of salaries and state funded benefit payments into financial institutions authorized. [1979 c 93 § 1.] Repealed by 1993 c 500 § 11, effective July 1, 1993.

Chapter 43.19

DEPARTMENT OF GENERAL ADMINISTRATION

43.19.020 Supervisor of banking—Appointment—Qualifications—Examiners—Deputization of assistant. [1993 c 472 § 20; 1977 ex.s. c 185 § 1; 1965 c 8 § 43.19.020. Prior: 1955 c 285 § 5; prior: (i) 1919 c 209 § 2; 1917 c 80 § 2; RRS § 3209. (ii) 1945 c 123 § 1; 1935 c 176 § 12; Rem. Supp. 1945 § 10786-11.] Recodified as RCW 43.320.060 pursuant to 1993 c 472 § 30, effective October 1, 1993.

43.19.030 Oath of bank examiners—Liability for acts performed in good faith. [1993 c 472 § 21; 1977 ex.s. c 270 § 8; 1975 c 40 § 7; 1965 c 8 § 43.19.030. Prior: 1943 c 217 § 1; 1919 c 209 § 3; 1917 c 80 § 3; Rem. Supp. 1943 § 3210.] Recodified as RCW 43.320.070 pursuant to 1993 c 472 § 30, effective October 1, 1993.

43.19.040 Powers and duties—Division of banking. [1965 c 8 § 43.19.040. Prior: 1955 c 285 § 6; 1935 c 176 § 17; RRS § 10786-16.] Repealed by 1993 c 472 § 28, effective October 1, 1993.

43.19.050 Office of supervisor of banking—Record of receipts and disbursements—Seal. [1993 c 472 § 22; 1965 c 8 § 43.19.050. Prior: 1917 c 80 § 4; RRS § 3211.] Recodified as RCW 43.320.080 pursuant to 1993 c 472 § 30, effective October 1, 1993.

43.19.080 Borrowing money by supervisor, deputy or employee—Penalty. [1993 c 472 § 23; 1965 c 8 § 43.19.080. Prior: 1917 c 80 § 11; RRS § 3218.] Recodified as RCW 43.320.090 pursuant to 1993 c 472 § 30, effective October 1, 1993.

43.19.090 Supervisor's annual report—Contents. [1993 c 472 § 24; 1977 c 75 § 43; 1965 c 8 § 43.19.090. Prior: 1917 c 80 § 13; RRS § 3220.] Recodified as RCW 43.320.100 pursuant to 1993 c 472 § 30, effective October 1, 1993.

43.19.095 Banking examination fund. [1993 c 472 § 25; 1981 c 241 § 1.] Recodified as RCW 43.320.110 pursuant to 1993 c 472 § 30, effective October 1, 1993.

43.19.100 Supervisor of savings and loan associations—Appointment—Qualifications—Deputization and appointment of assistants and personnel. [1982 c 3 § 113; 1977 ex.s. c 185 § 2; 1965 c 8 § 43.19.100. Prior: 1955 c 285 § 7; 1935 c 176 § 13; RRS § 10786-12.] Repealed by 1993 c 472 § 28, effective October 1, 1993.

43.19.110 Powers and duties—Division of savings and loan associations. [1965 c 8 § 43.19.110. Prior: 1955 c 285 § 8; 1935 c 176 § 18; RRS § 10786-17.] Repealed by 1993 c 472 § 28, effective October 1, 1993.

43.19.112 Savings and loan associations and credit unions examination fund. [1993 c 472 § 26; 1981 c 241 § 2.] Recodified as RCW 43.320.120 pursuant to 1993 c 472 § 30, effective October 1, 1993.

Chapter 43.21F

STATE ENERGY OFFICE

43.21F.047 Development of state energy strategy—Report to legislature. [1991 c 201 § 1.] Repealed by 1993 c 142 § 1.

Chapter 43.31

DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT

43.31.005 Findings. [1990 1st ex.s. c 17 § 68; 1985 c 466 § 1.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

Reviser's note: RCW 43.31.055 was both amended and repealed during the 1993 legislative session, each without reference to the other. It has been decodified, effective July 1, 1994, for publication purposes pursuant to RCW 1.12.025.

43.31.015 Department established. [1985 c 466 § 2.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.31.025 Definitions. [1987 c 348 § 8; 1985 c 466 § 3.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.31.035 Economic development coordination and cooperation. [1990 1st ex.s. c 17 § 69; 1985 c 466 § 4.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.31.045 Foreign and domestic investment outreach. [1985 c 466 § 5.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.31.055 Business expansion and trade development. [1985 c 466 § 6.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

Reviser's note: RCW 43.31.055 was both amended and repealed during the 1993 legislative session, each without reference to the other. It has been decodified, effective July 1, 1994, for publication purposes pursuant to RCW 1.12.025.

43.31.065 Tourism development and coordination. [1985 c 466 § 9.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.31.075 Film and video production. [1985 c 466 § 10.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.31.095 Economic development services and support. [1985 c 466 § 12.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.31.097 Local economic development service program—Associate development organizations. [1990 1st ex.s. c 17 § 71.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.31.105 Director—Appointment, term, salary. [1985 c 466 § 13.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.31.115 Personnel—Delegation of duties. [1985 c 466 § 14.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.31.130 Director, supervisors, staff may travel—Travel expenses. [1975-'76 2nd ex.s. c 34 § 110; 1965 c 8 § 43.31.130. Prior: 1957 c 215 § 13.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.31.135 Powers and duties of director—Transfer of funds—Cooperation with department required. [1987 c 505 § 30; 1985 c 466 § 17.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.31.373 Washington ambassador program—Findings. [1988 c 35 § 1; 1985 c 466 § 24; 1984 c 175 § 1.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.31.375 Definitions. [1985 c 466 § 25; 1984 c 175 § 2.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.31.377 Washington ambassador program. [1988 c 35 § 2; 1985 c 466 § 26; 1984 c 175 § 3.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.31.379 Washington ambassadors—Appointment—Approval—Terms. [1988 c 35 § 3; 1985 c 466 § 27; 1984 c 175 § 4.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.31.381 Washington ambassadors—Powers and duties. [1988 c 35 § 4; 1985 c 466 § 28; 1984 c 175 § 5.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.31.383 Washington ambassador program—Funds, gifts, grants, etc.—Fees. [1985 c 466 § 29; 1984 c 175 § 6.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.31.387 Washington ambassadors—Terms. [1985 c 466 § 31; 1984 c 175 § 8.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.31.430 Targeted sector programs—Biotechnology and food processing—Generally. [1989 c 423 § 2.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.31.432 Targeted sector programs—Biotechnology and food processing—Appraisal of sector. [1989 c 423 § 3.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.31.434 Targeted sector programs—Industrial extension grant program. [1989 c 423 § 6.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.31.436 Targeted sector programs—Industrial extension program. [1989 c 423 § 7.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.31.438 Targeted sector programs—Manufacturing networks or consortia. [1989 c 423 § 8.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.31.440 Targeted sector programs—Report to legislature. [1989 c 423 § 9.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.31.442 Targeted sector programs—Implementation. [1989 c 423 § 10.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.31.790 State international trade fairs—Declaration of purpose. [1975 1st ex.s. c 292 § 2; 1965 c 148 § 1.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

Chapter 43.57

INTERSTATE COMPACT COMMISSION

43.57.010 Commission created—Appointment of members—Purpose. [1965 c 8 § 43.57.010. Prior: 1953 c 130 § 1; 1951 c 113 § 1.] Repealed by 1993 c 142 § 1.

43.57.020 Powers and duties—Term of office—Compensation and travel expenses. [1984 c 287 § 83; 1975-'76 2nd ex.s. c 34 § 119; 1965 ex.s. c 164 § 1; 1965 c 8 § 43.57.020. Prior: 1953 c 130 § 2; 1951 c 113 § 2.] Repealed by 1993 c 142 § 1.

43.57.030 When agreement or compact is binding upon states. [1965 c 8 § 43.57.030. Prior: 1951 c 113 § 3.] Repealed by 1993 c 142 § 1.

Chapter 43.63A

DEPARTMENT OF COMMUNITY DEVELOPMENT

43.63A.020 Definitions. [1986 c 266 § 136; 1984 c 125 § 2; 1967 c 74 § 2.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.63A.030 Department established—Purpose of chapter. [1984 c 125 § 1; 1967 c 74 § 3.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.63A.040 Director—Appointment, term, salary. [1984 c 125 § 3; 1975 c 40 § 10; 1967 c 74 § 4.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.63A.050 Department of community development—Personnel. [1967 c 74 § 5.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.63A.060 Powers and duties of director. [1987 c 505 § 32; 1984 c 125 § 4; 1967 c 74 § 6.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.63A.065 Functions and responsibilities of department. [1992 c 198 § 7; 1990 1st ex.s. c 17 § 70; 1986 c 266 § 137; 1984 c 125 § 5.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.63A.078 Local development matching fund program. [1987 c 505 § 33; 1984 c 125 § 7.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.63A.095 Local community and economic development strategies. [1984 c 125 § 8.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.63A.100 Coordination of community affairs activities and programs. [1984 c 125 § 9; 1967 c 74 § 10.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.63A.130 Advisory or coordinating groups—Establishment. [1983 c 52 § 6; 1981 c 157 § 6; 1967 c 74 § 13.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.63A.140 Appropriations. [1967 c 74 § 14.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.63A.210 Assistance to local governments—Facilitation of business siting. [1985 c 85 § 1.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.63A.560 Rural economic development—Grant program—Advisory committee. [1990 1st ex.s. c 17 § 67.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

Chapter 43.82

STATE AGENCY HOUSING

43.82.015 Private construction of new facility for lease or purchase by state—Compliance with prevailing wage provisions required. [1987 c 321 § 1.] Repealed by 1993 c 110 § 3.

Chapter 43.115

STATE COMMISSION ON HISPANIC AFFAIRS

43.115.050 Duties—Advisory council. [1987 c 249 § 5; 1971 ex.s. c 34 § 5.] Repealed by 1993 c 261 § 7.

Chapter 43.131

WASHINGTON SUNSET ACT OF 1977

43.131.115 Select joint committee on sunset review—Membership—Terms—Vacancies. [1983 1st ex.s. c 27 § 5.] Repealed by 1993 c 142 § 1.

43.131.118 Select joint committee—Chairperson. [1983 1st ex.s. c 27 § 6.] Repealed by 1993 c 142 § 1.

43.131.120 Select joint committee—Duties. [1983 1st ex.s. c 27 § 7; 1979 c 22 § 2; 1977 ex.s. c 289 § 12.] Repealed by 1993 c 142 § 1.

43.131.329 International marketing program for agricultural commodities and trade—Termination. [1992 c 95 § 1; 1988 c 288 § 11; 1985 c 39 § 8.] Repealed by 1993 c 72 § 1.

43.131.330 International marketing program for agricultural commodities and trade—Repeal. [1992 c 95 § 2; 1988 c 288 § 12; 1985 c 39 § 9.] Repealed by 1993 c 72 § 1.

43.131.355 Basic health plan—Termination. [1987 1st ex.s. c 5 § 24.] Repealed by 1993 c 3 § 1, effective January 27, 1993.

43.131.356 Basic health plan—Repeal. [1987 1st ex.s. c 5 § 25.] Repealed by 1993 c 3 § 1, effective January 27, 1993.

43.131.375 Game fish mitigation—Termination. [1991 c 253 § 5.] Repealed by 1993 1st sp.s. c 2 § 80, effective July 1, 1993.

43.131.376 Game fish mitigation—Repeal. [1991 c 253 § 6.] Repealed by 1993 1st sp.s. c 2 § 80, effective July 1, 1993.

Chapter 43.136

TERMINATION OF TAX PREFERENCES

43.136.060 Development of legislation for the termination of tax preferences. [1982 1st ex.s. c 35 § 44.] Repealed by 1993 c 142 § 1.

Chapter 43.165

COMMUNITY REVITALIZATION TEAM—ASSISTANCE TO DISTRESSED AREAS

43.165.020 Community revitalization team established—Responsibility. [1985 c 229 § 2.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.165.030 Authority of team. [1987 c 195 § 13; 1985 c 229 § 3.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.165.040 Request for services—Response. [1985 c 229 § 4.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.165.050 Duties of team. [1985 c 229 § 5.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.165.060 Use of appropriations. [1985 c 229 § 6.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.165.070 Acceptance of gifts and grants—Agency cooperation. [1985 c 229 § 7.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.165.080 Duties of department of trade and economic development. [1987 c 195 § 14; 1985 c 229 § 8.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.165.090 Duties of employment security department. [1985 c 229 § 9.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.165.100 Duties of commission for vocational education. [1985 c 229 § 10.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.165.900 Severability—1985 c 229. [1985 c 229 § 14.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

43.165.901 Effective date—1985 c 229. [1985 c 229 § 15.] Repealed by 1993 c 280 § 82, effective July 1, 1994.

Chapter 43.220

WASHINGTON CONSERVATION CORPS

43.220.900 Termination of conservation corps—Expiration of chapter. [1987 c 367 § 5; 1983 1st ex.s. c 40 § 22.] Repealed by 1993 c 516 § 12, effective July 1, 1993.

Title 46
MOTOR VEHICLES

Chapter 46.12

CERTIFICATES OF OWNERSHIP AND REGISTRATION

46.12.120 Duty when purchaser or transferee is a dealer. [1990 c 238 § 5; 1975 c 25 § 11; 1972 ex.s. c 99 § 3; 1967 c 140 § 2; 1961 c 12 § 46.12.120. Prior: 1959 c 166 § 10; prior: 1947 c 164 § 4(c); 1937 c 188 § 6(c); Rem. Supp. 1947 § 6312-6(c).] Recodified as RCW 46.70.122 pursuant to 1993 c 307 § 18.

46.12.140 Certificates of ownership for dealers' used vehicles—Consignments. [1990 c 250 § 29; 1961 c 12 § 46.12.140. Prior: 1959 c 166 § 12; prior: 1947 c 164 § 4(e); 1937 c 188 § 6(e); Rem. Supp. 1947 § 6312-6(e).] Recodified as RCW 46.70.124 pursuant to 1993 c 307 § 18.

Chapter 46.44

SIZE, WEIGHT, LOAD

46.44.100 Enforcement—Weighing and lightening. [1971 ex.s. c 148 § 2; 1967 c 32 § 52; 1961 c 12 § 46.44.100. Prior: 1937 c 189 § 56; RRS § 6360-56.] Repealed by 1993 c 403 § 5.

46.44.160 Monthly or quarterly permits for additional tonnage. [1988 c 55 § 2; 1981 c 229 § 1; 1975-'76 2nd ex.s. c 64 § 21; 1975 1st ex.s. c 196 § 1.] Repealed by 1993 c 102 § 8, effective January 1, 1994. Cf. RCW 46.44.095.

Chapter 46.64

ENFORCEMENT

46.64.020 Nonappearance after written promise—Penalty—Response by mail, when. [1992 c 32 § 1; 1990 c 250 § 61; 1990 c 210 § 1; 1988 c 38 § 1; 1987 c 345 § 1; 1986 c 213 § 1; 1980 c 128 § 8; 1961 c 12 § 46.64.020. Prior: 1937 c 189 § 146; RRS § 6360-146.] Repealed by 1993 c 501 § 13.

46.64.027 Failure to comply. [1992 c 32 § 2.] Repealed by 1993 c 501 § 13.

Chapter 46.70

UNFAIR BUSINESS PRACTICES—DEALERS' LICENSES

46.70.150 Violations—Additional penalties as to license and plates. [1961 c 12 § 46.70.150. Prior: 1951 c 150 § 12.] Repealed by 1993 c 307 § 19.

Chapter 46.71

AUTOMOTIVE REPAIR

46.71.010 Definitions. [1982 c 62 § 1; 1977 ex.s. c 280 § 1.] Repealed by 1993 c 424 § 16, effective January 1, 1994.

46.71.020 Invoices—Requirements. [1977 ex.s. c 280 § 2.] Repealed by 1993 c 424 § 16, effective January 1, 1994.

46.71.030 Replaced parts—Return to customer—Exceptions. [1982 c 62 § 2; 1977 ex.s. c 280 § 3.] Repealed by 1993 c 424 § 16, effective January 1, 1994.

46.71.040 Estimate of costs—Alternatives—Customer's choice. [1982 c 62 § 3; 1977 ex.s. c 280 § 4.] Repealed by 1993 c 424 § 16, effective January 1, 1994.

46.71.043 Posting of signs required. [1982 c 62 § 4.] Repealed by 1993 c 424 § 16, effective January 1, 1994.

46.71.047 Excessive repair costs, conditions for recovery of—Costs of action and attorneys' fee. [1982 c 62 § 5.] Repealed by 1993 c 424 § 16, effective January 1, 1994.

46.71.050 Certain repairman's remedies barred—Conditions. [1982 c 62 § 6; 1977 ex.s. c 280 § 5.] Repealed by 1993 c 424 § 16, effective January 1, 1994.

46.71.065 Understating estimates prohibited. [1982 c 62 § 8.] Repealed by 1993 c 424 § 16, effective January 1, 1994.

Chapter 46.87

PROPORTIONAL REGISTRATION
(Formerly: International Registration Plan)

46.87.160 Quarterly fee payment. [1987 c 244 § 29.] Repealed by 1993 c 307 § 19.

Chapter 46.90

WASHINGTON MODEL TRAFFIC ORDINANCE

46.90.100 Chapter 46.04 RCW (Definitions) adopted by reference. [1975 1st ex.s. c 54 § 3.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.103 Abandoned vehicle. [1975 1st ex.s. c 54 § 4.] Repealed by 1993 c 121 § 5; and repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.106 Automobile hulk. [1975 1st ex.s. c 54 § 5.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.109 Bus. [1975 1st ex.s. c 54 § 6.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.112 Bus stop. [1975 1st ex.s. c 54 § 7.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.115 City. [1975 1st ex.s. c 54 § 8.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.118 Demolish. [1975 1st ex.s. c 54 § 9.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.121 Department. [1979 c 158 § 203; 1975 1st ex.s. c 54 § 10.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.124 Garage keeper. [1975 1st ex.s. c 54 § 11.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.127 Holidays. [1975 1st ex.s. c 54 § 12.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.130 Hulk hauler. [1975 1st ex.s. c 54 § 13.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.133 Loading zone. [1975 1st ex.s. c 54 § 14.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.136 Official time standard. [1975 1st ex.s. c 54 § 15.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.139 Ordinance. [1975 1st ex.s. c 54 § 16.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.142 Parking meter. [1975 1st ex.s. c 54 § 17.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.145 Parking meter space. [1975 1st ex.s. c 54 § 18.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.148 Parking meter zone. [1975 1st ex.s. c 54 § 19.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.151 Passenger loading zone. [1975 1st ex.s. c 54 § 20.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.154 Planting strip. [1975 1st ex.s. c 54 § 21.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.157 Police or police officer. [1975 1st ex.s. c 54 § 22.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.160 Police chief or chief of police. [1975 1st ex.s. c 54 § 23.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.163 Police department. [1975 1st ex.s. c 54 § 24.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.166 Registered disposer. [1975 1st ex.s. c 54 § 25.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.169 School bus zone. [1975 1st ex.s. c 54 § 26.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.172 Service parking. [1975 1st ex.s. c 54 § 27.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.175 Street. [1975 1st ex.s. c 54 § 28.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.178 Taxicab. [1975 1st ex.s. c 54 § 29.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.181 Taxicab stand. [1975 1st ex.s. c 54 § 30.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.184 Tow truck operator. [1975 1st ex.s. c 54 § 31.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.187 Traffic division. [1975 1st ex.s. c 54 § 32.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.190 U turn. [1975 1st ex.s. c 54 § 33.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.200 Certain RCW sections adopted by reference. [1983 c 30 § 1; 1980 c 65 § 1; 1975 1st ex.s. c 54 § 34.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.205 Public employees to obey traffic regulations. [1975 1st ex.s. c 54 § 35.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.210 Police administration. [1975 1st ex.s. c 54 § 36.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.215 Duty of traffic division. [1975 1st ex.s. c 54 § 37.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.220 Authority of police and fire department officials. [1975 1st ex.s. c 54 § 38.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.225 Records of traffic violations. [1975 1st ex.s. c 54 § 39.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.230 Traffic division to investigate accidents. [1975 1st ex.s. c 54 § 40.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.235 Traffic accident studies. [1975 1st ex.s. c 54 § 41.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.240 Traffic accident reports. [1975 1st ex.s. c 54 § 42.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.245 Traffic division to submit annual traffic safety report. [1975 1st ex.s. c 54 § 43.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.250 Police department to administer bicycle licenses. [1975 1st ex.s. c 54 § 44.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.255 Police department to regulate parking meters. [1975 1st ex.s. c 54 § 45.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.260 Traffic engineer. [1975 1st ex.s. c 54 § 46.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.265 Traffic engineer—Authority. [1975 1st ex.s. c 54 § 47.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.270 Local authority—Authority. [1975 1st ex.s. c 54 § 48.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.275 Traffic safety commission—Powers and duties. [1975 1st ex.s. c 54 § 49.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.300 Certain RCW sections adopted by reference. [1993 c 400 § 3; 1991 c 293 § 9; 1991 c 293 § 8; 1991 c 118 § 2; 1991 c 118 § 1; 1989 c 178 § 28; 1988 c 24 § 1; 1987 c 30 § 1; 1986 c 24 § 1; 1985 c 19 § 1. Prior: 1984 c 154 § 6; 1984 c 108 § 1; 1983 c 30 § 2; 1982 c 25 § 1; 1980 c 65 § 2; 1977 ex.s. c 60 § 1; 1975 1st ex.s. c 54 § 50.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.335 Owner of record presumed liable for costs when vehicle abandoned—Exception. [1983 c 3 § 124; 1975 1st ex.s. c 54 § 52.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.340 Contract with registered disposer to dispose of vehicles and hulks—Compliance required. [1975 1st ex.s. c 54 § 53.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.345 Stolen and abandoned vehicles—Reports of—Recovery, report required, penalty—Disposition. [1979 ex.s. c 136 § 100; 1975 1st ex.s. c 54 § 54.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.375 Disposition of abandoned junk motor vehicles. [1975 1st ex.s. c 54 § 60.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.400 Provisions of chapter refer to vehicles upon highway—Exceptions. [1975 1st ex.s. c 54 § 62.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.403 Required obedience to traffic ordinance. [1975 1st ex.s. c 54 § 63.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.406 Certain RCW sections adopted by reference. [1993 c 400 § 4; 1991 c 118 § 3; 1988 c 24 § 2; 1986 c 24 § 2; 1980 c 65 § 3; 1977 ex.s. c 60 § 2; 1975 1st ex.s. c 54 § 64.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.409 Traffic control devices required—Stopping, standing, and parking. [1975 1st ex.s. c 54 § 65.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.412 Crossing new pavement and markings. [1975 1st ex.s. c 54 § 66.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.415 Certain RCW sections adopted by reference. [1977 ex.s. c 60 § 3; 1975 1st ex.s. c 54 § 67.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.418 Prohibited crossing. [1975 1st ex.s. c 54 § 68.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.421 Certain RCW sections adopted by reference. [1975 1st ex.s. c 54 § 69.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.427 Certain RCW sections adopted by reference. [1993 c 400 § 5; 1988 c 24 § 3; 1985 c 19 § 2; 1984 c 108 § 2; 1982 c 25 § 2; 1980 c 65 § 4; 1977 ex.s. c 60 § 4; 1975 1st ex.s. c 54 § 71.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.430 Obedience to angle-parking signs or markings. [1975 1st ex.s. c 54 § 72.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.433 Parking not to obstruct traffic. [1975 1st ex.s. c 54 § 73.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.436 Parking for certain purposes unlawful. [1975 1st ex.s. c 54 § 74.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.439 Standing in passenger loading zone. [1975 1st ex.s. c 54 § 75.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.442 Standing in loading zone. [1975 1st ex.s. c 54 § 76.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.445 Standing in a tow-away zone. [1975 1st ex.s. c 54 § 77.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.448 Violating permits for loading or unloading at an angle to the curb. [1975 1st ex.s. c 54 § 78.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.451 Standing or parking on one-way roadways. [1975 1st ex.s. c 54 § 79.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.454 Stopping, standing, and parking of buses and taxicabs regulated. [1975 1st ex.s. c 54 § 80.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.457 Restricted use of bus stops and taxicab stands. [1975 1st ex.s. c 54 § 81.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.460 Right of way for parking. [1975 1st ex.s. c 54 § 82.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.463 Certain RCW sections adopted by reference. [1987 c 30 § 2; 1985 c 19 § 3. Prior: 1984 c 154 § 7; 1984 c 108 § 3; 1980 c 65 § 5; 1977 ex.s. c 60 § 5; 1975 1st ex.s. c 54 § 83.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.466 Funeral processions. [1975 1st ex.s. c 54 § 84.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.469 When permits required for parades and processions. [1975 1st ex.s. c 54 § 85.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.472 Interfering with processions. [1975 1st ex.s. c 54 § 86.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.475 Boarding or alighting from vehicles. [1975 1st ex.s. c 54 § 87.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.478 Unlawful riding. [1975 1st ex.s. c 54 § 88.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.481 Certain RCW sections adopted by reference. [1984 c 108 § 4; 1980 c 65 § 6; 1975 1st ex.s. c 54 § 89.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.500 Bicycle license required. [1975 1st ex.s. c 54 § 90.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.505 Bicycle license application. [1975 1st ex.s. c 54 § 91.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.510 Issuance of bicycle license. [1975 1st ex.s. c 54 § 92.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.515 Attachment of bicycle license plate or decal. [1975 1st ex.s. c 54 § 93.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.520 Inspection of bicycles. [1975 1st ex.s. c 54 § 94.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.525 Renewal of bicycle license. [1975 1st ex.s. c 54 § 95.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.530 Transfer of ownership. [1975 1st ex.s. c 54 § 96.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.535 Rental agencies. [1975 1st ex.s. c 54 § 97.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.540 Bicycle dealers. [1975 1st ex.s. c 54 § 98.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.545 Bicycles—Obedience to traffic control devices. [1975 1st ex.s. c 54 § 99.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.550 Bicycles—Parking. [1975 1st ex.s. c 54 § 100.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.555 Bicycles—Riding on sidewalks. [1975 1st ex.s. c 54 § 101.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.560 Bicycles—Penalties. [1979 ex.s. c 136 § 101; 1975 1st ex.s. c 54 § 102.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.565 Unclaimed bicycles. [1975 1st ex.s. c 54 § 103.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.600 Parking meter spaces. [1975 1st ex.s. c 54 § 104.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.610 Parking meters—Deposit of coins and time limits. [1975 1st ex.s. c 54 § 105.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.620 Parking meters—Use of slugs prohibited. [1975 1st ex.s. c 54 § 106.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.630 Tampering with parking meter. [1975 1st ex.s. c 54 § 107.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.640 Parking meters—Rule of evidence. [1975 1st ex.s. c 54 § 108.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.650 Parking meters—Application of proceeds. [1975 1st ex.s. c 54 § 109.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.660 Service parking. [1975 1st ex.s. c 54 § 110.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.700 Certain RCW sections adopted by reference. [1992 c 32 § 5; 1988 c 24 § 4; 1980 c 65 § 7; 1977 ex.s. c 60 § 6; 1975 1st ex.s. c 54 § 111.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.705 Certain RCW sections adopted by reference. [1982 c 25 § 3; 1980 c 65 § 8.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.710 Penalties. [1980 c 128 § 15; 1975 1st ex.s. c 54 § 112.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.720 Citation on illegally parked vehicle. [1975 1st ex.s. c 54 § 113.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.730 Failure to comply with traffic citation attached to parked vehicle. [1975 1st ex.s. c 54 § 114.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.740 Presumption in reference to illegal parking. [1975 1st ex.s. c 54 § 115.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.900 Certain RCW sections adopted by reference. [1984 c 108 § 5; 1975 1st ex.s. c 54 § 116.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.910 Uniformity of interpretation. [1975 1st ex.s. c 54 § 117.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.920 Short title. [1975 1st ex.s. c 54 § 118.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.930 Chapter not retroactive. [1975 1st ex.s. c 54 § 119.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.940 Severability—1975 1st ex.s. c 54. [1975 1st ex.s. c 54 § 120.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

46.90.950 Effect of headings. [1975 1st ex.s. c 54 § 121.] Repealed by 1993 c 400 § 6, effective July 1, 1994.

Title 47
PUBLIC HIGHWAYS AND TRANSPORTATION

Chapter 47.05
PRIORITY PROGRAMMING FOR HIGHWAY DEVELOPMENT

47.05.040 Six-year comprehensive highway improvement program and financial plan—Adoption—Biennial revision—Apportionment. [1987 c 179 § 4; 1979 ex.s. c 122 § 4; 1977 ex.s. c 235 § 15; 1975 1st ex.s. c 143 § 3; 1973 2nd ex.s. c 12 § 5; 1969 ex.s. c 39 § 4; 1963 c 173 § 4.] Repealed by 1993 c 490 § 7.

47.05.055 Application of chapter 122, Laws of 1979 ex. sess.—Deviations from plans. [1979 ex.s. c 122 § 6; 1975 1st ex.s. c 143 § 6.] Repealed by 1993 c 490 § 7.

47.05.070 Budget recommendation and six-year program and plan to be presented to governor and legislature—Contents. [1991 c 358 § 5; 1983 1st ex.s. c 53 § 31; 1979 ex.s. c 122 § 7; 1977 ex.s. c 151 § 45; 1973 2nd ex.s. c 12 § 7; 1963 c 173 § 7.] Repealed by 1993 c 490 § 7.

47.05.085 Delay of project for coordination with county-funded improvements. [1985 c 400 § 4.] Repealed by 1993 c 490 § 7.

Chapter 47.17
STATE HIGHWAY ROUTES

47.17.565 State route No. 306. [1970 ex.s. c 51 § 114.] Repealed by 1993 c 430 § 6.

Chapter 47.76
RAIL FREIGHT SERVICE

47.76.010 Legislative findings. [1993 c 224 § 1; 1983 c 303 § 4.] Recodified as RCW 47.76.200 pursuant to 1993 c 224 § 15.

47.76.020 State rail plan—Contents. [1993 c 224 § 2; 1985 c 432 § 1; 1983 c 303 § 5.] Recodified as RCW 47.76.220 pursuant to 1993 c 224 § 15.

47.76.030 Essential rail assistance account—Purposes. [1993 c 224 § 4; 1991 sp.s. c 13 § 22; 1991 c 363 § 125; 1990 c 43 § 11. Prior: 1985 c 432 § 2; 1985 c 57 § 64; 1983 c 303 § 6.] Recodified as RCW 47.76.250 pursuant to 1993 c 224 § 15.

47.76.040 Sale for use as rail service—Time limit. [1993 c 224 § 7; 1991 sp.s. c 15 § 61; 1991 c 363 § 126; 1985 c 432 § 3.] Recodified as RCW 47.76.280 pursuant to 1993 c 224 § 15.

47.76.050 Sale for other use—Authorized buyers, notice, terms, deed, deposit of moneys. [1993 c 224 § 8; 1991 sp.s. c 15 § 62; 1985 c 432 § 4.] Recodified as RCW 47.76.290 pursuant to 1993 c 224 § 15.

47.76.060 Sale for other use—Governmental entity. [1993 c 224 § 9; 1991 sp.s. c 15 § 63; 1985 c 432 § 5.] Recodified as RCW 47.76.300 pursuant to 1993 c 224 § 15.

47.76.070 Rent or lease of lands. [1993 c 224 § 10; 1991 sp.s. c 15 § 64; 1985 c 432 § 6.] Recodified as RCW 47.76.310 pursuant to 1993 c 224 § 15.

47.76.080 Sale at public auction. [1993 c 224 § 11; 1991 sp.s. c 15 § 65; 1985 c 432 § 7.] Recodified as RCW 47.76.320 pursuant to 1993 c 224 § 15.

47.76.090 Eminent domain exemptions. [1993 c 224 § 12; 1991 sp.s. c 15 § 66; 1985 c 432 § 8.] Recodified as RCW 47.76.330 pursuant to 1993 c 224 § 15.

47.76.100 Legislative finding. [1990 c 43 § 1.] Repealed by 1993 c 224 § 16.

47.76.110 State freight rail program. [1990 c 43 § 2.] Recodified as RCW 47.76.210 pursuant to 1993 c 224 § 15.

47.76.120 Freight rail planning. [1990 c 43 § 3.] Recodified as RCW 47.76.230 pursuant to 1993 c 224 § 15.

47.76.130 Freight rail preservation program. [1993 c 224 § 3; 1990 c 43 § 4.] Recodified as RCW 47.76.240 pursuant to 1993 c 224 § 15.

47.76.140 Rail corridor preservation guidelines. [1993 c 224 § 5; 1990 c 43 § 5.] Recodified as RCW 47.76.260 pursuant to 1993 c 224 § 15.

47.76.150 Goals of rail service preservation—Local participation. [1990 c 43 § 6.] Repealed by 1993 c 224 § 16.

47.76.160 Essential rail banking account—Creation, uses. [1993 c 224 § 6; 1991 sp.s. c 13 § 120; 1991 c 363 § 127; 1990 c 43 § 7.] Recodified as RCW 47.76.270 pursuant to 1993 c 224 § 15.

47.76.170 Evaluating program performance. [1993 c 224 § 13; 1990 c 43 § 8.] Recodified as RCW 47.76.340 pursuant to 1993 c 224 § 15.

47.76.190 Monitoring federal rail policies. [1990 c 43 § 10.] Recodified as RCW 47.76.350 pursuant to 1993 c 224 § 15.

Chapter 47.86
AIR TRANSPORTATION COMMISSION

47.86.010 Legislative findings, intent. [1990 c 298 § 39.] Repealed by 1993 1st sp.s. c 23 § 19, effective April 1, 1994.

47.86.020 Creation, membership. [1990 c 298 § 40.] Repealed by 1993 1st sp.s. c 23 § 19, effective April 1, 1994.

47.86.030 Studies, reports—When due. [1993 1st sp.s. c 23 § 18; 1992 c 190 § 3; 1991 c 231 § 7; 1990 c 298 § 41.] Repealed by 1993 1st sp.s. c 23 § 19, effective April 1, 1994.

47.86.035 Finding—Reports, when due. [1992 c 190 § 1.] Repealed by 1993 1st sp.s. c 23 § 19, effective April 1, 1994.

47.86.040 Consultants, funding. [1990 c 298 § 42.] Repealed by 1993 1st sp.s. c 23 § 19, effective April 1, 1994.

47.86.050 Operation, dissolution of commission. [1990 c 298 § 43.] Repealed by 1993 1st sp.s. c 23 § 19, effective April 1, 1994.

47.86.060 Staff, budget. [1990 c 298 § 44.] Repealed by 1993 1st sp.s. c 23 § 19, effective April 1, 1994.

47.86.900 Expiration. [1990 c 298 § 45.] Repealed by 1993 1st sp.s. c 23 § 19, effective April 1, 1994.

47.86.901 Severability—1990 c 298. [1990 c 298 § 47.] Repealed by 1993 1st sp.s. c 23 § 19, effective April 1, 1994.

Title 48
INSURANCE

Chapter 48.07
DOMESTIC INSURERS—POWERS

48.07.090 Management, control, and exclusive agency contracts. [1975 1st ex.s. c 266 § 4; 1953 c 197 § 3; 1947 c 79 § .07.09; Rem. Supp. 1947 § 45.07.09.] Repealed by 1993 c 462 § 105.

Chapter 48.31
MERGERS, REHABILITATION, LIQUIDATION

48.31.110 Uniform insurers liquidation act. [1993 c 462 § 78; 1961 c 194 § 12; 1947 c 79 § .31.11; Rem. Supp. 1947 § 45.31.11.] Recodified as RCW 48.99.010 pursuant to 1993 c 462 § 81.

48.31.120 Delinquency proceedings—Domestic insurers. [1947 c 79 § .31.12; Rem. Supp. 1947 § 45.31.12.] Recodified as RCW 48.99.020 pursuant to 1993 c 462 § 81.

48.31.130 Delinquency proceedings—Foreign insurers. [1947 c 79 § .31.13; Rem. Supp. 1947 § 45.31.13.] Recodified as RCW 48.99.030 pursuant to 1993 c 462 § 81.

48.31.140 Claims of nonresidents against domestic insurer. [1947 c 79 § .31.14; Rem. Supp. 1947 § 45.31.14.] Recodified as RCW 48.99.040 pursuant to 1993 c 462 § 81.

48.31.150 Claims of residents against foreign insurer. [1947 c 79 § .31.15; Rem. Supp. 1947 § 45.31.15.] Recodified as RCW 48.99.050 pursuant to 1993 c 462 § 81.

48.31.160 Priority of certain claims. [1993 c 462 § 79; 1947 c 79 § .31.16; Rem. Supp. 1947 § 45.31.16.] Recodified as RCW 48.99.060 pursuant to 1993 c 462 § 81.

48.31.170 Attachment, garnishment, execution stayed. [1947 c 79 § .31.17; Rem. Supp. 1947 § 45.31.17.] Recodified as RCW 48.99.070 pursuant to 1993 c 462 § 81.

48.31.180 Severability—Uniformity of interpretation. [1993 c 462 § 80; 1947 c 79 § .31.18; Rem. Supp. 1947 § 45.31.18.] Recodified as RCW 48.99.080 pursuant to 1993 c 462 § 81.

Chapter 48.31A
REGULATION OF ACQUISITION OF CONTROL OF DOMESTIC INSURERS—HOLDING COMPANY SYSTEMS

48.31A.005 Purpose. [1983 c 46 § 1.] Repealed by 1993 c 462 § 105.

48.31A.010 Merger or consolidation. [1973 1st ex.s. c 107 § 3; 1961 c 194 § 11; 1947 c 79 § .31.01; Rem. Supp. 1947 § 45.31.01.] Repealed by 1993 c 462 § 105.

48.31A.020 Exchanging or acquiring voting securities resulting in control of domestic insurer, requirements for. [1985 c 55 § 1; 1983 c 46 § 2; 1971 ex.s. c 13 § 4.] Repealed by 1993 c 462 § 105.

48.31A.030 Tender offers, request or agreement to acquire voting securities resulting in control of domestic insurer—Filings with commissioner required—Copy to issuer of securities. [1983 c 46 § 3; 1971 ex.s. c 13 § 5.] Repealed by 1993 c 462 § 105.

48.31A.040 Tender offers, request or agreement to acquire voting securities which result in control of domestic insurer—Information may be required of partners, officers, directors and owners. [1971 ex.s. c 13 § 6.] Repealed by 1993 c 462 § 105.

48.31A.050 Tender offers, request or agreement to acquire voting securities resulting in control of domestic insurer—Approval by commissioner—Time limitation—Requirements—Application of RCW 48.31A.020 through 48.31A.050. [1985 c 55 § 2; 1983 c 46 § 4; 1971 ex.s. c 13 § 7.] Repealed by 1993 c 462 § 105.

48.31A.055 Tender offers, request or agreement to acquire voting securities resulting in control of domestic insurer—Costs of hearing. [1985 c 55 § 3.] Repealed by 1993 c 462 § 105.

48.31A.060 Insurer members of insurance holding company system—Registration—Filing registration statement—Contents—Information required—Exemptions—Disclaimer of affiliation. [1971 ex.s. c 13 § 8.] Repealed by 1993 c 462 § 105.

48.31A.070 Material transactions by registered insurers with affiliates—Standards. [1971 ex.s. c 13 § 9.] Repealed by 1993 c 462 § 105.

48.31A.080 Factors to be considered in determining reasonableness of insurer's surplus to policyholders. [1971 ex.s. c 13 § 10.] Repealed by 1993 c 462 § 105.

48.31A.090 Extraordinary dividends or distributions by insurers subject to registration—Notice—Approval or disapproval. [1971 ex.s. c 13 § 11.] Repealed by 1993 c 462 § 105.

48.31A.100 Examination of registered insurers—Powers of commissioner. [1971 ex.s. c 13 § 12.] Repealed by 1993 c 462 § 105.

48.31A.110 Confidentiality of reports. [1971 ex.s. c 13 § 13.] Repealed by 1993 c 462 § 105.

48.31A.120 Jurisdiction of courts. [1971 ex.s. c 13 § 14.] Repealed by 1993 c 462 § 105.

48.31A.130 Rules, regulations, and orders. [1971 ex.s. c 13 § 15.] Repealed by 1993 c 462 § 105.

48.31A.900 Severability—1971 ex.s. c 13. [1971 ex.s. c 13 § 17.] Repealed by 1993 c 462 § 105.

Chapter 48.44
HEALTH CARE SERVICES

48.44.410 Nontermination for change in health of covered person. [1986 c 223 § 12.] Repealed by 1993 c 492 § 293, effective July 1, 1994.

Chapter 48.46
HEALTH MAINTENANCE ORGANIZATIONS

48.46.160 Report to legislature. [1975 1st ex.s. c 290 § 17.] Repealed by 1993 c 492 § 292, effective July 1, 1993.

48.46.905 Studies by legislature. [1975 1st ex.s. c 290 § 25.] Repealed by 1993 c 492 § 292, effective July 1, 1993.

Title 49
LABOR REGULATIONS

Chapter 49.30
AGRICULTURAL LABOR

49.30.030 Advisory committee on agricultural labor. [1989 c 380 § 85.] Repealed by 1993 c 142 § 1.

Chapter 49.78
FAMILY LEAVE

49.78.210 Supersession by federal legislation—No private right of action. [1989 1st ex.s. c 11 § 21.] Repealed by 1993 c 450 § 1.

Title 50
UNEMPLOYMENT COMPENSATION

Chapter 50.12
ADMINISTRATION

50.12.260 Annual report to legislature and governor—Contents. [1987 c 284 § 5.] Repealed by 1993 c 62 § 11, effective July 1, 1993.

Chapter 50.65
WASHINGTON SERVICE CORPS

50.65.900 Expiration of chapter. [1987 c 167 § 9; 1983 1st ex.s. c 50 § 14.] Repealed by 1993 c 302 § 7, effective July 1, 1993.

Title 53
PORT DISTRICTS

Chapter 53.34
TOLL FACILITIES

53.34.210 Actions—Statute of limitations—Notice and statement to be filed with district. [1959 c 236 § 21.] Repealed by 1993 c 449 § 13.

Title 62A
UNIFORM COMMERCIAL CODE

Article 3
COMMERCIAL PAPER

62A.3-120 Instruments "payable through" bank. [1965 ex.s. c 157 § 3-120.] Repealed by 1993 c 229 § 76, effective July 1, 1994.

62A.3-121 Instruments payable at bank. [1965 ex.s. c 157 § 3-121. Cf. former RCW 62.01.087; 1955 c 35 § 62.01.087; prior: 1899 c 149 § 87; RRS § 3477.] Repealed by 1993 c 229 § 76, effective July 1, 1994.

62A.3-122 Accrual of cause of action. [1965 ex.s. c 157 § 3-122.] Repealed by 1993 c 229 § 76, effective July 1, 1994.

62A.3-208 Reacquisition. [1965 ex.s. c 157 § 3-208. Cf. former RCW sections: (i) RCW 62.01.048; 1955 c 35 § 62.01.048; prior: 1899 c 149 § 48; RRS § 3439. (ii) RCW 62.01.050; 1955 c 35 § 62.01.050; prior: 1899 c 149 § 50; RRS § 3441. (iii) RCW 62.01.121; 1955 c 35 § 62.01.121; prior: 1899 c 149 § 121; RRS § 3511.] Repealed by 1993 c 229 § 76, effective July 1, 1994.

62A.3-506 Time allowed for acceptance or payment. [1965 ex.s. c 157 § 3-506. Cf. former RCW 62.01.136; 1955 c 35 § 62.01.136; prior: 1899 c 149 § 136; RRS § 3526.] Repealed by 1993 c 229 § 76, effective July 1, 1994.

62A.3-507 Dishonor; holder's right of recourse; term allowing representment. [1965 ex.s. c 157 § 3-507. Cf. former RCW sections: RCW 62.01.083, 62.01.084, 62.01.149, and 62.01.151; 1955 c 35 §§ 62.01.083, 62.01.084, 62.01.149, and 62.01.151; prior: 1899 c 149 §§ 83, 84, 149, and 151; RRS §§ 3474, 3475, 3539, and 3541.] Repealed by 1993 c 229 § 76, effective July 1, 1994.

62A.3-508 Notice of dishonor. [1965 ex.s. c 157 § 3-508. Cf. former RCW sections: RCW 62.01.090 through 62.01.108; 1955 c 35 §§ 62.01.090 through 62.01.108; prior: 1899 c 149 §§ 90 through 108; RRS §§ 3480 through 3498.] Repealed by 1993 c 229 § 76, effective July 1, 1994.

62A.3-509 Protest; noting for protest. [1965 ex.s. c 157 § 3-509. Cf. former RCW sections: (i) RCW 62.01.153 through 62.01.156; 1955 c 35 §§ 62.01.153 through 62.01.156; prior: 1899 c 149 §§ 153 through 156; RRS §§ 3543 through 3546. (ii) RCW 62.01.158; 1955 c 35 § 62.01.158; prior: 1899 c 149 § 158; RRS § 3548. (iii) RCW 62.01.160; 1955 c 35 § 62.01.160; prior: 1899 c 149 § 160; RRS § 3550.] Repealed by 1993 c 229 § 76, effective July 1, 1994.

62A.3-510 Evidence of dishonor and notice of dishonor. [1965 ex.s. c 157 § 3-510.] Repealed by 1993 c 229 § 76, effective July 1, 1994.

62A.3-511 Waived or excused presentment, protest or notice of dishonor or delay therein. [1965 ex.s. c 157 § 3-511. Cf. former RCW sections: (i) RCW 62.01.076; 1955 c 35 § 62.01.076; prior: 1899 c 149 § 76; RRS § 3467. (ii) RCW 62.01.079 through 62.01.082; 1955 c 35 §§ 62.01.079 through 62.01.082; prior: 1899 c 149 §§ 79 through 82; RRS §§ 3470 through 3473. (iii) RCW 62.01.109 through 62.01.116; 1955 c 35 §§ 62.01.109 through 62.01.116; prior: 1899 c 149 §§ 109 through 116; RRS §§ 3499 through 3506. (iv) RCW 62.01.130, 62.01.147, 62.01.148, 62.01.150, 62.01.151, and 62.01.159; 1955 c 35 §§ 62.01.130, 62.01.147, 62.01.148, 62.01.150, 62.01.151, and 62.01.159; prior: 1899 c 149 §§ 130, 147, 148, 150, 151, and 159; RRS §§ 3520, 3537, 3538, 3540, 3541, and 3549.] Repealed by 1993 c 229 § 76, effective July 1, 1994.

62A.3-606 Impairment of recourse or of collateral. [1965 ex.s. c 157 § 3-606. Cf. former RCW sections: (i) RCW 62.01.119; 1955 c 35 § 62.01.119; prior: 1899 c 149 § 119; RRS § 3509. (ii) RCW 62.01.120; 1955 c 35 § 62.01.120; prior: 1899 c 149 § 120; RRS § 3510.] Repealed by 1993 c 229 § 76, effective July 1, 1994.

62A.3-701 Letter of advice of international sight draft. [1965 ex.s. c 157 § 3-701.] Repealed by 1993 c 229 § 76, effective July 1, 1994.

62A.3-801 Drafts in a set. [1965 ex.s. c 157 § 3-801. Cf. former RCW sections: RCW 62.01.178 through 62.01.183; 1955 c 35 §§ 62.01.178 through 62.01.183; prior: 1899 c 149 §§ 178 through 183; RRS §§ 3568 through 3573.] Repealed by 1993 c 229 § 76, effective July 1, 1994.

62A.3-802 Effect of instrument on obligation for which it is given. [1965 ex.s. c 157 § 3-802.] Repealed by 1993 c 229 § 76, effective July 1, 1994.

62A.3-803 Notice to third party. [1965 ex.s. c 157 § 3-803.] Repealed by 1993 c 229 § 76, effective July 1, 1994.

62A.3-804 Lost, destroyed or stolen instruments. [1965 ex.s. c 157 § 3-804.] Repealed by 1993 c 229 § 76, effective July 1, 1994.

62A.3-805 Instruments not payable to order or to bearer. [1965 ex.s. c 157 § 3-805.] Repealed by 1993 c 229 § 76, effective July 1, 1994.

Article 6

BULK TRANSFERS

62A.6-101 Short title. [1965 ex.s. c 157 § 6-101.] Repealed by 1993 c 395 § 6-101.

62A.6-102 "Bulk transfer"; transfers of equipment; enterprises subject to this Article; bulk transfers subject to this Article. [1967 c 114 § 2; 1965 ex.s. c 157 § 6-102. Cf. former RCW 63.08.010; 1939 c 122 § 4; 1925 ex.s. c 135 § 1; RRS § 5835; prior: 1913 c 175 § 4; 1901 c 109 §§ 4, 5.] Repealed by 1993 c 395 § 6-101.

62A.6-103 Transfers excepted from this Article. [1965 ex.s. c 157 § 6-103. Cf. former RCW 63.08.010; 1939 c 122 § 4; 1925 ex.s. c 135 § 1; RRS § 5835; prior: 1913 c 175 § 4; 1901 c 109 §§ 4, 5.] Repealed by 1993 c 395 § 6-101.

62A.6-104 Schedule of property, list of creditors. [1975 1st ex.s. c 278 § 33; 1965 ex.s. c 157 § 6-104. Cf. former RCW sections: (i) RCW 63.08.020; 1953 c 247 § 1; 1943 c 98 § 1, part; 1939 c 122 § 1, part; 1925 ex.s. c 135 § 2, part; Rem. Supp. 1943 § 5832, part; prior: 1901 c 109 § 1, part. (ii) RCW 63.08.040; 1953 c 247 § 3; 1943 c 98 § 1, part; 1939 c 122 § 1, part; 1925 ex.s. c 135 § 2, part; Rem. Supp. 1943 § 5832, part; prior: 1901 c 109 § 1, part. (iii) RCW 63.08.050; 1953 c 247 § 4; 1939 c 122 § 2; 1925 ex.s. c 135 § 3; RRS § 5833; prior: 1901 c 109 § 2. (iv) RCW 63.08.060; 1939 c 122 § 3; 1925 ex.s. c 135 § 4; RRS § 5834; prior: 1901 c 109 § 3.] Repealed by 1993 c 395 § 6-101.

62A.6-105 Notice to creditors—Exceptions. [1971 c 23 § 1; 1965 ex.s. c 157 § 6-105. Cf. former RCW 63.08.040; 1953 c 247 § 3; 1943 c 98 § 1, part; 1939 c 122 § 1, part; 1925 ex.s. c 135 § 2, part; Rem. Supp. 1943 § 5832, part; prior: 1901 c 109 § 1, part.] Repealed by 1993 c 395 § 6-101.

62A.6-106 Application of the proceeds. [1965 ex.s. c 157 § 6-106. Cf. former RCW 63.08.050; 1953 c 247 § 4; 1939 c 122 § 2; 1925 ex.s. c 135 § 3; RRS § 5833; prior: 1901 c 109 § 2.] Repealed by 1993 c 395 § 6-101.

62A.6-107 The notice. [1975 1st ex.s. c 278 § 34; 1965 ex.s. c 157 § 6-107. Cf. former RCW 63.08.040; 1953 c 247 § 3; 1943 c 98 § 1, part; 1939 c 122 § 1, part; 1925 ex.s. c 135 § 2, part; Rem. Supp. 1943 § 5832, part; prior: 1901 c 109 § 1, part.] Repealed by 1993 c 395 § 6-101.

62A.6-108 Auction sales; "auctioneer". [1965 ex.s. c 157 § 6-108.] Repealed by 1993 c 395 § 6-101.

62A.6-109 What creditors protected; credit for payment to particular creditors. [1967 c 114 § 3; 1965 ex.s. c 157 § 6-109. Cf. former RCW sections: (i) RCW 63.08.020; 1953 c 247 § 1; 1943 c 98 § 1, part; 1939 c 122 § 1, part; 1925 ex.s. c 135 § 2, part; Rem. Supp. 1943 § 5832, part; prior: 1901 c 109 § 1, part; (ii) RCW 63.08.050; 1953 c 247 § 4; 1939 c 122 § 2; 1925 ex.s. c 135 § 3; RRS § 5833; prior: 1901 c 109 § 2.] Repealed by 1993 c 395 § 6-101.

62A.6-110 Subsequent transfers. [1965 ex.s. c 157 § 6-110.] Repealed by 1993 c 395 § 6-101.

62A.6-111 Limitation of actions and levies. [1965 ex.s. c 157 § 6-111.] Repealed by 1993 c 395 § 6-101.

Article 9

SECURED TRANSACTIONS; SALES OF ACCOUNTS, CONTRACT RIGHTS AND CHATTEL PAPER

62A.9-111 Applicability of bulk transfer laws. [1965 ex.s. c 157 § 9-111.] Repealed by 1993 c 395 § 6-101.

Title 67
SPORTS AND RECREATION—CONVENTION FACILITIES

Chapter 67.08
BOXING, SPARRING, AND WRESTLING

67.08.001 State professional athletic commission—Creation—Terms—Vacancies. [1989 c 127 § 5; 1988 c 19 § 1; 1981 c 337 § 1; 1933 c 184 § 1; RRS § 8276-1. Formerly RCW 43.48.010.] Repealed by 1993 c 278 § 26, effective July 1, 1993.

67.08.003 Official bonds—Compensation and travel expenses. [1984 c 287 § 99; 1977 c 9 § 1. Prior: 1975-'76 2nd ex.s. c 48 § 1; 1975-'76 2nd ex.s. c 34 § 153; 1959 c 305 § 1; 1933 c 184 § 2; RRS § 8276-2. Formerly RCW 43.48.020.] Repealed by 1993 c 278 § 26, effective July 1, 1993.

67.08.005 Meetings—Officers—Quorum—Office. [1981 c 337 § 2; 1933 c 184 § 3; RRS § 8276-3. Formerly RCW 43.48.030.] Repealed by 1993 c 278 § 26, effective July 1, 1993.

67.08.009 Records—Seal—Oaths—Compulsory process. [1933 c 184 § 5; RRS § 8276-5. Formerly RCW 43.48.050.] Repealed by 1993 c 278 § 26, effective July 1, 1993.

Title 68
CEMETERIES, MORGUES, AND HUMAN REMAINS

Chapter 68.50
HUMAN REMAINS

68.50.280 Corneal tissue for transplantation—Authority of county coroner, medical examiner or designee to provide—Conditions. [1989 1st ex.s. c 9 § 224; 1987 c 331 § 64; 1975-'76 2nd ex.s. c 60 § 1. Formerly RCW 68.08.300.] Repealed by 1993 c 228 § 21.

68.50.340 Definitions. [1981 c 44 § 1; 1969 c 80 § 2. Formerly RCW 68.08.500.] Repealed by 1993 c 228 § 21.

68.50.350 Gift of any part of body to take effect upon death authorized—Who may make—Priorities—Examination—Rights of donee paramount. [1987 c 331 § 66; 1969 c 80 § 3. Formerly RCW 68.08.510.] Repealed by 1993 c 228 § 21.

68.50.360 Eligible donees—Eye removal by embalmers. [1982 c 9 § 1; 1979 c 37 § 1; 1969 c 80 § 4. Formerly RCW 68.08.520.] Repealed by 1993 c 228 § 21.

68.50.370 Gift by will, card, document, or driver's license—Procedures. [1987 c 331 § 67; 1975 c 54 § 2; 1969 c 80 § 5. Formerly RCW 68.08.530.] Repealed by 1993 c 228 § 21.

68.50.380 Delivery of will, card, or other document to specified donee. [1969 c 80 § 6. Formerly RCW 68.08.540.] Repealed by 1993 c 228 § 21.

68.50.390 Amendment or revocation of gift. [1969 c 80 § 7. Formerly RCW 68.08.550.] Repealed by 1993 c 228 § 21.

68.50.400 Acceptance or rejection of gift—Time of death—Liability for damages. [1987 c 331 § 68; 1969 c 80 § 8. Formerly RCW 68.08.560.] Repealed by 1993 c 228 § 21.

68.50.410 Uniformity. [1987 c 331 § 69; 1969 c 80 § 9. Formerly RCW 68.08.600.] Repealed by 1993 c 228 § 21.

68.50.420 Short title. [1987 c 331 § 70; 1969 c 80 § 11. Formerly RCW 68.08.610.] Repealed by 1993 c 228 § 21.

Title 70
PUBLIC HEALTH AND SAFETY

Chapter 70.05
LOCAL HEALTH DEPARTMENTS, BOARDS, OFFICERS—REGULATIONS

70.05.005 Transfer of duties to the department of health. [1989 1st ex.s. c 9 § 243.] Repealed by 1993 c 492 § 257, effective July 1, 1995.

70.05.020 Cities and towns—Organization of local health boards. [1967 ex.s. c 51 § 2.] Repealed by 1993 c 492 § 257, effective July 1, 1995.

70.05.132 Expenses of state or county in enforcing health laws and regulations—Payment by city or town—Procedure on failure to pay. [1984 c 25 § 9; 1983 1st ex.s. c 39 § 6.] Repealed by 1993 c 492 § 257, effective July 1, 1995.

70.05.145 Payments by city or town to support health department—Agreement with jurisdiction operating department—Procedure if agreement not reached—Board of arbitrators. [1983 1st ex.s. c 39 § 5.] Repealed by 1993 c 492 § 257, effective July 1, 1995.

Chapter 70.08
COMBINED CITY-COUNTY HEALTH DEPARTMENTS

70.08.010 Combined city-county health departments—Establishment. [1993 c 492 § 244; 1985 c 124 § 1; 1949 c 46 § 1; Rem. Supp. 1949 § 6099-30.] Recodified as RCW 70.05.037 pursuant to 1993 c 492 § 256, effective July 1, 1995.

Chapter 70.12
PUBLIC HEALTH FUNDS

70.12.005 Transfer of duties to the department of health. [1989 1st ex.s. c 9 § 245.] Repealed by 1993 c 492 § 257, effective July 1, 1995.

Chapter 70.24
CONTROL AND TREATMENT OF SEXUALLY TRANSMITTED DISEASES
(Formerly: Control and treatment of venereal diseases)

70.24.440 Class IV human immunodeficiency virus insurance program. [1993 c 264 § 1; 1989 c 260 § 3.] Recodified as RCW 74.09.757 pursuant to 1993 c 264 § 2.

Chapter 70.46
HEALTH DISTRICTS

70.46.030 Districts of one county—Board of health—Membership—Chairman. [1991 c 363 § 141; 1969 ex.s. c 70 § 1; 1967 ex.s. c 51 § 5; 1945 c 183 § 3; Rem. Supp. 1945 § 6099-12.] Repealed by 1993 c 492 § 257, effective July 1, 1995.

70.46.040 Inclusion of a city over 100,000 population. [1967 ex.s. c 51 § 7; 1945 c 183 § 4; Rem. Supp. 1945 § 6099-13.] Repealed by 1993 c 492 § 257, effective July 1, 1995.

70.46.050 Representation on the district health board. [1967 ex.s. c 51 § 8; 1957 c 100 § 1; 1945 c 183 § 5; Rem. Supp. 1945 § 6099-14.] Repealed by 1993 c 492 § 257, effective July 1, 1995.

Chapter 70.96
ALCOHOLISM

70.96.150 Inability to contribute to cost no bar to admission. [1959 c 85 § 15.] Repealed by 1989 c 270 § 35; and subsequently recodified as RCW 70.96A.430 pursuant to 1993 c 131 § 1.

Reviser's note: This section was amended by 1989 c 271 § 308, without cognizance of the repeal thereof; and subsequently recodified without cognizance of the repeal thereof.

Chapter 70.127

HOME HEALTH, HOSPICE, AND HOME CARE AGENCIES—LICENSURE

70.127.160 Continued certification under chapter 70.126 RCW—Rules. [1988 c 245 § 17.] Repealed by 1993 c 42 § 12, effective June 30, 1993.

70.127.900 Effective date—Implementation—1988 c 245. [1988 c 245 § 37.] Repealed by 1993 c 42 § 12, effective June 30, 1993.

70.127.901 Expiration of chapter—Review. [1988 c 245 § 38.] Repealed by 1993 c 42 § 12, effective June 30, 1993.

Title 72
STATE INSTITUTIONS

Chapter 72.09

DEPARTMENT OF CORRECTIONS (CORRECTIONS REFORM ACT OF 1981)

72.09.102 Use and purchase of commodities produced by correctional systems—Plans—Legislative review. [1986 c 94 § 1.] Repealed by 1993 1st sp.s. c 20 § 8.

Chapter 72.36

SOLDIERS' AND VETERANS' HOMES

72.36.080 Who may be admitted to veterans' home. [1977 ex.s. c 186 § 5; 1975 c 13 § 2; 1973 1st ex.s. c 154 § 104; 1959 c 28 § 72.36.080. Prior: 1955 c 104 § 1; 1927 c 276 § 2; 1915 c 106 § 4; RRS § 10732.] Repealed by 1993 1st sp.s. c 3 § 11, effective July 1, 1993.

72.36.130 Veterans' home revolving fund—Income and disbursements—Expenditure and revenue control. [1977 ex.s. c 186 § 8.] Repealed by 1993 1st sp.s. c 3 § 11, effective July 1, 1993.

Chapter 72.41

BOARD OF TRUSTEES—SCHOOL FOR THE BLIND

72.41.080 Local advisory committees. [1973 c 118 § 8.] Repealed by 1993 c 147 § 11.

Chapter 72.42

BOARD OF TRUSTEES—SCHOOL FOR THE DEAF

72.42.080 Local advisory committees. [1972 ex.s. c 96 § 8.] Repealed by 1993 c 147 § 11.

Chapter 72.60

CORRECTIONAL INDUSTRIES
(Formerly: Institutional industries)

72.60.190 Supervisor of purchasing may contract for and shall give preference to goods produced by correctional industries. [1981 c 136 § 104; 1979 ex.s. c 160 § 4; 1959 c 28 § 72.60.190. Prior: 1957 c 30 § 2. Formerly RCW 43.95.180.] Repealed by 1993 1st sp.s. c 20 § 8.

Title 74
PUBLIC ASSISTANCE

Chapter 74.09

MEDICAL CARE

74.09.524 Medical assistance—Reimbursement to schools for services for handicapped children. [1990 c 33 § 595; 1989 c 400 § 4.] Repealed by 1993 c 149 § 11, effective September 1, 1993.

Chapter 74.29

VOCATIONAL REHABILITATION AND SERVICES FOR HANDICAPPED PERSONS

74.29.025 Additional duties of state agency—State-wide program—Rules and regulations—Report. [1977 c 75 § 18; 1969 ex.s. c 223 § 28A.10.025. Prior: 1967 c 118 § 5. Formerly RCW 28A.10.025, 28.10.035.] Repealed by 1993 c 213 § 5.

74.29.100 Sheltered employment and supervised work programs—Purpose. [1970 ex.s. c 15 § 24; 1969 c 105 § 1. Formerly RCW 28A.10.100, 28.10.100.] Repealed by 1993 c 213 § 5.

74.29.105 Sheltered employment and supervised work programs—"A disadvantaged person" defined for chapter purposes. [1969 c 105 § 3. Formerly RCW 28A.10.105, 28.10.105.] Repealed by 1993 c 213 § 5.

74.29.110 Sheltered employment and supervised work programs—Federal funds. [1970 ex.s. c 15 § 25; 1969 c 105 § 4. Formerly RCW 28A.10.110, 28.10.110.] Repealed by 1993 c 213 § 5.

Chapter 74.46

NURSING HOME AUDITING AND COST REIMBURSEMENT ACT OF 1980

74.46.260 Compensation for administrative personnel. [1980 c 177 § 26.] Repealed by 1993 1st sp.s. c 13 § 19, effective July 1, 1993.

74.46.495 Inflation adjustments. [1983 1st ex.s. c 67 § 26.] Repealed by 1993 1st sp.s. c 13 § 19, effective July 1, 1993.

Title 75
FOOD FISH AND SHELLFISH

Chapter 75.25

RECREATIONAL LICENSES

75.25.015 Hood Canal shrimp licenses—Required—Fees. [1989 c 305 § 2; 1984 c 80 § 6; 1983 1st ex.s. c 31 § 1.] Repealed by 1993 1st sp.s. c 17 § 31, effective January 1, 1994.

75.25.040 Razor clam licenses—Fees. [1989 c 305 § 3; 1983 1st ex.s. c 46 § 91; 1980 c 81 § 1; 1979 ex.s. c 243 § 4.] Repealed by 1993 1st sp.s. c 17 § 31, effective January 1, 1994.

75.25.090 Personal use fishing licenses—Fees. [1989 c 305 § 5; 1987 c 87 § 1.] Repealed by 1993 1st sp.s. c 17 § 31, effective January 1, 1994.

Reviser's note: RCW 75.25.090 was both amended and repealed during the 1993 legislative session, each without reference to the other. It has been decodified, effective January 1, 1994, for publication purposes pursuant to RCW 1.12.025.

75.25.100 Salmon licenses—Fees. [1989 c 305 § 6; 1987 c 87 § 2; 1983 1st ex.s. c 46 § 94; 1977 ex.s. c 327 § 11. Formerly RCW 75.28.610.] Repealed by 1993 1st sp.s. c 17 § 31, effective January 1, 1994.

75.25.126 Sturgeon license—Fees. [1989 c 305 § 7.] Repealed by 1993 1st sp.s. c 17 § 31, effective January 1, 1994.

Chapter 75.28

COMMERCIAL LICENSES

75.28.012 Licensing districts—Created. [1983 1st ex.s. c 46 § 102; 1971 ex.s. c 283 § 2; 1957 c 171 § 1.] Repealed by 1993 c 340 § 56, effective January 1, 1994.

Reviser's note: RCW 75.28.012 was both amended and repealed during the 1993 legislative session, each without reference to the other. It has been decodified, effective January 1, 1994, for publication purposes pursuant to RCW 1.12.025.

75.28.035 Application for commercial licenses—Vessel registration, license decals—Additional operator—Transfer or replacement.

[1989 c 316 § 1; 1983 1st ex.s. c 46 § 107; 1959 c 309 § 9; 1955 c 12 § 75.28.100. Prior: 1951 c 271 § 8; 1949 c 112 § 68; Rem. Supp. 1949 § 5780-506. Formerly RCW 75.28.100.] Repealed by 1993 c 340 § 56, effective January 1, 1994.

75.28.060 Licenses transferable—Determination of fee for gear operated by nonresident. [1983 1st ex.s. c 46 § 109; 1971 ex.s. c 283 § 4; 1965 ex.s. c 30 § 1; 1959 c 309 § 8; 1955 c 212 § 3; 1955 c 12 § 75.28.060. Prior: 1951 c 271 § 5; 1949 c 112 § 74, part; Rem. Supp. 1949 § 5780-512, part.] Repealed by 1993 c 340 § 56, effective January 1, 1994.

75.28.065 Fees—Adjustment by director—Expiration of section. [1989 c 316 § 19.] Repealed by 1993 1st sp.s. c 17 § 31, effective January 1, 1994.

75.28.070 Display of license—Clam or oyster farm, oyster reserve, wholesale fish dealer. [1993 c 340 § 52; 1983 1st ex.s. c 46 § 110; 1955 c 12 § 75.28.070. Prior: 1949 c 112 § 74, part; Rem. Supp. 1949 § 5780-512, part.] Recodified as RCW 75.28.302, pursuant to 1993 c 340 § 54, effective January 1, 1994.

75.28.134 Hood Canal shrimp endorsement—Fee—Limitation on shrimp pots. [1993 c 340 § 50; 1989 c 316 § 9; 1983 1st ex.s. c 31 § 2.] Recodified as RCW 75.12.440, pursuant to 1993 c 340 § 54, effective January 1, 1994.

75.28.140 Commercial fishing licenses for shellfish and food fish other than salmon—Fees. [1989 c 316 § 10; 1983 1st ex.s. c 46 § 121; 1977 ex.s. c 327 § 7; 1971 ex.s. c 283 § 8; 1965 ex.s. c 73 § 5; 1959 c 309 § 13; 1955 c 12 § 75.28.140. Prior: 1951 c 271 § 12; 1949 c 112 § 69(4); Rem. Supp. 1949 § 5780-507(4).] Repealed by 1993 c 340 § 56, effective January 1, 1994.

75.28.235 Herring spawn on kelp permits—Number limited. [1993 c 340 § 36; 1989 c 176 § 1.] Recodified as RCW 75.30.260, pursuant to 1993 c 340 § 54, effective January 1, 1994.

75.28.245 Herring spawn on kelp permits—Auction. [1993 c 340 § 37; 1989 c 176 § 2.] Recodified as RCW 75.30.270, pursuant to 1993 c 340 § 54, effective January 1, 1994.

75.28.255 Commercial fishing licenses for specified species—Columbia river smelt—Carp—Fees. [1989 c 316 § 11; 1983 1st ex.s. c 46 § 122; 1955 c 212 § 5.] Repealed by 1993 c 340 § 56, effective January 1, 1994.

75.28.287 Geoduck diver license. [1993 c 340 § 24; 1990 c 163 § 6; 1989 c 316 § 13; 1983 1st ex.s. c 46 § 130; 1979 ex.s. c 141 § 4; 1969 ex.s. c 253 § 4.] Recodified as RCW 75.28.750, pursuant to 1993 c 340 § 54, effective January 1, 1994.

Chapter 75.30

LICENSE LIMITATION PROGRAMS

75.30.150 Commercial Puget Sound whiting license endorsement—Legislative findings. [1986 c 198 § 3.] Decodified pursuant to 1993 c 340 § 55, effective January 1, 1994.

Title 78
MINES, MINERALS, AND PETROLEUM

Chapter 78.44

SURFACE MINING

78.44.030 Definitions. [1987 c 258 § 1; 1984 c 215 § 1; 1970 ex.s. c 64 § 4.] Repealed by 1993 c 518 § 39, effective July 1, 1993.

78.44.035 "Segment" to be defined by rule. [1987 c 258 § 3.] Repealed by 1993 c 518 § 39, effective July 1, 1993.

78.44.080 Operating permits—Required—Applications. [1970 ex.s. c 64 § 9.] Repealed by 1993 c 518 § 39, effective July 1, 1993.

78.44.090 Reclamation plans. [1970 ex.s. c 64 § 10.] Repealed by 1993 c 518 § 39, effective July 1, 1993.

78.44.100 Inspections—Permits—Duration of operating permits—Modification of reclamation plan—Successor operators. [1984 c 215 § 3; 1970 ex.s. c 64 § 11.] Repealed by 1993 c 518 § 39, effective July 1, 1993.

78.44.110 Fees. [1987 c 258 § 2; 1984 c 215 § 4; 1970 ex.s. c 64 § 12.] Repealed by 1993 c 518 § 39, effective July 1, 1993.

78.44.120 Performance bonds and other security. [1984 c 215 § 5; 1977 c 66 § 1; 1970 ex.s. c 64 § 13.] Repealed by 1993 c 518 § 39, effective July 1, 1993.

78.44.130 Reports. [1970 ex.s. c 64 § 14.] Repealed by 1993 c 518 § 39, effective July 1, 1993.

78.44.140 Inspection of permit area—Deficiencies—Extension of performance periods—Performance actions by department—Recovery of expenses—Enforcement. [1989 c 230 § 1; 1984 c 215 § 6; 1970 ex.s. c 64 § 15.] Repealed by 1993 c 518 § 39, effective July 1, 1993.

78.44.150 Operating without permit—Penalty. [1993 c 518 § 34; 1970 ex.s. c 64 § 16.] Recodified as RCW 78.44.260 pursuant to 1993 c 518 § 40, effective July 1, 1993.

78.44.160 Enjoining or stopping illegal operations—Penalty—Notice—Remission or mitigation of penalty—Appeal. [1984 c 215 § 7; 1970 ex.s. c 64 § 17.] Repealed by 1993 c 518 § 39, effective July 1, 1993.

78.44.170 Appeals. [1993 c 518 § 35; 1989 c 175 § 166; 1970 ex.s. c 64 § 18.] Recodified as RCW 78.44.270 pursuant to 1993 c 518 § 40, effective July 1, 1993.

78.44.175 Surface mining of coal—Preemption of chapter by federal laws, programs. [1984 c 215 § 8.] Recodified as RCW 78.44.055 pursuant to 1993 c 518 § 40, effective July 1, 1993.

78.44.180 Confidentiality. [1970 ex.s. c 64 § 20.] Repealed by 1993 c 518 § 39, effective July 1, 1993.

Title 81
TRANSPORTATION

Chapter 81.80

MOTOR FREIGHT CARRIERS

81.80.300 Identification cab card, identification decal, stamp, or number—Mandatory—Fees—Collection—Disposition—Rules and regulations. [1991 c 241 § 2; 1985 c 7 § 152; 1977 ex.s. c 63 § 1; 1971 ex.s. c 143 § 4; 1969 ex.s. c 210 § 13; 1967 c 170 § 1; 1961 c 14 § 81.80.300. Prior: 1935 c 184 § 26; RRS § 6382-26.] Repealed by 1993 c 97 § 7, effective January 1, 1994.

81.80.320 Gross weight fees. [1971 ex.s. c 143 § 5; 1969 ex.s. c 210 § 14; 1967 c 170 § 4; 1961 c 14 § 81.80.320. Prior: 1959 c 248 § 9; 1957 c 205 § 7; 1955 c 79 § 8; 1943 c 104 § 1; 1937 c 166 § 20; 1935 c 184 § 28; Rem. Supp. 1943 § 6382-28.] Repealed by 1993 c 97 § 7, effective January 1, 1994.

Title 82
EXCISE TAXES

Chapter 82.04

BUSINESS AND OCCUPATION TAX

82.04.2901 Additional tax imposed. [1985 c 32 § 4. Prior: 1983 2nd ex.s. c 3 § 61; 1983 2nd ex.s. c 3 § 4; 1983 c 9 § 4; 1982 1st ex.s. c 35 § 2; 1977 ex.s. c 324 § 1; 1975-'76 2nd ex.s. c 130 § 3.] Repealed by 1993 1st sp.s. c 25 § 108, effective July 1, 1993.

82.04.2904 Additional tax imposed. [1985 c 32 § 5; 1983 2nd ex.s. c 3 § 3; 1983 c 9 § 3.] Repealed by 1993 1st sp.s. c 25 § 108, effective July 1, 1993.

82.04.417 Exemption of amounts or value paid or contributed to any county, city, town, political subdivision, or municipal corporation for capital facilities. [1969 ex.s. c 156 § 1.] Repealed by 1993 1st sp.s. c 25 § 801, effective July 1, 1993.

82.04.4288 Deductions—Compensation for services to patients and attendant sales of prescription drugs by publicly operated hospitals. [1980 c 37 § 9. Formerly RCW 82.04.430(8).] Repealed by 1993 c 492 § 306, effective July 1, 1993.

Chapter 82.36

MOTOR VEHICLE FUEL TAX

82.36.225 Exemptions—Alcohol for use as fuel—Tax credit—Expiration of section. [1991 c 145 § 2; 1985 c 371 § 4; 1981 c 342 § 4; 1980 c 131 § 3.] Repealed by 1993 c 268 § 1.

Chapter 82.45

EXCISE TAX ON REAL ESTATE SALES

82.45.120 Standards for reporting, application and collection of tax—Real estate excise tax affidavit form, contents, use. [1981 c 167 § 5; 1980 c 134 § 1; 1969 ex.s. c 223 § 28A.45.120. Prior: 1967 ex.s. c 149 § 3. Formerly RCW 28A.45.120, 28.45.120.] Repealed by 1993 1st sp.s. c 25 § 512, effective July 1, 1993.

Savings—1993 1st sp.s. c 25: See note following RCW 82.45A.010 in Supplementary Table of Disposition of Former RCW Sections.

Chapter 82.45A

EXCISE TAX ON OWNERSHIP TRANSFER OF A CORPORATION

82.45A.010 Definitions. [1991 sp.s. c 22 § 2.] Repealed by 1993 1st sp.s. c 25 § 512, effective July 1, 1993.

Savings—1993 1st sp.s. c 25: "The repeals in section 512 of this act shall not be construed as affecting any existing right acquired or liability or obligation incurred under the sections repealed or under any rule or order adopted under those sections, nor as affecting any proceeding instituted under those sections." [1993 1st sp.s. c 25 § 513.]

82.45A.020 Tax imposed. [1991 sp.s. c 22 § 3.] Repealed by 1993 1st sp.s. c 25 § 512, effective July 1, 1993.

Savings—1993 1st sp.s. c 25: See note following RCW 82.45A.010 in Supplementary Table of Disposition of Former RCW Sections.

82.45A.030 Exceptions. [1991 sp.s. c 22 § 4.] Repealed by 1993 1st sp.s. c 25 § 512, effective July 1, 1993.

Savings—1993 1st sp.s. c 25: See note following RCW 82.45A.010 in Supplementary Table of Disposition of Former RCW Sections.

Chapter 82.49

WATERCRAFT EXCISE TAX

82.49.070 Local excise tax authorized. [1988 c 261 § 1; 1985 c 7 § 155; 1984 c 250 § 4; 1983 2nd ex.s. c 3 § 49.] Repealed by 1993 c 244 § 41, effective June 30, 1994.

Title 85
DIKING AND DRAINAGE

Chapter 85.07

MISCELLANEOUS DIKING AND DRAINAGE PROVISIONS

85.07.080 Funding bonds—Proceeds to treasurer—Use of proceeds. [1983 c 167 § 191; 1935 c 103 § 3; RRS § 4459-13. Formerly RCW 85.04.155, part.] Repealed by 1983 c 167 § 270; repealed by 1993 c 7 § 1; and repealed by 1993 c 464 § 5.

Title 88
NAVIGATION AND HARBOR IMPROVEMENTS

Chapter 88.12

REGULATION OF RECREATIONAL VESSELS

88.12.030 Lights. [1933 c 72 § 3; RRS § 9851-3.] Repealed by 1993 c 244 § 44.

88.12.040 Muffling devices—Cutout devices unlawful. [1990 c 231 § 2; 1933 c 72 § 4; RRS § 9851-4.] Repealed by 1993 c 244 § 44.

88.12.050 Life preservers or life floats. [1993 c 244 § 14; 1933 c 72 § 5; RRS § 9851-5.] Recodified as RCW 88.12.115 pursuant to 1993 c 244 § 45.

88.12.080 Water skiing safety—Requirements. [1993 c 244 § 15; 1990 c 231 § 1; 1989 c 241 § 1. Formerly RCW 88.12.070.] Recodified as RCW 88.12.125 pursuant to 1993 c 244 § 45.

88.12.090 Penalty. [1933 c 72 § 6; RRS § 9851-6. Formerly RCW 88.12.060.] Repealed by 1993 c 244 § 44.

88.12.100 Use of vessel in negligent manner or while under the influence of alcohol or drugs prohibited—Penalty. [1993 c 244 § 8. Prior: 1990 c 231 § 3; 1990 c 31 § 1; 1987 c 373 § 6; 1986 c 153 § 6; 1985 c 267 § 2. Formerly RCW 88.02.095.] Recodified as RCW 88.12.025 pursuant to 1993 c 244 § 45.

88.12.110 Failure to stop for law enforcement officer. [1990 c 235 § 1. Formerly RCW 88.08.070.] Recodified as RCW 88.12.035 pursuant to 1993 c 244 § 45.

88.12.120 Eluding a law enforcement vessel. [1990 c 235 § 2. Formerly RCW 88.08.080.] Recodified as RCW 88.12.045 pursuant to 1993 c 244 § 45.

88.12.130 Duty of operator involved in collision, accident, or other casualty—Immunity from liability of persons rendering assistance. [1993 c 244 § 18; 1984 c 183 § 1; 1983 2nd ex.s. c 3 § 48. Formerly RCW 88.02.080.] Recodified as RCW 88.12.155 pursuant to 1993 c 244 § 45.

88.12.140 Casualty and accident reports—Confidentiality—Use as evidence. [1984 c 183 § 3. Formerly RCW 43.51.402.] Recodified as RCW 88.12.165 pursuant to 1993 c 244 § 45.

88.12.150 Boating accident reports by local government agencies—Investigation—Report of coroner. [1987 c 427 § 1. Formerly RCW 43.51.403.] Recodified as RCW 88.12.175 pursuant to 1993 c 244 § 45.

88.12.160 Crafts adrift—Owner to be notified. [1993 c 244 § 19; Code 1881 § 3242; 1854 p 386 § 1; RRS § 9891. Formerly RCW 88.20.010.] Recodified as RCW 88.12.185 pursuant to 1993 c 244 § 45.

88.12.170 Notice—Contents—Service. [1993 c 244 § 20; Code 1881 § 3243; 1854 p 386 § 2; RRS § 9892. Formerly RCW 88.20.020.] Recodified as RCW 88.12.195 pursuant to 1993 c 244 § 45.

88.12.180 Posting of notice. [1993 c 244 § 21; Code 1881 § 3244; 1854 p 386 § 3; RRS § 9893. Formerly RCW 88.20.030.] Recodified as RCW 88.12.205 pursuant to 1993 c 244 § 45.

88.12.190 Compensation—Liability on failure to give notice. [1993 c 244 § 22; Code 1881 § 3245; 1854 p 386 § 4; RRS § 9894. Formerly RCW 88.20.040.] Recodified as RCW 88.12.215 pursuant to 1993 c 244 § 45.

88.12.200 Disputed claims—Trial—Bond. [1993 c 244 § 23; 1987 c 202 § 248; Code 1881 § 3246; 1854 p 386 § 5; RRS § 9895. Formerly RCW 88.20.050.] Recodified as RCW 88.12.218 pursuant to 1993 c 244 § 45.

88.12.210 Liability for excessive or negligent use. [1993 c 244 § 24; Code 1881 § 3247, part; 1854 p 387 § 6; RRS § 9896, part. FORMER PART OF SECTION: Code 1881 § 3247, part. Now codified as RCW

88.20.070. Formerly RCW 88.20.060.] Recodified as RCW 88.12.222 pursuant to 1993 c 244 § 45.

88.12.220 Unclaimed craft—Procedure. [1993 c 244 § 25; 1987 c 202 § 249; Code 1881 § 3247, part; 1854 p 387 § 7; RRS § 9896, part. Formerly RCW 88.20.070, 88.20.060, part.] Recodified as RCW 88.12.225 pursuant to 1993 c 244 § 45.

88.12.240 Definitions. [1986 c 217 § 2. Formerly RCW 91.14.010.] Repealed by 1993 c 244 § 44.

88.12.270 Operators—First aid card required—Exception. [1986 c 217 § 5. Formerly RCW 91.14.040.] Repealed by 1993 c 244 § 44.

88.12.280 Safety equipment. [1993 c 244 § 30; 1986 c 217 § 6. Formerly RCW 91.14.050.] Recodified as RCW 88.12.245 pursuant to 1993 c 244 § 45.

88.12.290 Whitewater river sections—Use of alcohol prohibited—Watercraft to be accompanied by other watercraft. [1993 c 244 § 31; 1986 c 217 § 7. Formerly RCW 91.14.060.] Recodified as RCW 88.12.255 pursuant to 1993 c 244 § 45.

88.12.300 Whitewater river sections—Designation. [1986 c 217 § 8. Formerly RCW 91.14.070.] Recodified as RCW 88.12.265 pursuant to 1993 c 244 § 45.

88.12.310 Death or disappearance from watercraft—Notification of authorities. [1986 c 217 § 9. Formerly RCW 91.14.080.] Repealed by 1993 c 244 § 44.

88.12.320 Registration of persons carrying passengers for hire on whitewater river sections—List of registered persons—Notice of registrants' insurance termination—State immune from civil actions arising from registration. [1986 c 217 § 11. Formerly RCW 91.14.090.] Recodified as RCW 88.12.275 pursuant to 1993 c 244 § 45.

88.12.330 Enforcement—Chapter to supplement federal law. [1993 c 244 § 9; 1988 c 36 § 73; 1986 c 217 § 10. Formerly RCW 91.14.100.] Recodified as RCW 88.12.055 pursuant to 1993 c 244 § 45.

88.12.340 Civil penalty. [1986 c 217 § 12. Formerly RCW 91.14.110.] Repealed by 1993 c 244 § 44.

88.12.350 Uniform waterway marking system. [1987 c 427 § 3. Formerly RCW 43.51.404.] Recodified as RCW 88.12.285 pursuant to 1993 c 244 § 45.

88.12.360 Findings—Sewage disposal initiative established—Boater environmental education—Waterway access facilities. [1989 c 393 § 1. Formerly RCW 88.36.010.] Recodified as RCW 88.12.295 pursuant to 1993 c 244 § 45.

88.12.380 Identification and designation of polluted and environmentally sensitive areas. [1989 c 393 § 3. Formerly RCW 88.36.030.] Recodified as RCW 88.12.305 pursuant to 1993 c 244 § 45.

88.12.390 Designation of marinas, boat launches, or boater destinations for installation of sewage pumpout or dump stations. [1993 c 244 § 32; 1989 c 393 § 4. Formerly RCW 88.36.040.] Recodified as RCW 88.12.315 pursuant to 1993 c 244 § 45.

88.12.400 Contracts for financial assistance—Ownership of sewage pumpout or dump station—Ongoing costs. [1993 c 244 § 33; 1989 c 393 § 5. Formerly RCW 88.36.050.] Recodified as RCW 88.12.325 pursuant to 1993 c 244 § 45.

88.12.410 Development by department of ecology of design, installation, and operation of sewage pumpout and dump stations—Rules. [1993 c 244 § 34; 1989 c 393 § 6. Formerly RCW 88.36.060.] Recodified as RCW 88.12.335 pursuant to 1993 c 244 § 45.

88.12.420 Boater environmental education program. [1993 c 244 § 35; 1989 c 393 § 7. Formerly RCW 88.36.070.] Recodified as RCW 88.12.345 pursuant to 1993 c 244 § 45.

88.12.430 Grants for environmental education or boat waste management planning. [1989 c 393 § 8. Formerly RCW 88.36.080.] Recodified as RCW 88.12.355 pursuant to 1993 c 244 § 45.

88.12.440 Review of programs by commission—Report. [1993 c 244 § 36; 1989 c 393 § 9. Formerly RCW 88.36.090.] Recodified as RCW 88.12.365 pursuant to 1993 c 244 § 45.

88.12.450 Allocation of funds. [1993 c 244 § 37; 1989 c 393 § 11. Formerly RCW 88.36.100.] Recodified as RCW 88.12.375 pursuant to 1993 c 244 § 45.

88.12.460 Commission to adopt rules. [1989 c 393 § 14. Formerly RCW 88.36.110.] Recodified as RCW 88.12.385 pursuant to 1993 c 244 § 45.

88.12.470 Committee to adopt rules. [1989 c 393 § 15. Formerly RCW 88.36.120.] Recodified as RCW 88.12.395 pursuant to 1993 c 244 § 45.

88.12.480 Facilities to reduce boat waste entering state waters—Consideration of funding support for portable pumpout facilities. [1992 c 100 § 8.] Repealed by 1993 c 244 § 44.

Chapter 88.16
PILOTAGE ACT

88.16.210 Reckless operation of a tank vessel—Penalty. [1991 c 200 § 604.] Recodified as RCW 90.56.530 pursuant to 1993 c 184 § 1.

88.16.220 Operation of a vessel while under influence of liquor or drugs—Penalty. [1991 c 200 § 605.] Recodified as RCW 90.56.540 pursuant to 1993 c 184 § 1.

88.16.230 Breath or blood analysis. [1991 c 200 § 606.] Recodified as RCW 90.56.550 pursuant to 1993 c 184 § 1.

88.16.240 Limited immunity for blood withdrawal. [1991 c 200 § 607.] Recodified as RCW 90.56.560 pursuant to 1993 c 184 § 1.

TITLE 1
GENERAL PROVISIONS

Chapters

Chapter 1.16
GENERAL DEFINITIONS

Sections

1.16.050 "Legal holidays." The following are legal holidays: Sunday; the first day of January, commonly called New Year's Day; the third Monday of January, being celebrated as the anniversary of the birth of Martin Luther King, Jr.; the third Monday of February to be known as Presidents' Day and to be celebrated as the anniversary of the births of Abraham Lincoln and George Washington; the last Monday of May, commonly known as Memorial Day; the fourth day of July, being the anniversary of the Declaration of Independence; the first Monday in September, to be known as Labor Day; the eleventh day of November, to be known as Veterans' Day; the fourth Thursday in November, to be known as Thanksgiving Day; the day immediately following Thanksgiving Day; and the twenty-fifth day of December, commonly called Christmas Day.

Employees of the state and its political subdivisions, except employees of school districts and except those nonclassified employees of institutions of higher education who hold appointments or are employed under contracts to perform services for periods of less than twelve consecutive months, shall be entitled to one paid holiday per calendar year in addition to those specified in this section. Each employee of the state or its political subdivisions may select the day on which the employee desires to take the additional holiday provided for herein after consultation with the employer pursuant to guidelines to be promulgated by rule of the appropriate personnel authority, or in the case of local government by ordinance or resolution of the legislative authority.

If any of the above specified state legal holidays are also federal legal holidays but observed on different dates, only the state legal holidays shall be recognized as a paid legal holiday for employees of the state and its political subdivisions except that for port districts and the law enforcement and public transit employees of municipal corporations, either the federal or the state legal holiday, but in no case both, may be recognized as a paid legal holiday for employees.

Whenever any legal holiday, other than Sunday, falls upon a Sunday, the following Monday shall be the legal holiday.

Whenever any legal holiday falls upon a Saturday, the preceding Friday shall be the legal holiday.

Nothing in this section shall be construed to have the effect of adding or deleting the number of paid holidays provided for in an agreement between employees and employers of political subdivisions of the state or as established by ordinance or resolution of the local government legislative authority.

The legislature declares that the twelfth day of October shall be recognized as Columbus Day but shall not be considered a legal holiday for any purposes.

The legislature declares that the ninth day of April shall be recognized as former prisoner of war recognition day but shall not be considered a legal holiday for any purposes.

The legislature declares that the twenty-sixth day of January shall be recognized as Washington army and air national guard day but shall not be considered a legal holiday for any purposes.

The legislature declares that the seventh day of August shall be recognized as purple heart recipient recognition day but shall not be considered a legal holiday for any purposes.

The legislature declares that the second Sunday in October be recognized as Washington state children's day but shall not be considered a legal holiday for any purposes. [1993 c 129 § 2; 1991 sp.s. c 20 § 1; 1991 c 57 § 2; 1989 c 128 § 1; 1985 c 189 § 1; 1979 c 77 § 1; 1977 ex.s. c 111 § 1; 1975-'76 2nd ex.s. c 24 § 1; 1975 1st ex.s. c 194 § 1; 1973 2nd ex.s. c 1 § 1; 1969 c 11 § 1; 1955 c 20 § 1; 1927 c 51 § 1; RRS § 61. Prior: 1895 c 3 § 1; 1891 c 41 § 1; 1888 p 107 § 1.]

Finding—1993 c 129: "The legislature finds that Washington's children are one of our most valuable assets, representing hope for the future. Children today are at risk for many things, including drug and alcohol abuse, child abuse, suicide, peer pressure, and the economic and educational challenges of a changing world. It is increasingly important for families, schools, health professionals, caregivers, and workers at state agencies charged with the protection and help of children to listen to them, to support and encourage them, and to help them build their dreams for the future.

To increase recognition of children's issues, a national children's day is celebrated in October, with ceremonies and activities devoted to children. Washington state focuses special attention on its children by establishing a Washington state children's day." [1993 c 129 § 1.]

Finding—Declaration—1991 c 57: "The legislature finds that the Washington army and air national guard comprise almost nine thousand dedicated men and women who serve the state and nation on a voluntary basis. The legislature also finds that the state of Washington benefits from that dedication by immediate access to well-prepared resources in time of natural disasters and public emergency. The national guard has consistently and frequently responded to state and local emergencies with people and equipment to provide enforcement assistance, medical services, and overall support to emergency management services.

The legislature further declares that an annual day of commemoration should be observed in honor of the achievements, sacrifices, and dedication of the men and women of the Washington army and air national guard." [1991 c 57 § 1.]

Court business on legal holidays: RCW 2.28.100, 2.28.110.

School holidays: RCW 28A.150.050.

Title 2
COURTS OF RECORD

Chapters

Chapter 2.06
COURT OF APPEALS

Sections

2.06.020 Divisions—Locations—Judges enumerated—Districts. The court shall have three divisions, one of which shall be headquartered in Seattle, one of which shall be headquartered in Spokane, and one of which shall be headquartered in Tacoma:

(1) The first division shall have twelve judges from three districts, as follows:

(a) District 1 shall consist of King county and shall have eight judges;

(b) District 2 shall consist of Snohomish county and shall have two judges; and

(c) District 3 shall consist of Island, San Juan, Skagit and Whatcom counties and shall have two judges.

(2) The second division shall have six judges from the following districts:

(a) District 1 shall consist of Pierce county and shall have two judges;

(b) District 2 shall consist of Clallam, Grays Harbor, Jefferson, Kitsap, Mason, and Thurston counties and shall have two judges;

(c) District 3 shall consist of Clark, Cowlitz, Lewis, Pacific, Skamania, and Wahkiakum counties and shall have two judges.

(3) The third division shall have five judges from the following districts:

(a) District 1 shall consist of Ferry, Lincoln, Okanogan, Pend Oreille, Spokane and Stevens counties and shall have two judges;

(b) District 2 shall consist of Adams, Asotin, Benton, Columbia, Franklin, Garfield, Grant, Walla Walla, and Whitman counties and shall have one judge;

(c) District 3 shall consist of Chelan, Douglas, Kittitas, Klickitat and Yakima counties and shall have two judges. [1993 c 420 § 1; 1989 c 328 § 10; 1977 ex.s. c 49 § 1; 1969 ex.s. c 221 § 2.]

Rules of court: Cf. RAP 4.1(b).

Effective date—1993 c 420: "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 [May 15, 1993]." [1993 c 420 § 3.]

Intent—1989 c 328: See note following RCW 2.08.061.

Appointments to positions created by the amendment to this section by 1977 ex.s. c 49 § 1: RCW 2.06.075.

2.06.076 Appointments to positions created by 1993 c 420 § 1—Election—Appointment—Terms of office. (1) Any judicial position created by *section 1, chapter 420, Laws of 1993 shall be effective only if that position is specifically funded and is referenced by division and district in an omnibus appropriations act.

(2)(a) The full term of office for the judicial positions authorized pursuant to chapter 420, Laws of 1993 shall be six years.

(b) The authorized judicial positions shall be filled at the general election in the November immediately preceding the beginning of the full term except as provided in (d) and (e) of this subsection.

(c) The six-year terms shall be staggered as provided in (c)(i) through (iii) of this subsection.

(i) In the first division, the initial full terms of six years for the two positions in district 1 shall begin the second Monday in January following the general election held in November 1993. If the effective dates for the judicial positions are later than the deadline to include them in the November 1993 election, the initial full terms shall begin the second Monday in January following the general election held in November 1999. The initial full term of six years for the position in district 3 shall begin on the second Monday in January following the general election held in November 1996. If the effective date for the judicial position is later than the deadline to include it in the November 1996 election, the initial full term shall begin the second Monday in January following the general election held in November 2002.

(ii) In the second division, the initial full term of six years for the position in district 2 shall begin the second Monday in January following the general election held in November 1994. If the effective date of the judicial position is later than the deadline to include it in the November 1994 election the initial full term shall begin the second Monday in January following the general election held in November 2000. The initial full term for the position in district 3 shall begin the second Monday in January following the general election held in November 1998. If the effective date of the judicial position is later than the deadline to include it in the November 1998 election, the initial full term shall begin the second Monday in January following the general election held in November 2004.

(iii) In the third division, the initial full term of six years for the position in district 3 shall begin the second Monday in January following the general election held in November 1994. If the effective date of the judicial position is later than the deadline to include it in the November 1994 election, the initial full term will begin the second Monday in January following the general election held in November 2000.

(d) Upon becoming effective pursuant to subsection (1) of this section, the governor shall appoint judges to the additional judicial positions authorized in section 1, chapter 420, Laws of 1993. The appointed judges shall hold office until the second Monday in January following the general election following the effective date of the position. The appointed judges and other judicial candidates are entitled to run for the judicial position at the general election following appointment.

(e) The initial election for these positions shall be held in November following the effective date of the position. If the initial election of a newly authorized position is not held on a date which corresponds to the beginning of a full term as specified in (c)(i) through (iii) of this subsection, the election shall be for a partial term. [1993 c 420 § 2.]

***Reviser's note:** Section 1, chapter 420, Laws of 1993 was not referenced in a 1993 omnibus appropriations act.

Effective date—1993 c 420: See note following RCW 2.06.020.

Chapter 2.08
SUPERIOR COURTS

Sections

2.08.064 Judges—Benton, Franklin, Clallam, Jefferson, Snohomish, Asotin, Columbia, Garfield, Cowlitz, Klickitat, and Skamania counties. There shall be in the counties of Benton and Franklin jointly, five judges of the superior court; in the county of Clallam, two judges of the superior court; in the county of Jefferson, one judge of the superior court; in the county of Snohomish, 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, four judges of the superior court; in the counties of Klickitat and Skamania jointly, one judge of the superior court. [1993 1st sp.s. c 14 § 1; 1992 c 189 § 4; 1989 c 328 § 3; 1985 c 357 § 3; 1982 c 139 § 2; 1981 c 65 § 1; 1979 ex.s. c 202 § 3; 1977 ex.s. c 311 § 3; 1974 ex.s. c 192 § 1; 1971 ex.s. c 83 § 3; 1969 ex.s. c 213 § 2; 1967 ex.s. c 84 § 3; 1963 c 35 § 1; 1961 c 67 § 2; 1955 c 19 § 2; 1951 c 125 § 6. Prior: 1945 c 20 § 1, part; 1927 c 135 § 1, part; 1925 ex.s. c 132 § 1; 1917 c 97 §§ 1-3; 1911 c 40 § 1; 1911 c 129 §§ 1, 2, part; 1907 c 79 § 1, part; 1905 c 36 § 1, part; 1895 c 89 § 1, part; 1891 c 68 §§ 1, 3, part; 1890 p 341 § 1, part; Rem. Supp. 1945 § 11045-1d, part; RRS § 11045-1, part.]

Additional judicial position in Cowlitz county subject to approval and agreement—1993 1st sp.s. c 14: "The additional judicial position created by section 1 of this act shall be effective only if Cowlitz county through its duly constituted legislative authority documents its approval of the additional position and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of the additional judicial position as provided by statute." [1993 1st sp.s. c 14 § 2.]

Effective dates—Additional judicial positions subject to approval and agreement—1992 c 189: See notes following RCW 2.08.061.

Intent—Additional judicial positions subject to approval and agreement—Effective dates for additional judicial positions—1989 c 328: See notes following RCW 2.08.061.

Effective dates—Additional judicial positions in Pierce, Clark, and Snohomish counties subject to approval and agreement—1989 c 328; 1985 c 357: See note following RCW 2.08.061.

Additional judicial positions in Clallam and Jefferson counties subject to approval and agreement—1982 c 139: "The additional judicial positions created by section 2 of this 1982 act in Clallam and Jefferson counties shall be effective only if, prior to April 1, 1982, each county through its duly constituted legislative authority documents its approval of the additional positions and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of such additional judicial positions as provided by statute." [1982 c 139 § 3.] Section 2 of this 1982 act is the amendment to RCW 2.08.064 by 1982 c 139.

Additional judicial positions in Ferry, Stevens, and Pend Oreille district subject to approval and agreement—1982 c 139; 1981 c 65: "The additional judicial position created by this 1981 act in the joint Ferry, Stevens, and Pend Oreille judicial district shall be effective only if each county in the judicial district through its duly constituted legislative authority documents its approval of the additional position and its agreement that it and the other counties comprising the judicial district will pay out of county funds, without reimbursement from the state, the expenses of such additional judicial position as provided by statute. As among the counties, the amount of the judge's salary to be paid by each county shall be in accordance with RCW 2.08.110 unless otherwise agreed upon by the counties involved." [1982 c 139 § 1; 1981 c 65 § 3.]

Effective date—1977 ex.s. c 311: See note following RCW 2.08.061.

Chapter 2.36
JURIES

Sections

2.36.010 Definitions. (Effective September 1, 1994.) 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, merged with a list of licensed drivers and identicard holders who reside in the county. The list shall specify each person's name and residence address and conform to the methodology and standards set pursuant to the provisions of RCW 2.36.054 or by supreme court rule. 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 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.

(12) "Jury panel" means those persons randomly selected for jury service for a particular jury term. [1993 c 408 § 4; 1992 c 93 § 1; 1988 c 188 § 2; 1891 c 48 § 1; RRS § 89.]

Severability—Effective dates—1993 c 408: See notes following RCW 2.36.054.

Legislative findings—1988 c 188: "The legislature recognizes the vital and unique role of the jury system in enhancing our system of justice. The purpose of this chapter is the promotion of efficient jury administration and the opportunity for widespread citizen participation in the jury system. To accomplish this purpose the legislature intends that all courts and juries of inquest in the state of Washington select, summon, and compensate jurors uniformly." [1988 c 188 § 1.]

Severability—1988 c 188: "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." [1988 c 188 § 23.]

Effective date—1988 c 188: "Except for section 19, this act shall take effect January 1, 1989. Section 19 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately." [1988 c 188 § 24.] "Section 19 of this act" (uncodified) took effect March 22, 1988.

2.36.054 Jury source list—Master jury list—Creation. Unless otherwise specified by rule of the supreme court, the jury source list and master jury list for each county shall be created as provided by this section.

(1) The superior court of each county, after consultation with the county clerk and county auditor of that jurisdiction, shall annually notify the department of information services not later than March 1 of each year of its election to use either a jury source list that is merged by the county or a jury source list that is merged by the department of information services. The department of information services shall annually furnish at no charge to the superior court of each county a separate list of the registered voters residing in that county as supplied annually by the secretary of state and a separate list of driver's license and identicard holders residing in that county as supplied annually by the department of licensing, or a merged list of all such persons residing in that county, in accordance with the annual notification required by this subsection. The lists provided by the department of information services shall be in an electronic format mutually agreed upon by the superior court requesting it and the department of information services. The annual merger of the list of registered voters residing in each county with the list of licensed drivers and identicard holders residing in each county to form a jury source list for each county shall be in accordance with the standards and methodology established in this chapter or by superseding court rule whether the merger is accomplished by the department of information services or by a county.

(2) Persons on the lists of registered voters and driver's license and identicard holders shall be identified by a minimum of last name, first name, middle initial where available, date of birth, gender, and county of residence. Identifying information shall be used when merging the lists to ensure to the extent reasonably possible that persons are only listed once on the merged list. Conflicts in addresses are to be resolved by using the most recent record by date of last vote in a general election, date of driver's license or identicard address change or date of voter registration.

(3) The department of information services shall provide counties that elect to receive a jury source list merged by department of information services with a list of names which are possible duplicates that cannot be resolved based on the identifying information required under subsection (2) of this section. If a possible duplication cannot subsequently be resolved satisfactorily through reasonable efforts by the county receiving the merged list, the possible duplicate name shall be stricken from the jury source list until the next annual jury source list is prepared. [1993 c 408 § 3.]

Severability—1993 c 408: "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." [1993 c 408 § 14.]

Effective dates—1993 c 408: "(1) Sections 1, 2, 3, 6, 8, and 13 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 July 1, 1993.

(2) Sections 10 and 12 of this act shall take effect March 1, 1994.

(3) The remainder of this act shall take effect September 1, 1994." [1993 c 408 § 15.]

2.36.055 Jury source list—Master jury list—Compilation. (Effective September 1, 1994.) The superior court at least annually shall cause a jury source list to be compiled from a list of all registered voters and a list of licensed drivers and identicard holders residing in the county.

The superior court upon receipt of the jury source list shall compile a master jury list. The master jury list shall be certified by the superior court and filed with the county clerk. All previous jury source lists and master jury lists shall be superseded. In the event that, for any reason, a county's jury source list is not timely created and available for use at least annually, the most recent previously compiled jury source list for that county shall be used by the courts of that county on an emergency basis only for the shortest period of time until a current jury source list is created and available for use.

Upon receipt of amendments to the list of registered voters and licensed drivers and identicard holders residing in the county the superior court may update the jury source list and master jury list as maintained by the county clerk accordingly. [1993 c 408 § 5; 1988 c 188 § 4.]

Severability—Effective dates—1993 c 408: See notes following RCW 2.36.054.

Legislative findings—Severability—Effective date—1988 c 188: See notes following RCW 2.36.010.

2.36.057 Expanded jury source list—Court rules. The supreme court is requested to adopt court rules to be effective by September 1, 1994, regarding methodology and standards for merging the list of registered voters in Washington state with the list of licensed drivers and identicard holders in Washington state for purposes of creating an expanded jury source list. The rules should specify the standard electronic format or formats in which the lists will

be provided to requesting superior courts by the department of information services. In the interim, and until such court rules become effective, the methodology and standards provided in RCW 2.36.054 shall apply. An expanded jury source list shall be available to the courts for use by September 1, 1994. [1993 c 408 § 1.]

Severability—Effective dates—1993 c 408: See notes following RCW 2.36.054.

2.36.0571 Jury source list—Master jury list—Adoption of rules for implementation of methodology and standards by agencies. Not later than January 1, 1994, the secretary of state, the department of licensing, and the department of information services shall adopt administrative rules as necessary to provide for the implementation of the methodology and standards established pursuant to RCW 2.36.057 and 2.36.054 or by supreme court rule. [1993 c 408 § 2.]

Severability—Effective dates—1993 c 408: See notes following RCW 2.36.054.

2.36.063 Compilation of jury source list, master jury list, and selection of jurors by electronic data processing. The judge or judges of the superior court of any county may employ a properly programmed electronic data processing system or device to compile the jury source list, and to compile the master jury list and to randomly select jurors from the master jury list. [1993 c 408 § 6; 1988 c 188 § 5; 1973 2nd ex.s. c 13 § 1.]

Severability—Effective dates—1993 c 408: See notes following RCW 2.36.054.

Legislative findings—Severability—Effective date—1988 c 188: See notes following RCW 2.36.010.

2.36.065 Judges to ensure random selection—Description of process. (Effective September 1, 1994.) It shall be the duty of the judges of the superior court to ensure continued random selection of the master jury list and jury panels, which shall be done without regard to whether a person's name originally appeared on the list of registered voters, or on the list of licensed drivers and identicard holders, or both. The judges shall review the process from time to time and shall cause to be kept on file with the county clerk a description of the jury selection process. Any person who desires may inspect this description in said office.

Nothing in this chapter shall be construed as requiring uniform equipment or method throughout the state, so long as fair and random selection of the master jury list and jury panels is achieved. [1993 c 408 § 7; 1988 c 188 § 6.]

Severability—Effective dates—1993 c 408: See notes following RCW 2.36.054.

Legislative findings—Severability—Effective date—1988 c 188: See notes following RCW 2.36.010.

2.36.072 Determination of juror qualification—Written declaration. (Effective September 1, 1994.) Each court shall establish a means to preliminarily determine by a written declaration signed under penalty of perjury by the person summoned, the qualifications set forth in RCW 2.36.070 of each person summoned for jury duty prior to their appearance at the court to which they are summoned to serve. Upon receipt by the summoning court of a written declaration stating that a declarant does not meet the qualifications set forth in RCW 2.36.070, that declarant shall be excused from appearing in response to the summons. If a person summoned to appear for jury duty fails to sign and return a declaration of his or her qualifications to serve as a juror prior to appearing in response to a summons and is later determined to be unqualified for one of the reasons set forth in RCW 2.36.070, that person shall not be entitled to any compensation as provided in RCW 2.36.150. Information provided to the court for preliminary determination of statutory qualification for jury duty may only be used for the term such person is summoned and may not be used for any other purpose, except that the court, or designee, may report a change of address or nondelivery of summons of persons summoned for jury duty to the county auditor. [1993 c 408 § 9.]

Severability—Effective dates—1993 c 408: See notes following RCW 2.36.054.

2.36.095 Summons to persons selected. (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.

(3) The county clerk shall notify the county auditor of each summons for jury duty that is returned by the postal service as undeliverable. [1993 c 408 § 8; 1992 c 93 § 4; 1990 c 140 § 1; 1988 c 188 § 9.]

Severability—Effective dates—1993 c 408: See notes following RCW 2.36.054.

Legislative findings—Severability—Effective date—1988 c 188: See notes following RCW 2.36.010.

Chapter 2.56
ADMINISTRATOR FOR THE COURTS

Sections

2.56.030 Powers and duties. 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, 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 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;

(17) Develop, in consultation with the criminal justice training commission and the commissions established under chapters 43.113, 43.115, and 43.117 RCW, a curriculum for a general understanding of ethnic and cultural diversity and its implications for working with youth of color and their families. The curriculum shall be completed and made available to all superior court judges and court commissioners assigned to juvenile court, and other court personnel by October 1, 1993. Ethnic and cultural diversity training shall be provided annually so as to incorporate cultural sensitivity and awareness into the daily operation of juvenile courts state-wide. [1993 c 415 § 3; 1992 c 205 § 115; 1989 c 95 § 2. Prior: 1988 c 234 § 2; 1988 c 109 § 23; 1987 c 363 § 6; 1981 c 132 § 1; 1957 c 259 § 3.]

Intent—1993 c 415: See note following RCW 2.56.031.

Part headings not law—Severability—1992 c 205: See notes following RCW 13.40.010.

Construction—Severability—1989 c 95: See notes following RCW 9A.36.080.

Legislative findings—1988 c 234: "The legislature recognizes the need for appropriate training of juvenile court judges, attorneys, court personnel, and service providers in the dependency system and at-risk youth systems." [1988 c 234 § 1.]

Effective date—1988 c 109: See note following RCW 2.10.030.

Ethnic and cultural diversity—Development of curriculum for understanding—Training: RCW 43.101.280.

2.56.031 Juvenile offender information—Plan. The administrator for the courts shall develop a plan to improve the collection and reporting of information on juvenile offenders by all juvenile courts in the state. The information related to juvenile offenders shall include, but is not limited to, social, demographic, education, and economic data on juvenile offenders and where possible, their families. Development and implementation of the plan shall be accomplished in consultation with the human rights commission, the governor's juvenile justice advisory committee, superior court judges, juvenile justice administrators, and interested juvenile justice practitioners and researchers. The plan shall include a schedule and budget for implementation and shall be provided to the office of financial management by September 15, 1993. [1993 c 415 § 2.]

Intent—1993 c 415: "Pursuant to the work of the juvenile justice task force created by the 1991 legislature to undertake a study of Washington state's juvenile justice system, the department of social and health services and the commission on African-American affairs commissioned an independent study of racial disproportionality in the state's juvenile justice system. The study team, which documented evidence of disparity in the treatment of juvenile offenders of color throughout the system, provided recommendations to the legislature on December 15, 1992. The study recommends cultural diversity training for juvenile court and law enforcement personnel, expanded data collection on juvenile offenders throughout the system, development of uniform prosecutorial standards for juvenile offenders, changes to the consolidated juvenile services program and funding formula, dissemination of information to families and communities regarding juvenile court procedures, and examination of juvenile disposition standards for racial and/or ethnic bias.

It is the intent of the legislature to implement the recommendations of this study in an effort to discourage differential treatment of youth of color and their families who come in contact with the juvenile courts in this state, and to promote racial and ethnic sensitivity and awareness throughout the juvenile court system." [1993 c 415 § 1.]

2.56.130 Juvenile laws and court processes and procedures—Informational materials. The administrator for the courts shall, in cooperation with juvenile courts, develop informational materials describing juvenile laws and juvenile court processes and procedures related to such laws, and make such information available to the public. Similar information shall also be made available for the non-English speaking youth and their families. [1993 c 415 § 5.]

Intent—1993 c 415: See note following RCW 2.56.031.

Title 3

DISTRICT COURTS—COURTS OF LIMITED JURISDICTION

Chapters

Chapter 3.34
DISTRICT JUDGES

Sections

3.34.130 District judges pro tempore—Reduction in salary of judges replaced—Exception—Reimbursement of counties. (1) Each district court shall designate one or more persons as judge pro tempore who shall serve during the temporary absence, disqualification, or incapacity of a district judge. The qualifications of a judge pro tempore shall be the same as for a district judge, except that with respect to RCW 3.34.060(1), the person appointed need only be a registered voter of the state. A district that has a population of not more than ten thousand and that has no person available who meets the qualifications under RCW 3.34.060(2) (a) or (b), may appoint as a pro tempore judge a person who has taken and passed the qualifying examination for the office of district judge as is provided by rule of the supreme court. A judge pro tempore may sit in any district of the county for which he or she is appointed. A judge pro tempore shall be paid the salary authorized by the county legislative authority. For each day that a judge pro tempore serves in excess of thirty days during any calendar year, the annual salary of the judge in whose place he or she serves shall be reduced by an amount equal to one-two hundred fiftieth of such salary: PROVIDED, That each full time district judge shall have up to fifteen days annual leave without reduction for service on judicial commissions established by the legislature or the chief justice of the supreme court. No reduction in salary shall occur when a judge pro tempore serves while a district judge is using sick leave granted in accordance with RCW 3.34.100.

(2) The legislature may appropriate money for the purpose of reimbursing counties for the salaries of judges pro tempore for certain days in excess of thirty worked per year that the judge pro tempore was required to work as the result of service by a judge on a commission as authorized under subsection (1) of this section. No later than September 1 of each year, each county treasurer shall certify to the administrator for the courts for the year ending the preceding June 30, the number of days in excess of thirty that any judge pro tempore was required to work as the result of service by a judge on a commission as authorized under subsection (1) of this section. Upon receipt of the certification, the administrator for the courts shall reimburse the county from money appropriated for that purpose. [1993 c 330 § 1; 1986 c 161 § 4; 1984 c 258 § 302; 1984 c 258 § 19; 1983 c 195 § 2; 1981 c 331 § 9; 1961 c 299 § 22.]

Severability—1986 c 161: See note following RCW 43.03.010.

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

Intent—1984 c 258: See note following RCW 3.46.120.

Court Congestion Reduction Act of 1981—Purpose—Severability—1981 c 331: See notes following RCW 2.32.070.

Chapter 3.46
MUNICIPAL DEPARTMENTS

Sections

3.46.063 Judicial positions—Filling—Circumstances permitted. (Effective January 1, 1995.) Notwithstanding RCW 3.46.050 and 3.46.060, judicial positions may be filled only by election under the following circumstances:

(1) Each full-time equivalent judicial position shall be filled by election. This requirement applies regardless of how many judges are employed to fill the position. For purposes of this section, a full-time equivalent position is thirty-five or more hours per week of compensated time.

(2) In any city with one or more full-time equivalent judicial positions, an additional judicial position or positions that is or are in combination more than one-half of a full-time equivalent position shall be filled by election. [1993 c 317 § 3.]

Severability—Effective date—1993 c 317: See notes following RCW 3.46.155.

3.46.067 Judges—Residency requirement. (Effective January 1, 1995.) A judge of a municipal department of a district court need not be a resident of the city in which the department is created, but must be a resident of the county in which the city is located. [1993 c 317 § 5.]

Severability—Effective date—1993 c 317: See notes following RCW 3.46.155.

3.46.155 Termination of municipal department—Waiting period for establishing another. (Effective January 1, 1995.) Any city that terminates a municipal department under this chapter may not establish another municipal department under this chapter until at least ten

years have elapsed from the date of termination. [1993 c 317 § 1.]

Severability—1993 c 317: "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." [1993 c 317 § 11.]

Effective date—1993 c 317: "This act shall take effect January 1, 1995." [1993 c 317 § 12.]

Chapter 3.50
MUNICIPAL COURTS—ALTERNATE PROVISION

Sections

3.50.055 Judicial positions—Filling—Circumstances permitted. (Effective January 1, 1995.) Notwithstanding RCW 3.50.040 and 3.50.050, judicial positions may be filled only by election under the following circumstances:

(1) Each full-time equivalent judicial position shall be filled by election. This requirement applies regardless of how many judges are employed to fill the position. For purposes of this section, a full-time equivalent position is thirty-five or more hours per week of compensated time.

(2) In any city with one or more full-time equivalent judicial positions, an additional judicial position or positions that is or are in combination more than one-half of a full-time equivalent position shall also be filled by election. [1993 c 317 § 4.]

Severability—Effective date—1993 c 317: See notes following RCW 3.46.155.

3.50.057 Judges—Residency requirement. (Effective January 1, 1995.) A judge of a municipal court need not be a resident of the city in which the court is created, but must be a resident of the county in which the city is located. [1993 c 317 § 6.]

Severability—Effective date—1993 c 317: See notes following RCW 3.46.155.

3.50.810 Termination of municipal court—Waiting period for establishing another. (Effective January 1, 1995.) Any city that terminates a municipal court under this chapter may not establish another municipal court under this chapter until at least ten years have elapsed from the date of termination. [1993 c 317 § 2.]

Severability—Effective date—1993 c 317: See notes following RCW 3.46.155.

Chapter 3.62
INCOME OF COURT

Sections

3.62.070 Filing fees in criminal cases and traffic infractions—Arbitration if no agreement. (Effective January 1, 1995.) Except in traffic cases wherein bail is forfeited or a monetary penalty paid to a violations bureau, and except in cases filed in municipal departments established pursuant to chapter 3.46 RCW and except in cases where a city has contracted with another city for such services pursuant to chapter 39.34 RCW, in every criminal or traffic infraction action filed by a city for an ordinance violation, the city shall be charged a filing fee determined pursuant to an agreement as provided for in chapter 39.34 RCW, the interlocal cooperation act, between the city and the county providing the court service. In such criminal or traffic infraction actions the cost of providing services necessary for the preparation and presentation of a defense at public expense are not within the filing fee and shall be paid by the city. In all other criminal or traffic infraction actions, no filing fee shall be assessed or collected: PROVIDED, That in such cases, for the purposes of RCW 3.62.010, four dollars or the agreed filing fee of each fine or penalty, whichever is greater, shall be deemed filing costs.

If, one hundred twenty days before the expiration of an existing contract under this section, the city and the county are unable to agree on terms for renewal, the matter shall be submitted to binding arbitration. The city and the county shall each select one arbitrator, the two of whom shall pick a third arbitrator. The existing contract shall remain in effect until a new agreement is reached or until an arbitration award is made. [1993 c 317 § 8; 1984 c 258 § 39; 1980 c 128 § 14; 1979 ex.s. c 129 § 1; 1973 1st ex.s. c 10 § 2; 1961 c 299 § 111.]

Severability—Effective date—1993 c 317: See notes following RCW 3.46.155.

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

Effective date—Severability—1980 c 128: See notes following RCW 46.63.060.

3.62.100 Promotion of efficiency. (Effective January 1, 1995.) District courts shall take all steps necessary to promote efficiencies in calendaring in order to minimize costs to cities that use the district courts. Cities shall cooperate with the district courts in order to minimize those costs. [1993 c 317 § 7.]

Severability—Effective date—1993 c 317: See notes following RCW 3.46.155.

Title 4
CIVIL PROCEDURE

Chapters

4.96 Actions against political subdivisions, municipal corporations and quasi municipal corporations.

Chapter 4.16
LIMITATION OF ACTIONS

Sections

4.16.190 Statute tolled by personal disability. If a person entitled to bring an action mentioned in this chapter, except for a penalty or forfeiture, or against a sheriff or other officer, for an escape, be at the time the cause of action accrued either under the age of eighteen years, or incompetent or disabled to such a degree that he or she cannot understand the nature of the proceedings, such incompetency or disability as determined according to chapter 11.88 RCW, or imprisoned on a criminal charge prior to sentencing, the time of such disability shall not be a part of the time limited for the commencement of action. [1993 c 232 § 1; 1977 ex.s. c 80 § 2; 1971 ex.s. c 292 § 74; Code 1881 § 37; 1877 p 9 § 38; 1869 p 10 § 38; 1861 p 61 § 1; 1854 p 364 § 11; RRS § 169.]

Purpose—Intent—1977 ex.s. c 80: "It is the purpose of the legislature in enacting this 1977 amendatory act to provide for a comprehensive revision of out-dated and offensive language, procedures and assumptions that have previously been used to identify and categorize mentally, physically, and sensory handicapped citizens. It is legislative intent that language references such as idiots, imbeciles, feeble-minded or defective persons be deleted and replaced with more appropriate references to reflect current statute law more recently enacted by the federal government and this legislature. It is legislative belief that use of the undefined term "insanity" be avoided in preference to the use of a process for defining incompetency or disability as fully set forth in chapter 11.88 RCW; that language that has allowed or implied a presumption of incompetency or disability on the basis of an apparent condition or appearance be deleted in favor of a reference to necessary due process allowing a judicial determination of the existence or lack of existence of such incompetency or disability." [1977 ex.s. c 80 § 1.]

Severability—1977 ex.s. c 80: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 80 § 76.]

Severability—1971 ex.s. c 292: See note following RCW 26.28.010.

Adverse possession, personal disability, limitation tolled: RCW 7.28.090.

4.16.380 Action to determine public hazard violation concealment. An action for declaratory relief or other civil action brought pursuant to RCW 4.24.600 through 4.24.620 to determine whether an agreement, contract, order, or judgment conceals a public hazard in violation of RCW 4.24.600 through 4.24.620 must be brought within three years of entry of the order or judgment or three years from the date the parties entered into the agreement or contract. [1993 c 17 § 5.]

Application—1993 c 17: See note following RCW 4.24.600.

Chapter 4.20
SURVIVAL OF ACTIONS

Sections

4.20.046 Survival of actions. (1) All causes of action by a person or persons against another person or persons shall survive to the personal representatives of the former and against the personal representatives of the latter, whether such actions arise on contract or otherwise, and whether or not such actions would have survived at the common law or prior to the date of enactment of this section: PROVIDED, HOWEVER, That the personal representative shall only be entitled to recover damages for pain and suffering, anxiety, emotional distress, or humiliation personal to and suffered by a deceased on behalf of those beneficiaries enumerated in RCW 4.20.020, and such damages are recoverable regardless of whether or not the death was occasioned by the injury that is the basis for the action. The liability of property of a husband and wife held by them as community property to execution in satisfaction of a claim enforceable against such property so held shall not be affected by the death of either or both spouses; and a cause of action shall remain an asset as though both claiming spouses continued to live despite the death of either or both claiming spouses.

(2) Where death or an injury to person or property, resulting from a wrongful act, neglect or default, occurs simultaneously with or after the death of a person who would have been liable therefor if his death had not occurred simultaneously with such death or injury or had not intervened between the wrongful act, neglect or default and the resulting death or injury, an action to recover damages for such death or injury may be maintained against the personal representative of such person. [1993 c 44 § 1; 1961 c 137 § 1.]

Chapter 4.22
CONTRIBUTORY FAULT—EFFECT—IMPUTATION—CONTRIBUTION—SETTLEMENT AGREEMENTS

Sections

4.22.070 Percentage of fault—Determination—Exception—Limitations. (1) In all actions involving fault of more than one entity, the trier of fact shall determine the percentage of the total fault which is attributable to every entity which caused the claimant's damages except entities immune from liability to the claimant under Title 51 RCW. The sum of the percentages of the total fault attributed to at-fault entities shall equal one hundred percent. The entities whose fault shall be determined include the claimant or person suffering personal injury or incurring property damage, defendants, third-party defendants, entities released by the claimant, entities with any other individual defense against the claimant, and entities immune from liability to the claimant, but shall not include those entities immune from liability to the claimant under Title 51 RCW. Judg-

ment shall be entered against each defendant except those who have been released by the claimant or are immune from liability to the claimant or have prevailed on any other individual defense against the claimant in an amount which represents that party's proportionate share of the claimant's total damages. The liability of each defendant shall be several only and shall not be joint except:

(a) A party shall be responsible for the fault of another person or for payment of the proportionate share of another party where both were acting in concert or when a person was acting as an agent or servant of the party.

(b) If the trier of fact determines that the claimant or party suffering bodily injury or incurring property damages was not at fault, the defendants against whom judgment is entered shall be jointly and severally liable for the sum of their proportionate shares of the claimants total damages.

(2) If a defendant is jointly and severally liable under one of the exceptions listed in subsections (1)(a) or (1)(b) of this section, such defendant's rights to contribution against another jointly and severally liable defendant, and the effect of settlement by either such defendant, shall be determined under RCW 4.22.040, 4.22.050, and 4.22.060.

(3)(a) Nothing in this section affects any cause of action relating to hazardous wastes or substances or solid waste disposal sites.

(b) Nothing in this section shall affect a cause of action arising from the tortious interference with contracts or business relations.

(c) Nothing in this section shall affect any cause of action arising from the manufacture or marketing of a fungible product in a generic form which contains no clearly identifiable shape, color, or marking. [1993 c 496 § 1; 1986 c 305 § 401.]

Effective date—1993 c 496: "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, 1993." [1993 c 496 § 3.]

Application—1993 c 496: "This act applies to all causes of action that the parties have not settled or in which judgment has not been entered prior to July 1, 1993." [1993 c 496 § 4.]

Preamble—Report to legislature—Applicability—Severability—1986 c 305: See notes following RCW 4.16.160.

Chapter 4.24
SPECIAL RIGHTS OF ACTION AND SPECIAL IMMUNITIES

Sections

4.24.410 Dog handler using dog in line of duty—Immunity. (1) As used in this section:

(a) "Police dog" means a dog used by a law enforcement agency specially trained for law enforcement work and under the control of a dog handler.

(b) "Accelerant detection dog" means a dog used exclusively for accelerant detection by the state fire marshal or a fire department and under the control of the state fire marshal or his or her designee or a fire department handler.

(c) "Dog handler" means a law enforcement officer who has successfully completed training as prescribed by the Washington state criminal justice training commission in police dog handling, or in the case of an accelerant detection dog, the state fire marshal's designee or an employee of the fire department authorized by the fire chief to be the dog's handler.

(2) Any dog handler who uses a police dog in the line of duty in good faith is immune from civil action for damages arising out of such use of the police dog or accelerant detection dog. [1993 c 180 § 1; 1989 c 26 § 1; 1982 c 22 § 1.]

4.24.600 Public hazard information—Violations. (1) As used in this section, "public hazard" means an instrumentality, including but not limited to any device, instrument, procedure, product, or a condition of a device, instrument, procedure, or product, that:

(a) Presents a real and substantial potential for repetition of the harm inflicted; or

(b) Involves a single incident which affected or was likely to affect many people.

As used in this section, the term "procedure" does not include acts or procedures by licensed professionals acting within the scope of their licenses.

(2) Except as provided in this section, no court shall enter an order or judgment which has the purpose or effect of concealing a public hazard or any relevant information or material concerning a public hazard, nor shall the court enter an order or judgment that has the purpose or effect of concealing any information or material that is relevant to the public's knowledge or understanding of a public hazard.

(3) Any portion of an agreement or contract that has the purpose or effect of concealing a public hazard, relevant information or material concerning a public hazard, or information or material that is relevant to the public's knowledge or understanding of a public hazard, is void, contrary to public policy, and may not be enforced. A party to the agreement or contract may bring a declaratory action pursuant to this section to determine whether an agreement or contract conceals a public hazard and is void.

(4)(a) In any declaratory or other civil action, a party may bring a motion for a temporary order restraining disclosure to the public or to third parties information or material about the party making the motion which is known to another party or which is sought from the party making the motion by another party. Upon good cause shown the court shall examine in camera the information or material sought to be protected. The court may in the court's discretion issue a temporary order restraining a party or parties from disseminating the protected information or material to the public or third parties. The temporary order shall terminate upon the entry of a final order or judgment or a dismissal of the action.

(b) In any final order or judgment entered in any declaratory or other civil action, if the court finds that all or portions of the information or material sought to be protected is relevant to the public's knowledge or understanding of a public hazard, the court shall provide for disclosure of the

information or material. If the court finds that all or a portion of the information or material sought to be protected is not relevant to the public's knowledge or understanding of the public hazard, the court shall require the information to be sealed and may include in the final order or judgment provisions restraining any or all parties from disclosing the information which is protected.

(5)(a) Any third party, including but not limited to representatives of news media, has standing to contest a motion, order, judgment, agreement, or contract that allegedly conceals a public hazard. The third party may challenge the motion by intervention during the court action or the third party may bring a declaratory action pursuant to this section to determine whether the agreement, contract, order, or judgment conceals a public hazard.

(b) The third party must (i) establish the existence of a public hazard; (ii) establish that the public hazard was a subject within the agreement, contract, order, or judgment; and (iii) establish a basis for a reasonable belief by the third party that the agreement, contract, order, or judgment concealed the public hazard in violation of RCW 4.24.600 through 4.24.620.

(c) If the court finds that the third party has met the requirements of (b) of this subsection, the court shall order the defendant to produce the information or material for an in camera review by the court. The court shall determine whether the information or material protected under the agreement, contract, order, or judgment conceals a public hazard in violation of RCW 4.24.600 through 4.24.620. Upon review, the court shall issue an order regarding dissemination of the information or material in accordance with subsection (4)(b) of this section.

(d) The court may award reasonable attorneys' fees and actual costs to the prevailing party in an action under this subsection (5). [1993 c 17 § 1.]

Application—1993 c 17: "This act shall apply to all agreements, contracts, orders, and judgments entered on or after July 25, 1993." [1993 c 17 § 4.]

4.24.610 Public hazard information—Violations—Penalties. Any person who violates an order either publishing or sealing information or material issued under RCW 4.24.600 through 4.24.620, shall be in contempt of court. The court shall award attorneys' fees and costs incurred in enforcing the order plus actual damages against the party who violated the order. [1993 c 17 § 2.]

Application—1993 c 17: See note following RCW 4.24.600.

4.24.620 Public hazard information—Violations—Application of consumer protection act—Unfair insurance practice. Any party who attempts to condition an agreement or contract upon another party's agreement to conceal an instrumentality that the party knows or reasonably should have known is a public hazard or any party who enters into an agreement or contract that conceals an instrumentality that the party knows or reasonably should have known is a public hazard shall be in violation of the consumer protection act, chapter 19.86 RCW. If the party is engaged in the business of insurance then the party shall also be in violation of RCW 48.30.010. [1993 c 17 § 3.]

Application—1993 c 17: See note following RCW 4.24.600.

Chapter 4.84
COSTS

Sections

4.84.010 Compensation of attorneys—Costs defined.

4.84.010 Compensation of attorneys—Costs defined. The measure and mode of compensation of attorneys and counselors, shall be left to the agreement, expressed or implied, of the parties, but there shall be allowed to the prevailing party upon the judgment certain sums by way of indemnity for the prevailing party's expenses in the action, which allowances are termed costs, including, in addition to costs otherwise authorized by law, the following expenses:

(1) Filing fees;

(2) Fees for the service of process by a public officer, registered process server, or other means, as follows:

(a) When service is by a public officer, the recoverable cost is the fee authorized by law at the time of service.

(b) If service is by a process server registered pursuant to chapter 18.180 RCW or a person exempt from registration, the recoverable cost is the amount reasonably incurred in effecting service;

(3) Fees for service by publication;

(4) Notary fees, but only to the extent the fees are for services that are expressly required by law and only to the extent they represent actual costs incurred by the prevailing party;

(5) Reasonable expenses, exclusive of attorneys' fees, incurred in obtaining reports and records, which are admitted into evidence at trial or in mandatory arbitration in superior or district court, including but not limited to medical records, tax records, personnel records, insurance reports, employment and wage records, police reports, school records, bank records, and legal files;

(6) Statutory attorney and witness fees; and

(7) To the extent that the court or arbitrator finds that it was necessary to achieve the successful result, the reasonable expense of the transcription of depositions used at trial or at the mandatory arbitration hearing: PROVIDED, That the expenses of depositions shall be allowed on a pro rata basis for those portions of the depositions introduced into evidence or used for purposes of impeachment. [1993 c 48 § 1; 1984 c 258 § 92; 1983 1st ex.s. c 45 § 7; Code 1881 § 505; 1877 p 108 § 509; 1869 p 123 § 459; 1854 p 201 § 367; RRS § 474.]

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

Attorney fee in appeals from board of industrial insurance appeals: RCW 51.52.130, 51.52.132.

Chapter 4.96
ACTIONS AGAINST POLITICAL SUBDIVISIONS, MUNICIPAL CORPORATIONS AND QUASI MUNICIPAL CORPORATIONS

Sections

4.96.010 Tortious conduct of local governmental entities—Liability for damages.

4.96.020 Tortious conduct of local governmental entities—Claims—Presentment and filing—Contents.

4.96.010 Tortious conduct of local governmental entities—Liability for damages. (1) All local governmental entities, whether acting in a governmental or proprietary capacity, shall be liable for damages arising out of their tortious conduct, or the tortious conduct of their past or present officers, employees, or volunteers while performing or in good faith purporting to perform their official duties, to the same extent as if they were a private person or corporation. Filing a claim for damages within the time allowed by law shall be a condition precedent to the commencement of any action claiming damages. The laws specifying the content for such claims shall be liberally construed so that substantial compliance therewith will be deemed satisfactory.

(2) Unless the context clearly requires otherwise, for the purposes of this chapter, "local governmental entity" means a county, city, town, special district, municipal corporation, or quasi-municipal corporation.

(3) For the purposes of this chapter, "volunteer" is defined according to RCW 51.12.035. [1993 c 449 § 2; 1967 c 164 § 1.]

Purpose—1993 c 449: "This act is designed to provide a single, uniform procedure for bringing a claim for damages against a local governmental entity. The existing procedures, contained in chapter 36.45 RCW, counties, chapter 35.31 RCW, cities and towns, chapter 35A.31 RCW, optional municipal code, and chapter 4.96 RCW, other political subdivisions, municipal corporations, and quasi-municipal corporations, are revised and consolidated into chapter 4.96 RCW." [1993 c 449 § 1.]

Severability—1993 c 449: "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." [1993 c 449 § 15.]

Purpose—1967 c 164: "It is the purpose of this act to extend the doctrine established in chapter 136, Laws of 1961, as amended, to all political subdivisions, municipal corporations and quasi municipal corporations of the state." [1967 c 164 § 17.]

Severability—1967 c 164: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1967 c 164 § 18.]

The above two annotations apply to 1967 c 164. For codification of that act, see Codification Tables, Volume 0.

4.96.020 Tortious conduct of local governmental entities—Claims—Presentment and filing—Contents. (1) The provisions of this section apply to claims for damages against all local governmental entities.

(2) All claims for damages against any such entity for damages shall be presented to and filed with the governing body thereof within the applicable period of limitations within which an action must be commenced.

(3) All claims for damages arising out of tortious conduct must locate and describe the conduct and circumstances which brought about the injury or damage, describe the injury or damage, state the time and place the injury or damage occurred, state the names of all persons involved, if known, and shall contain the amount of damages claimed, together with a statement of the actual residence of the claimant at the time of presenting and filing the claim and for a period of six months immediately prior to the time the claim arose. If the claimant is incapacitated from verifying, presenting, and filing the claim in the time prescribed or if the claimant is a minor, or is a nonresident of the state absent therefrom during the time within which the claim is required to be filed, the claim may be verified, presented, and filed on behalf of the claimant by any relative, attorney, or agent representing the claimant.

(4) No action shall be commenced against any local governmental entity for damages arising out of tortious conduct until sixty days have elapsed after the claim has first been presented to and filed with the governing body thereof. The applicable period of limitations within which an action must be commenced shall be tolled during the sixty-day period. [1993 c 449 § 3; 1967 c 164 § 4.]

Purpose—Severability—1993 c 449: See notes following RCW 4.96.010.

4.96.041 Action or proceeding against officer, employee, or volunteer of local governmental entity—Payment of damages and expenses of defense. (1) Whenever an action or proceeding for damages is brought against any past or present officer, employee, or volunteer of a local governmental entity of this state, arising from acts or omissions while performing or in good faith purporting to perform his or her official duties, such officer, employee, or volunteer may request the local governmental entity to authorize the defense of the action or proceeding at the expense of the local governmental entity.

(2) If the legislative authority of the local governmental entity, or the local governmental entity using a procedure created by ordinance or resolution, finds that the acts or omissions of the officer, employee, or volunteer were, or in good faith purported to be, within the scope of his or her official duties, the request shall be granted. If the request is granted, the necessary expenses of defending the action or proceeding shall be paid by the local governmental entity. Any monetary judgment against the officer, employee, or volunteer shall be paid on approval of the legislative authority of the local governmental entity or by a procedure for approval created by ordinance or resolution.

(3) The necessary expenses of defending an elective officer of the local governmental entity in a judicial hearing to determine the sufficiency of a recall charge as provided in RCW 29.82.023 shall be paid by the local governmental entity if the officer requests such defense and approval is granted by both the legislative authority of the local governmental entity and the attorney representing the local governmental entity. The expenses paid by the local governmental entity may include costs associated with an appeal of the decision rendered by the superior court concerning the sufficiency of the recall charge.

(4) When an officer, employee, or volunteer of the local governmental entity has been represented at the expense of the local governmental entity under subsection (1) of this section and the court hearing the action has found that the officer, employee, or volunteer was acting within the scope of his or her official duties, and a judgment has been entered against the officer, employee, or volunteer under chapter 4.96 RCW or 42 U.S.C. Sec. 1981 et seq., thereafter the judgment creditor shall seek satisfaction for nonpunitive damages only from the local governmental entity, and judgment for nonpunitive damages shall not become a lien

upon any property of such officer, employee, or volunteer. The legislative authority of a local governmental entity may, pursuant to a procedure created by ordinance or resolution, agree to pay an award for punitive damages. [1993 c 449 § 4; 1989 c 250 § 1; 1979 ex.s. c 72 § 1. Formerly RCW 36.16.134.]

Purpose—Severability—1993 c 449: See notes following RCW 4.96.010.

4.96.050 Bond not required. No bond is required of any local governmental entity for any purpose in any case in any of the courts of the state of Washington and all local governmental entities shall be, on proper showing, entitled to any orders, injunctions, and writs of whatever nature without bond, notwithstanding the provisions of any existing statute requiring that bonds be furnished by private parties. [1993 c 449 § 5.]

Purpose—Severability—1993 c 449: See notes following RCW 4.96.010.

Title 5
EVIDENCE

Chapters

Chapter 5.60
WITNESSES—COMPETENCY

Sections

5.60.070 Mediation—Disclosure—Testimony. (1) If there is a court order to mediate, a written agreement between the parties to mediate, or if mediation is mandated under RCW 7.70.100, then any communication made or materials submitted in, or in connection with, the mediation proceeding, whether made or submitted to or by the mediator, a mediation organization, a party, or any person present, are privileged and confidential and are not subject to disclosure in any judicial or administrative proceeding except:

(a) When all parties to the mediation agree, in writing, to disclosure;

(b) When the written materials or tangible evidence are otherwise subject to discovery, and were not prepared specifically for use in and actually used in the mediation proceeding;

(c) When a written agreement to mediate permits disclosure;

(d) When disclosure is mandated by statute;

(e) When the written materials consist of a written settlement agreement or other agreement signed by the parties resulting from a mediation proceeding;

(f) When those communications or written materials pertain solely to administrative matters incidental to the mediation proceeding, including the agreement to mediate; or

(g) In a subsequent action between the mediator and a party to the mediation arising out of the mediation.

(2) When there is a court order, a written agreement to mediate, or when mediation is mandated under RCW 7.70.100, as described in subsection (1) of this section, the mediator or a representative of a mediation organization shall not testify in any judicial or administrative proceeding unless:

(a) All parties to the mediation and the mediator agree in writing; or

(b) In an action described in subsection (1)(g) of this section. [1993 c 492 § 422; 1991 c 321 § 1.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Severability—1991 c 321: "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." [1991 c 321 § 3.]

Title 6
ENFORCEMENT OF JUDGMENTS

Chapters

Chapter 6.13
HOMESTEADS

Sections

6.13.010 Homestead, what constitutes—"Owner," "net value" defined. (1) The homestead consists of real or personal property that the owner uses as a residence. In the case of a dwelling house or mobile home, the homestead consists of the dwelling house or the mobile home in which the owner resides or intends to reside, with appurtenant buildings, and the land on which the same are situated and by which the same are surrounded, or improved or unimproved land owned with the intention of placing a house or mobile home thereon and residing thereon. A mobile home may be exempted under this chapter whether or not it is permanently affixed to the underlying land and whether or not the mobile home is placed upon a lot owned by the mobile home owner. Property included in the homestead must be actually intended or used as the principal home for the owner.

(2) As used in this chapter, the term "owner" includes but is not limited to a purchaser under a deed of trust, mortgage, or real estate contract.

(3) As used in this chapter, the term "net value" means market value less all liens and encumbrances. [1993 c 200

§ 1; 1987 c 442 § 201; 1981 c 329 § 7; 1945 c 196 § 1; 1931 c 88 § 1; 1927 c 193 § 1; 1895 c 64 § 1; Rem. Supp. 1945 § 528. Formerly RCW 6.12.010.]

Severability—1981 c 329: See note following RCW 6.21.020.

6.13.030 Homestead exemption limited. A homestead may consist of lands, as described in RCW 6.13.010, regardless of area, but the homestead exemption amount shall not exceed the lesser of (1) the total net value of the lands, mobile home, improvements, and other personal property, as described in RCW 6.13.010, or (2) the sum of thirty thousand dollars in the case of lands, mobile home, and improvements, or the sum of fifteen thousand dollars in the case of other personal property described in RCW 6.13.010, except where the homestead is subject to execution, attachment, or seizure by or under any legal process whatever to satisfy a judgment in favor of any state for failure to pay that state's income tax on benefits received while a resident of the state of Washington from a pension or other retirement plan, in which event there shall be no dollar limit on the value of the exemption. [1993 c 200 § 2; 1991 c 123 § 2; 1987 c 442 § 203; 1983 1st ex.s. c 45 § 4; 1981 c 329 § 10; 1977 ex.s. c 98 § 3; 1971 ex.s. c 12 § 1; 1955 c 29 § 1; 1945 c 196 § 3; 1895 c 64 § 24; Rem. Supp. 1945 § 552. Formerly RCW 6.12.050.]

Purpose—1991 c 123: "The legislature recognizes that retired persons generally are financially dependent on fixed pension or retirement benefits and passive income from investment property. Because of this dependency, retired persons are more vulnerable than others to inflation and depletion of their assets. It is the purpose of this act to increase the protection of income of retired persons residing in the state of Washington from collection of income taxes imposed by other states." [1991 c 123 § 1.]

Severability—1981 c 329: See note following RCW 6.21.020.

Severability—1971 ex.s. c 12: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 12 § 5.] For codification of 1971 ex.s. c 12, see Codification Tables, Volume 0.

6.13.040 Automatic homestead exemption—Conditions—Declaration of homestead—Declaration of abandonment. (1) Property described in RCW 6.13.010 constitutes a homestead and is automatically protected by the exemption described in RCW 6.13.070 from and after the time the real or personal property is occupied as a principal residence by the owner or, if the homestead is unimproved or improved land that is not yet occupied as a homestead, from and after the declaration or declarations required by the following subsections are filed for record or, if the homestead is a mobile home not yet occupied as a homestead and located on land not owned by the owner of the mobile home, from and after delivery of a declaration as prescribed in RCW 6.15.060(3)(c) or, if the homestead is any other personal property, from and after the delivery of a declaration as prescribed in RCW 6.15.060(3)(d).

(2) An owner who selects a homestead from unimproved or improved land that is not yet occupied as a homestead must execute a declaration of homestead and file the same for record in the office of the recording officer in the county in which the land is located. However, if the owner also owns another parcel of property on which the owner presently resides or in which the owner claims a homestead, the owner must also execute a declaration of abandonment of homestead on that other property and file the same for record with the recording officer in the county in which the land is located.

(3) The declaration of homestead must contain:

(a) A statement that the person making it is residing on the premises or intends to reside thereon and claims them as a homestead;

(b) A legal description of the premises; and

(c) An estimate of their actual cash value.

(4) The declaration of abandonment must contain:

(a) A statement that premises occupied as a residence or claimed as a homestead no longer constitute the owner's homestead;

(b) A legal description of the premises; and

(c) A statement of the date of abandonment.

(5) The declaration of homestead and declaration of abandonment of homestead must be acknowledged in the same manner as a grant of real property is acknowledged. [1993 c 200 § 3; 1987 c 442 § 204; 1981 c 329 § 9. Formerly RCW 6.12.045.]

Severability—1981 c 329: See note following RCW 6.21.020.

6.13.080 Homestead exemption, when not available. The homestead exemption is not available against an execution or forced sale in satisfaction of judgments obtained:

(1) On debts secured by mechanic's, laborer's, construction, maritime, automobile repair, materialmen's or vendor's liens arising out of and against the particular property claimed as a homestead;

(2) On debts secured (a) by security agreements describing as collateral the property that is claimed as a homestead or (b) by mortgages or deeds of trust on the premises that have been executed and acknowledged by the husband and wife or by any unmarried claimant;

(3) On one spouse's or the community's debts existing at the time of that spouse's bankruptcy filing where (a) bankruptcy is filed by both spouses within a six-month period, other than in a joint case or a case in which their assets are jointly administered, and (b) the other spouse exempts property from property of the estate under the bankruptcy exemption provisions of 11 U.S.C. Sec. 522(d);

(4) On debts arising from a lawful court order or decree or administrative order establishing a child support obligation or obligation to pay spousal maintenance; or

(5) On debts secured by a condominium's or homeowner association's lien. In order for an association to be exempt under this provision, the association must have provided a homeowner with notice that nonpayment of the association's assessment may result in foreclosure of the association lien and that the homestead protection under this chapter shall not apply. An association has complied with this notice requirement by mailing the notice, by first class mail, to the address of the owner's lot or unit. The notice required in this subsection shall be given within thirty days from the date the association learns of a new owner, but in all cases the notice must be given prior to the initiation of a foreclosure. The phrase "learns of a new owner" in this subsection means actual knowledge of the identity of a homeowner acquiring title after June 9, 1988, and does not

require that an association affirmatively ascertain the identity of a homeowner. Failure to give the notice specified in this subsection affects an association's lien only for debts accrued up to the time an association complies with the notice provisions under this subsection. [1993 c 200 § 4. Prior: 1988 c 231 § 3; 1988 c 192 § 1; 1987 c 442 § 208; 1984 c 260 § 16; 1982 c 10 § 1; prior: 1981 c 304 § 17; 1981 c 149 § 1; 1909 c 44 § 1; 1895 c 64 § 5; RRS § 533. Formerly RCW 6.12.100.]

Severability—1988 c 231: See note following RCW 6.01.050.

Severability—1984 c 260: See RCW 26.18.900.

Severability—1982 c 10: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 10 § 19.]

Severability—1981 c 304: See note following RCW 26.16.030.

Chapter 6.15
PERSONAL PROPERTY EXEMPTIONS

Sections

6.15.060 Manner of claiming exemptions—Appraisement—Appraiser's fee.

6.15.060 Manner of claiming exemptions—Appraisement—Appraiser's fee. (1) Except as provided in subsection (2) of this section, property claimed exempt under RCW 6.15.010 shall be selected by the individual entitled to the exemption, or by the husband or wife entitled to a community exemption, in the manner described in subsection (3) of this section.

(2) If, at the time of seizure under execution or attachment of property exemptible under *RCW 6.15.010(3) (a), (b), or (c), the individual or the husband or wife entitled to claim the exemption is not present, then the sheriff or deputy shall make a selection equal in value to the applicable exemptions and, if no appraisement is required and no objection is made by the creditor as permitted under subsection (4) of this section, the officer shall return the same as exempt by inventory. Any selection made as provided shall be prima facie evidence (a) that the property so selected is exempt from execution and attachment, and (b) that the property so selected is not in excess of the values specified for the exemptions.

(3)(a) A debtor who claims personal property as exempt against execution or attachment shall, at any time before sale, deliver to the officer making the levy a list by separate items of the property claimed as exempt, together with an itemized list of all the personal property owned or claimed by the debtor, including money, bonds, bills, notes, claims and demands, with the residence of the person indebted upon the said bonds, bills, notes, claims and demands, and shall verify such list by affidavit. The officer shall immediately advise the creditor, attorney, or agent of the exemption claim and, if no appraisement is required and no objection is made by the creditor as permitted under subsection (4) of this section, the officer shall return with the process the list of property claimed as exempt.

(b) A debtor who claims personal property exempt against garnishment shall proceed as provided in RCW 6.27.160.

(c) A debtor who claims as a homestead, under chapter 6.13 RCW, a mobile home that is not yet occupied as a homestead and that is located on land not owned by the debtor shall claim the homestead as against a specific levy by delivering to the sheriff who levied on the mobile home, before sale under the levy, a declaration of homestead that contains (i) a declaration that the debtor owns the mobile home, intends to reside therein, and claims it as a homestead, and (ii) a description of the mobile home, a statement where it is located or was located before the levy, and an estimate of its actual cash value.

(d) A debtor who claims as a homestead, under RCW 6.13.040, any other personal property, shall at any time before sale, deliver to the officer making the levy a notice of claim of homestead in a statement that sets forth the following: (i) The debtor owns the personal property; (ii) the debtor resides thereon as a homestead; (iii) the debtor's estimate of the fair market value of the property; and (iv) the debtor's description of the property in sufficient detail for the officer making the levy to identify the same.

(4)(a) Except as provided in (b) of this subsection, a creditor, or the agent or attorney of a creditor, who wishes to object to a claim of exemption shall proceed as provided in RCW 6.27.160 and shall give notice of the objection to the officer not later than seven days after the officer's giving notice of the exemption claim.

(b) A creditor, or the agent or attorney of the creditor, who wishes to object to a claim of exemption made to a levying officer, on the ground that the property claimed exceeds exemptible value, may demand appraisement. If the creditor, or the agent or attorney of the creditor, demands an appraisement, two disinterested persons shall be chosen to appraise the property, one by the debtor and the other by the creditor, agent or attorney, and these two, if they cannot agree, shall select a third; but if either party fails to choose an appraiser, or the two fail to select a third, or if one or more of the appraisers fail to act, the court shall appoint one or more as the circumstances require. The appraisers shall forthwith proceed to make a list by separate items, of the personal property selected by the debtor as exempt, which they shall decide as exempt, stating the value of each article, and annexing to the list their affidavit to the following effect: "We solemnly swear that to the best of our judgment the above is a fair cash valuation of the property therein described," which affidavit shall be signed by two appraisers at least, and be certified by the officer administering the oaths. The list shall be delivered to the officer holding the execution or attachment and be annexed to and made part of the return, and the property therein specified shall be exempt from levy and sale, but the other personal estate of the debtor shall remain subject to execution, attachment, or garnishment. Each appraiser shall be entitled to fifteen dollars or such larger fee as shall be fixed by the court, to be paid by the creditor if all the property claimed by the debtor shall be exempt; otherwise to be paid by the debtor.

(c) If, within seven days following the giving of notice to a creditor of an exemption claim, the officer has received no notice from the creditor of an objection to the claim or a demand for appraisement, the officer shall release the claimed property to the debtor. [1993 c 200 § 5; 1988 c 231 § 7; 1987 c 442 § 306; 1973 1st ex.s. c 154 § 15; Code

1881 § 349; 1877 p 74 § 353; 1869 p 88 § 346; RRS § 572. Formerly RCW 6.16.090.]

***Reviser's note:** RCW 6.15.010(3) (a), (b), and (c) was redesignated RCW 6.15.010(3) (a) and (b) by 1991 c 112 § 1.

Severability—1988 c 231: See note following RCW 6.01.050.

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

Chapter 6.17
EXECUTIONS

Sections

6.17.080 Enforcement of judgment against local governmental entity.

6.17.080 Enforcement of judgment against local governmental entity. No execution may issue for collection of a judgment for the recovery of money or damages against a local governmental entity. Any such judgment may be enforced as follows:

(1) The judgment creditor may at any time when execution might issue on a like judgment against a private person, and after acknowledging satisfaction of the judgment as in ordinary cases, obtain from the clerk a certified transcript of the judgment. The clerk shall include in the transcript a copy of the memorandum of acknowledgment of satisfaction and the entry thereof as the basis for an order on the treasurer for payment. Unless the transcript contains such memorandum, no order upon the treasurer shall issue thereon.

(2) The judgment creditor shall present the certified transcript showing satisfaction of the judgment to the officer of the local governmental entity who is authorized to draw orders on its treasury.

(3) The officer shall draw an order on the treasurer for the amount of the judgment, in favor of the judgment creditor. The order shall be presented for payment and paid with like effect and in like manner as other orders upon the treasurer. If the proper officer of the local governmental entity fails or refuses to draw the order for payment of the judgment as provided in this section, a writ of mandamus may be issued in the original case to compel performance of the duty.

(4) As used in this section, the term "local governmental entity" means a county, city, town, special district, municipal corporation, or quasi-municipal corporation. [1993 c 449 § 6; 1987 c 442 § 408; Code 1881 § 664; 1877 p 137 § 667; 1869 p 154 § 604; RRS § 953. Formerly RCW 6.04.140.]

Purpose—Severability—1993 c 449: See notes following RCW 4.96.010.

Title 7
SPECIAL PROCEEDINGS AND ACTIONS

Chapters

Chapter 7.16
CERTIORARI, MANDAMUS, AND PROHIBITION

Sections

7.16.370 Enforcement of term limits for elected officials.

7.16.370 Enforcement of term limits for elected officials. Any resident of this state may bring suit to enforce RCW 43.01.015, 44.04.015, 29.68.015, 29.68.016, 29.51.173, and 29.15.240 and section 8, chapter 1, Laws of 1993. If the person prevails, the court shall award the person reasonable attorney's fees and costs of suit. [1993 c 1 § 9 (Initiative Measure No. 573, approved November 3, 1992).]

Preamble—Severability—1993 c 1 (Initiative Measure No. 573): See notes following RCW 43.01.015.

Chapter 7.68
VICTIMS OF CRIMES—COMPENSATION, ASSISTANCE

Sections

7.68.070 Benefits—Right to and amount—Limitations.
7.68.300 Finding.
7.68.310 Property subject to seizure and forfeiture.
7.68.320 Seizure and forfeiture—Procedure.
7.68.330 Seizure and forfeiture—Distribution of proceeds.
7.68.340 Seizure and forfeiture—Remedies nondefeatable and supplemental.

7.68.070 Benefits—Right to and amount—Limitations. The right to benefits under this chapter and the amount thereof will be governed insofar as is applicable by the provisions contained in chapter 51.32 RCW as now or hereafter amended except as provided in this section:

(1) The provisions contained in RCW 51.32.015, 51.32.030, 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 as now or hereafter amended are not applicable to this chapter.

(2) Each victim injured as a result of a criminal act, including criminal acts committed between July 1, 1981, and 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;

(a) Benefits payable to an eligible surviving spouse, where there are no children of the victim at the time of the criminal act who have survived 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 percentages, where applicable, of the average monthly wage determined as of the date of the criminal act pursuant to RCW 51.08.018 as now or hereafter amended:

(a) If married at the time of the criminal act, twenty-nine percent of 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 or, during the 1993-95 fiscal biennium, to the extent necessary to provide matching funds for federal medicaid reimbursement.

(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. [1993 1st sp.s. c 24 § 912; 1992 c 203 § 1; 1990 c 3 § 502; 1989 1st ex.s. c 5 § 5; 1989 c 12 § 2; 1987 c 281 § 8; 1985 c 443 § 15; 1983 c 239 § 2; 1982 1st ex.s. c 8 § 2; 1981 1st ex.s. c 6 § 26; 1977 ex.s. c 302 § 5; 1975 1st ex.s. c 176 § 3; 1973 1st ex.s. c 122 § 7.]

Severability—Effective dates—1993 1st sp.s. c 24: See notes following RCW 28A.165.070.

Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.

Severability—Application—Effective dates—1989 1st ex.s. c 5: See notes following RCW 7.68.015.

Effective date—1987 c 281: See note following RCW 7.68.020.

Application—1985 c 443 § 15: "The amendments to RCW 7.68.070 by this act apply only to criminal acts occurring after December 31, 1985." [1986 c 98 § 3; 1985 c 443 § 17.]

Severability—Effective date—1985 c 443: See notes following RCW 7.69.010.

Effective dates—Intent—Reports—1982 1st ex.s. c 8: See notes following RCW 7.68.035.

Effective date—Severability—1981 1st ex.s. c 6: See notes following RCW 74.04.005.

7.68.300 Finding. The legislature finds compelling state interests in compensating the victims of crime and in preventing criminals from profiting from their crimes. RCW 7.68.310 through 7.68.340 are intended to advance both of these interests. [1993 c 288 § 3.]

7.68.310 Property subject to seizure and forfeiture. The following are subject to seizure and forfeiture and no property right exists in them:

(1) All tangible or intangible property, including any right or interest in such property, acquired by a person convicted of a crime for which there is a victim of the crime and to the extent the acquisition is the direct or indirect result of the convicted person having committed the crime. Such property includes but is not limited to the convicted person's remuneration for, or contract interest in, any reenactment or depiction or account of the crime in a movie, book, magazine, newspaper or other publication, audio recording, radio or television presentation, live entertainment of any kind, or any expression of the convicted person's thoughts, feelings, opinions, or emotions regarding the crime.

(2) Any property acquired through the traceable proceeds of property described in subsection (1) of this section. [1993 c 288 § 4.]

7.68.320 Seizure and forfeiture—Procedure. (1) Any property subject to seizure and forfeiture under RCW 7.68.310 may be seized by the prosecuting attorney of the county in which the convicted person was convicted upon process issued by any superior court having jurisdiction over the property.

(2) Proceedings for forfeiture are commenced by a seizure. 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, except that such real property seized 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.

(3) The prosecuting attorney who seized the property 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. Notice of seizure in the case of property subject to a security interest that has been perfected by filing a financing statement in accordance with chapter 62A.9 RCW, or a certificate of title, shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title.

(4) If no person notifies the seizing prosecuting attorney in writing of the person's claim of ownership or right to possession of the property within forty-five days for personal property or ninety days for real property, the property seized shall be deemed forfeited.

(5) If any person notifies the seizing prosecuting attorney in writing of the person's claim of ownership or right to possession of the property within forty-five days for personal property or ninety days for real property, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The prosecuting attorney shall file the case into a court of competent jurisdiction. 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 attorneys' fees. In cases involving personal property, the burden of producing evidence shall be by a preponderance and 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 by a preponderance and upon the prosecuting attorney. The seizing prosecuting attorney shall promptly return the property to the claimant upon a determination by the prosecuting attorney or court that the claimant is the present lawful owner or is lawfully entitled to possession of the property.

(6) Upon the entry of an order of forfeiture of real property, the court shall forward a copy of the order to the county auditor 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.

(7) A forfeiture action under this section may be brought at any time from the date of conviction until the expiration of the statutory maximum period of incarceration that could have been imposed for the crime involved.

(8) A forfeiture of 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 did not know that the property was subject to seizure and forfeiture. [1993 c 288 § 5.]

7.68.330 Seizure and forfeiture—Distribution of proceeds. (1) The proceeds of any forfeiture action brought under RCW 7.68.320 shall be distributed as follows:

(a) First, to the victim or to the plaintiff in a wrongful death action brought as a result of the victim's death, to satisfy any money judgment against the convicted person, or to satisfy any restitution ordered as part of the convicted person's sentence;

(b) Second, to the reasonable legal expenses of bringing the action;

(c) Third, to the crime victims' compensation fund under RCW 7.68.090.

(2) A court may establish such escrow accounts or other arrangements as it deems necessary and appropriate in order to distribute proceeds in accordance with this section. [1993 c 288 § 6.]

7.68.340 Seizure and forfeiture—Remedies nondefeatable and supplemental. (1) Any action taken by or on behalf of a convicted person including but not limited to executing a power of attorney or creating a corporation for the purpose of defeating the provisions of RCW 7.68.300 through 7.68.330 is null and void as against the public policy of this state.

(2) RCW 7.68.300 through 7.68.330 are supplemental and do not limit rights or remedies otherwise available to the victims of crimes and do not limit actions otherwise available against persons convicted of crimes. [1993 c 288 § 7.]

Chapter 7.69
CRIME VICTIMS, SURVIVORS, AND WITNESSES

Sections

7.69.020 Definitions. 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) "Survivor" or "survivors" of a victim of crime means a spouse, child, parent, legal guardian, sibling, or grandparent. If there is more than one survivor of a victim of crime, one survivor shall be designated by the prosecutor to represent all survivors for purposes of providing the notice to survivors required by this chapter.

(3) "Victim" means a person against whom a crime has been committed or the representative of a person against whom a crime has been committed.

(4) "Victim impact statement" means a statement submitted to the court by the victim or a survivor, individually or with the assistance of the prosecuting attorney if assistance is requested by the victim or survivor, which may include but is not limited to information assessing the financial, medical, social, and psychological impact of the offense upon the victim or survivors.

(5) "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.

(6) "Crime victim/witness program" means any crime victim and witness program of a county or local law enforcement agency or prosecutor's office, any rape crisis center's sexual assault victim advocacy program as provided in chapter 70.125 RCW, any domestic violence program's legal and community advocate program for domestic violence victims as provided in chapter 70.123 RCW, or any other crime victim advocacy program which provides trained advocates to assist crime victims during the investigation and prosecution of the crime. [1993 c 350 § 5; 1985 c 443 § 2; 1981 c 145 § 2.]

Findings—Severability—1993 c 350: See notes following RCW 26.50.035.

Severability—Effective date—1985 c 443: See notes following RCW 7.69.010.

7.69.030 Rights of victims, survivors, and witnesses. There shall be a reasonable effort made to ensure that victims, survivors of victims, and witnesses of crimes have the following rights:

(1) With respect to victims of violent or sex crimes, to receive, at the time of reporting the crime to law enforcement officials, a written statement of the rights of crime victims as provided in this chapter. The written statement shall include the name, address, and telephone number of a county or local crime victim/witness program, if such a crime victim/witness program exists in the county;

(2) To be informed by local law enforcement agencies or the prosecuting attorney of the final disposition of the case in which the victim, survivor, or witness is involved;

(3) To be notified by the party who issued the subpoena that a court proceeding to which they have been subpoenaed will not occur as scheduled, in order to save the person an unnecessary trip to court;

(4) To receive protection from harm and threats of harm arising out of cooperation with law enforcement and prosecution efforts, and to be provided with information as to the level of protection available;

(5) To be informed of the procedure to be followed to apply for and receive any witness fees to which they are entitled;

(6) To be provided, whenever practical, a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families or friends of defendants;

(7) To have any stolen or other personal property expeditiously returned by law enforcement agencies or the superior court when no longer needed as evidence. When feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis, and property of which ownership is disputed, shall be photographed and returned to the owner within ten days of being taken;

(8) To be provided with appropriate employer intercession services to ensure that employers of victims, survivors of victims, and witnesses of crime will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearance;

(9) To access to immediate medical assistance and not to be detained for an unreasonable length of time by a law enforcement agency before having such assistance administered. However, an employee of the law enforcement agency may, if necessary, accompany the person to a medical facility to question the person about the criminal incident if the questioning does not hinder the administration of medical assistance;

(10) With respect to victims of violent and sex crimes, to have a crime victim advocate from a crime victim/witness program present at any prosecutorial or defense interviews with the victim. This subsection applies if practical and if the presence of the crime victim advocate does not cause any unnecessary delay in the investigation or prosecution of the case. The role of the crime victim advocate is to provide emotional support to the crime victim;

(11) With respect to victims and survivors of victims, to be physically present in court during trial, or if subpoenaed to testify, to be scheduled as early as practical in the proceedings in order to be physically present during trial after testifying and not to be excluded solely because they have testified;

(12) With respect to victims and survivors of victims, to be informed by the prosecuting attorney of the date, time, and place of the trial and of the sentencing hearing for felony convictions upon request by a victim or survivor;

(13) To submit a victim impact statement or report to the court, with the assistance of the prosecuting attorney if requested, which shall be included in all presentence reports and permanently included in the files and records accompanying the offender committed to the custody of a state agency or institution;

(14) With respect to victims and survivors of victims, to present a statement personally or by representation, at the sentencing hearing for felony convictions; and

(15) With respect to victims and survivors of victims, to entry of an order of restitution by the court in all felony cases, even when the offender is sentenced to confinement, unless extraordinary circumstances exist which make restitution inappropriate in the court's judgment. [1993 c 350 § 6; 1985 c 443 § 3; 1981 c 145 § 3.]

Findings—Severability—1993 c 350: See notes following RCW 26.50.035.

Severability—Effective date—1985 c 443: See notes following RCW 7.69.010.

Child victims and witnesses, additional rights: Chapter 7.69A RCW.

Chapter 7.69A
CHILD VICTIMS AND WITNESSES

Sections

7.69A.020 Definitions. 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.

(9) "Crime victim/witness program" means any crime victim and witness program of a county or local law enforcement agency or prosecutor's office, any rape crisis center's sexual assault victim advocacy program as provided in chapter 70.125 RCW, any domestic violence program's legal and community advocate program for domestic violence victims as provided in chapter 70.123 RCW, or any other crime victim advocacy program which provides trained advocates to assist crime victims during the investigation and prosecution of the crime. [1993 c 350 § 7; 1992 c 188 § 2; 1985 c 394 § 2.]

Findings—Severability—1993 c 350: See notes following RCW 26.50.035.

Findings—Intent—1992 c 188: "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." [1992 c 188 § 1.]

Severability—1992 c 188: "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." [1992 c 188 § 10.]

7.69A.030 Rights of child victims and witnesses. 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. 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) With respect to child victims of sex or violent crimes or child abuse, to have a crime victim advocate from a crime victim/witness program present at any prosecutorial or defense interviews with the child victim. This subsection applies if practical and if the presence of the crime victim advocate does not cause any unnecessary delay in the investigation or prosecution of the case. The role of the crime victim advocate is to provide emotional support to the child victim and to promote the child's feelings of security and safety.

(3) 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.

(4) 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.

(5) 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.

(6) To allow an advocate to provide information to the court concerning the child's ability to understand the nature of the proceedings.

(7) 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.

(8) To allow an advocate to be present in court while the child testifies in order to provide emotional support to the child.

(9) 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.

(10) 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.

(11) With respect to child victims of violent or sex crimes or child abuse, to receive either directly or through the child's parent or guardian if appropriate, at the time of reporting the crime to law enforcement officials, a written statement of the rights of child victims as provided in this chapter. The written statement shall include the name, address, and telephone number of a county or local crime victim/witness program, if such a crime victim/witness

program exists in the county. [1993 c 350 § 8; 1985 c 394 § 3.]

Findings—Severability—1993 c 350: See notes following RCW 26.50.035.

Chapter 7.70
ACTIONS FOR INJURIES RESULTING FROM HEALTH CARE

Sections

7.70.100 Mandatory mediation of health care claims—Procedures. (1) All causes of action, whether based in tort, contract, or otherwise, for damages arising from injury occurring as a result of health care provided after July 1, 1993, shall be subject to mandatory mediation prior to trial.

(2) The supreme court shall by rule adopt procedures to implement mandatory mediation of actions under this chapter. The rules shall address, at a minimum:

(a) Procedures for the appointment of, and qualifications of, mediators. A mediator shall have experience or expertise related to actions arising from injury occurring as a result of health care, and be a member of the state bar association who has been admitted to the bar for a minimum of five years or who is a retired judge. The parties may stipulate to a nonlawyer mediator. The court may prescribe additional qualifications of mediators;

(b) Appropriate limits on the amount or manner of compensation of mediators;

(c) The number of days following the filing of a claim under this chapter within which a mediator must be selected;

(d) The method by which a mediator is selected. The rule shall provide for designation of a mediator by the superior court if the parties are unable to agree upon a mediator;

(e) The number of days following the selection of a mediator within which a mediation conference must be held;

(f) A means by which mediation of an action under this chapter may be waived by a mediator who has determined that the claim is not appropriate for mediation; and

(g) Any other matters deemed necessary by the court.

(3) Mediators shall not impose discovery schedules upon the parties. [1993 c 492 § 419.]

Medical malpractice review—1993 c 492: "(1) The administrator for the courts shall coordinate a collaborative effort to develop a voluntary system for review of medical malpractice claims by health services experts prior to the filing of a cause of action under chapter 7.70 RCW.

(2) The system shall have at least the following components:

(a) Review would be initiated, by agreement of the injured claimant and the health care provider, at the point at which a medical malpractice claim is submitted to a malpractice insurer or a self-insured health care provider.

(b) By agreement of the parties, an expert would be chosen from a pool of health services experts who have agreed to review claims on a voluntary basis.

(c) The mutually agreed upon expert would conduct an impartial review of the claim and provide his or her opinion to the parties.

(d) A pool of available experts would be established and maintained for each category of health care practitioner by the corresponding practitioner association, such as the Washington state medical association and the Washington state nurses association.

(3) The administrator for the courts shall seek to involve at least the following organizations in a collaborative effort to develop the informal review system described in subsection (2) of this section:

(a) The Washington defense trial lawyers association;

(b) The Washington state trial lawyers association;

(c) The Washington state medical association;

(d) The Washington state nurses association and other employee organizations representing nurses;

(e) The Washington state hospital association;

(f) The Washington state physicians insurance exchange and association;

(g) The Washington casualty company;

(h) The doctor's agency;

(i) Group health cooperative of Puget Sound;

(j) The University of Washington;

(k) Washington osteopathic medical association;

(l) Washington state chiropractic association;

(m) Washington association of naturopathic physicians; and

(n) The department of health.

(4) On or before January 1, 1994, the administrator for the courts shall provide a report on the status of the development of the system described in this section to the governor and the appropriate committees of the senate and the house of representatives." [1993 c 492 § 418.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

7.70.110 Mandatory mediation of health care claims—Tolling statute of limitations. The making of a written, good faith request for mediation of a dispute related to damages for injury occurring as a result of health care provided prior to filing a cause of action under this chapter shall toll the statute of limitations provided in RCW 4.16.350. [1993 c 492 § 420.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

7.70.120 Mandatory mediation of health care claims—Right to trial not abridged. RCW 7.70.100 may not be construed to abridge the right to trial by jury following an unsuccessful attempt at mediation. [1993 c 492 § 421.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

7.70.130 Mandatory mediation of health care claims—Exempt from arbitration mandate. A cause of action that has been mediated as provided in RCW 7.70.100 shall be exempt from any superior court civil rules mandating arbitration of civil actions or participation in settlement conferences prior to trial. [1993 c 492 § 423.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Chapter 7.84
NATURAL RESOURCE INFRACTIONS

Sections

7.84.010 Legislative declaration. The legislature declares that decriminalizing certain offenses contained in Titles 75, 76, 77, and 79 RCW and chapters 43.30, 43.51, and 88.12 RCW and any rules adopted pursuant to those titles and chapters would promote the more efficient administration of those titles and chapters. The purpose of this chapter is to provide a just, uniform, and efficient procedure for adjudicating those violations which, in any of these titles and chapters or rules adopted under these chapters or titles, are declared not to be criminal offenses. The legislature respectfully requests the supreme court to prescribe any rules of procedure necessary to implement this chapter. [1993 c 244 § 2; 1987 c 380 § 1.]

Intent—1993 c 244: See note following RCW 88.12.010.

7.84.020 "Infraction" defined. Unless the context clearly requires otherwise, the definition in this section applies throughout this chapter.

"Infraction" means an offense which, by the terms of Title 75, 76, 77, or 79 RCW or chapter 43.30, 43.51, or 88.12 RCW and rules adopted under these titles and chapters, is declared not to be a criminal offense and is subject to the provisions of this chapter. [1993 c 244 § 3; 1987 c 380 § 2.]

Intent—1993 c 244: See note following RCW 88.12.010.

Title 8
EMINENT DOMAIN

Chapters

Chapter 8.12
EMINENT DOMAIN BY CITIES

Sections

8.12.200 Judgment—Appellate review—Payment of award into court. Any final judgment or judgments rendered by said court upon any finding or findings of any jury or juries, or upon any finding or findings of the court in case a jury be waived, shall be lawful and sufficient condemnation of the land or property to be taken, or of the right to damage the same in the manner proposed, upon the payment of the amount of such findings and all costs which shall be taxed as in other civil cases, provided that in case any defendant recovers no damages, no costs shall be taxed. Such judgment or judgments shall be final and conclusive as to the damages caused by such improvement unless appellate review is sought, and review of the same shall not delay proceedings under said ordinance, if such city shall pay into court for the owners and parties interested, as directed by the court, the amount of the judgment and costs, and such city, after making such payment into court, shall be liable to such owner or owners or parties interested for the payment of any further compensation which may at any time be finally awarded to such parties seeking review of said proceeding, and his or her costs, and shall pay the same on the rendition of judgment therefor, and abide any rule or order of the court in relation to the matter in controversy. In case of review by the supreme court or the court of appeals of the state by any party to the proceedings the money so paid into the superior court by such city, as aforesaid, shall remain in the custody of said superior court until the final determination of the proceedings. If the owner of the land, real estate, premises, or other property accepts the sum awarded by the jury or the court, he shall be deemed thereby to have waived conclusively appellate review and final judgment may be rendered in the superior court as in other cases. [1993 c 14 § 1; 1988 c 202 § 10; 1971 c 81 § 39; 1907 c 153 § 16; 1905 c 55 § 16; 1893 c 84 § 16; RRS § 9230. FORMER PART OF SECTION: 1907 c 153 § 51, part; RRS § 9276, part, now codified in RCW 8.12.090. Prior: 1905 c 55 § 50; 1893 c 84 § 50, part.]

Effective date—1993 c 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 [April 12, 1993]." [1993 c 14 § 2.]

Severability—1988 c 202: See note following RCW 2.24.050.

Title 9
CRIMES AND PUNISHMENTS
(See also Washington Criminal Code, Title 9A RCW)

Chapters

Chapter 9.41
FIREARMS AND DANGEROUS WEAPONS

Sections

9.41.098 Forfeiture of firearms, order by courts—Disposition—Confiscation by law enforcement officer. (1) The superior courts and the courts of limited jurisdiction of the state may order forfeiture of a firearm which is proven to be:

(a) Found concealed on a person not authorized by RCW 9.41.060 or 9.41.070 to carry a concealed pistol:

PROVIDED, That it is an absolute defense to forfeiture if the person possessed a valid Washington concealed pistol license within the preceding two years and has not become ineligible for a concealed pistol license in the interim. Before the firearm may be returned, the person must pay the past due renewal fee and the current renewal fee;

(b) Commercially sold to any person without an application as required by RCW 9.41.090;

(c) Found in the possession or under the control of a person at the time the person committed or was arrested for committing a crime of violence or a crime in which a firearm was used or displayed or a felony violation of the Uniform Controlled Substances Act, chapter 69.50 RCW;

(d) Found concealed on a person who is in any place in which a concealed pistol license is required, and who is under the influence of any drug or under the influence of intoxicating liquor, having 0.10 grams or more of alcohol per two hundred ten liters of breath or 0.10 percent or more by weight of alcohol in the person's blood, as shown by analysis of the person's breath, blood, or other bodily substance;

(e) Found in the possession of a person prohibited from possessing the firearm under RCW 9.41.040;

(f) Found in the possession of a person free on bail or personal recognizance pending trial, appeal, or sentencing for a crime of violence or a crime in which a firearm was used or displayed, except that violations of Title 77 RCW shall not result in forfeiture under this section;

(g) Found in the possession of a person found to have been mentally incompetent while in possession of a firearm when apprehended or who is thereafter committed pursuant to chapter 10.77 or 71.05 RCW;

(h) Known to have been used or displayed by a person in the violation of a proper written order of a court of general jurisdiction; or

(i) Known to have been used in the commission of a crime of violence or a crime in which a firearm was used or displayed or a felony violation of the Uniformed [Uniform] Controlled Substances Act, chapter 69.50 RCW.

(2) Upon order of forfeiture, the court in its discretion shall order destruction of any firearm that is illegal for any person to possess. A court may temporarily retain forfeited firearms needed for evidence.

(a) Except as provided in (b), (c), and (d) of this subsection, firearms that are: (i) Judicially forfeited and no longer needed for evidence; or (ii) forfeited due to a failure to make a claim under RCW 63.32.010 or 63.40.010; may be disposed of in any manner determined by the local legislative authority. Any proceeds of an auction or trade may be retained by the legislative authority. This subsection (2)(a) applies only to firearms that come into the possession of the law enforcement agency after June 30, 1993, and applies only if the law enforcement agency has complied with (b) of this subsection.

By midnight, June 30, 1993, every law enforcement agency shall prepare an inventory, under oath, of every firearm that has been judicially forfeited, has been seized and may be subject to judicial forfeiture, or that has been, or may be, forfeited due to a failure to make a claim under RCW 63.32.010 or 63.40.010.

(b) Except as provided in (c) of this subsection, of the inventoried firearms a law enforcement agency shall destroy illegal firearms, may retain a maximum of ten percent of legal forfeited firearms for agency use, and shall either:

(i) Comply with the provisions for the auction of firearms in RCW 9.41.098 that were in effect immediately preceding May 7, 1993; or

(ii) Trade, auction, or arrange for the auction of, rifles and shotguns. In addition, the law enforcement agency shall either trade, auction, or arrange for the auction of, short firearms, or shall pay a fee of twenty-five dollars to the state treasurer for every short firearm neither auctioned nor traded, to a maximum of fifty thousand dollars. The fees shall be accompanied by an inventory, under oath, of every short firearm listed in the inventory required by (a) of this subsection, that has been neither traded nor auctioned. The state treasurer shall credit the fees to the firearms range account established in RCW 77.12.720. All trades or auctions of firearms under this subsection shall be to commercial sellers. Proceeds of any auction less costs, including actual costs of storage and sale, shall be forwarded to the firearms range account established in RCW 77.12.720.

(c) Antique firearms as defined by RCW 9.41.150 and firearms recognized as curios, relics, and firearms of particular historical significance by the United States treasury department bureau of alcohol, tobacco, and firearms are exempt from destruction and shall be disposed of by auction or trade to commercial sellers.

(d) Firearms in the possession of the Washington state patrol on or after May 7, 1993, that are judicially forfeited and no longer needed for evidence, or forfeited due to a failure to make a claim under RCW 63.35.020, must be disposed of as follows: (i) Firearms illegal for any person to possess must be destroyed; (ii) the Washington state patrol may retain a maximum of ten percent of legal firearms for agency use; and (iii) all other legal firearms must be auctioned or traded to commercial sellers. The Washington state patrol may retain any proceeds of an auction or trade.

(3) The court shall order the firearm returned to the owner upon a showing that there is no probable cause to believe a violation of subsection (1) of this section existed or the firearm was stolen from the owner or the owner neither had knowledge of nor consented to the act or omission involving the firearm which resulted in its forfeiture.

(4) A law enforcement officer of the state or of any county or municipality may confiscate a firearm found to be in the possession of a person under circumstances specified in subsection (1) of this section. After confiscation, the firearm shall not be surrendered except: (a) To the prosecuting attorney for use in subsequent legal proceedings; (b) for disposition according to an order of a court having jurisdiction as provided in subsection (1) of this section; or (c) to the owner if the proceedings are dismissed or as directed in subsection (3) of this section. [1993 c 243 § 1; 1989 c 222 § 8; 1988 c 223 § 2. Prior: 1987 c 506 § 91; 1987 c 373 § 7; 1986 c 153 § 1; 1983 c 232 § 6.]

Effective date—1993 c 243: "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 [May 7, 1993]." [1993 c 243 § 2.]

Severability—1989 c 222: See RCW 63.35.900.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Legislative finding, purpose—Severability—1987 c 373: See notes following RCW 46.61.502.

Severability—1983 c 232: See note following RCW 9.41.010.

9.41.280 Carrying dangerous weapons on school facilities—Penalty—Exceptions. (1) It is unlawful for a person to carry onto public or private elementary or secondary school premises, school-provided transportation, or areas of facilities while being used exclusively by public or private schools:

(a) Any firearm; or

(b) Any dangerous weapon as defined in RCW 9.41.250; or

(c) Any device commonly known as "nun-chu-ka sticks", consisting of two or more lengths of wood, metal, plastic, or similar substance connected with wire, rope, or other means; or

(d) Any device, commonly known as "throwing stars", which are multi-pointed, metal objects designed to embed upon impact from any aspect; or

(e) Any air gun, including any air pistol or air rifle, designed to propel a BB, pellet, or other projectile by the discharge of compressed air, carbon dioxide, or other gas.

(2) Any such person violating subsection (1) of this section is guilty of a gross misdemeanor.

Any violation of subsection (1) of this section by elementary or secondary school students constitutes grounds for expulsion from the state's public schools in accordance with RCW 28A.600.010. However, any violation of subsection (1)(a) of this section by an elementary or secondary school student shall result in expulsion in accordance with RCW 28A.600.010. An appropriate school authority shall promptly notify law enforcement and the student's parent or guardian regarding any allegation or indication of such violation.

(3) Subsection (1) of this section does not apply to:

(a) Any student or employee of a private military academy when on the property of the academy;

(b) Any person engaged in military, law enforcement, or school district security activities;

(c) Any person who is involved in a convention, showing, demonstration, lecture, or firearms safety course authorized by school authorities in which the firearms of collectors or instructors are handled or displayed;

(d) Any person who possesses nun-chu-ka sticks, throwing stars, or other dangerous weapons to be used in martial arts classes authorized to be conducted on the school premises;

(e) Any person while the person is participating in a firearms or air gun competition approved by the school or school district;

(f) Any person who has been issued a license under RCW 9.41.070, while picking up or dropping off a student;

(g) Any person legally in possession of a firearm or dangerous weapon that is secured within an attended vehicle or concealed from view within a locked unattended vehicle while conducting legitimate business at the school;

(h) Any person who is in lawful possession of an unloaded firearm, secured in a vehicle while conducting legitimate business at the school; or

(i) Any law enforcement officer of the federal, state, or local government agency.

(4) Except as provided in subsection (3)(b), (c), (e), and (i) of this section, firearms are not permitted in a public or private school building.

(5) "GUN-FREE ZONE" signs shall be posted around school facilities giving warning of the prohibition of the possession of firearms on school grounds. [1993 c 347 § 1; 1989 c 219 § 1; 1982 1st ex.s. c 47 § 4.]

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.190.

9.41.300 Weapons prohibited in certain places—Local laws and ordinances—Exceptions—Penalty. (1) It is unlawful for any person to enter the following places when he or she knowingly possesses or knowingly has under his or her control a weapon:

(a) The restricted access areas of a jail, or of a law enforcement facility, or any place used for the confinement of a person (i) arrested for, charged with, or convicted of an offense, (ii) charged with being or adjudicated to be a juvenile offender as defined in RCW 13.40.020, (iii) held for extradition or as a material witness, or (iv) otherwise confined pursuant to an order of a court, except an order under chapter 13.32A or 13.34 RCW. Restricted access areas do not include common areas of egress or ingress open to the general public;

(b) Those areas in any building which are used in connection with court proceedings, including courtrooms, jury rooms, judge's chambers, offices and areas used to conduct court business, waiting areas, and corridors adjacent to areas used in connection with court proceedings. The restricted areas do not include common areas of ingress and egress to the building that is used in connection with court proceedings, when it is possible to protect court areas without restricting ingress and egress to the building. The restricted areas shall be the minimum necessary to fulfill the objective of this subsection (1)(b).

In addition, the local legislative authority shall provide either a stationary locked box sufficient in size for short firearms and key to a weapon owner for weapon storage, or shall designate an official to receive weapons for safekeeping, during the owner's visit to restricted areas of the building. The locked box or designated official shall be located within the same building used in connection with court proceedings. The local legislative authority shall be liable for any negligence causing damage to or loss of a weapon either placed in a locked box or left with an official during the owner's visit to restricted areas of the building.

The local judicial authority shall designate and clearly mark those areas where weapons are prohibited, and shall post notices at each entrance to the building of the prohibition against weapons in the restricted areas;

(c) The restricted access areas of a public mental health facility certified by the department of social and health services for inpatient hospital care and state institutions for the care of the mentally ill, excluding those facilities solely for evaluation and treatment. Restricted access areas do not include common areas of egress and ingress open to the general public; or

(d) That portion of an establishment classified by the state liquor control board as off-limits to persons under twenty-one years of age.

(2) Notwithstanding RCW 9.41.290, cities, towns, counties, and other municipalities may enact laws and ordinances:

(a) Restricting the discharge of firearms in any portion of their respective jurisdictions where there is a reasonable likelihood that humans, domestic animals, or property will be jeopardized. Such laws and ordinances shall not abridge the right of the individual guaranteed by Article I, section 24 of the state Constitution to bear arms in defense of self or others; and

(b) Restricting the possession of firearms in any stadium or convention center, operated by a city, town, county, or other municipality, except that such restrictions shall not apply to:

(i) Any firearm in the possession of a person licensed under RCW 9.41.070; or

(ii) Any showing, demonstration, or lecture involving the exhibition of firearms.

(3) The perimeter of the premises of any specific location covered by subsection (1) of this section shall be posted at reasonable intervals to alert the public as to the existence of any law restricting the possession of firearms on the premises.

(4) Subsection (1) of this section does not apply to:

(a) A person engaged in military activities sponsored by the federal or state governments, while engaged in official duties;

(b) Law enforcement personnel; or

(c) Security personnel while engaged in official duties.

(5) Subsection (1)(a) of this section does not apply to a person licensed pursuant to RCW 9.41.070 who, upon entering the place or facility, directly and promptly proceeds to the administrator of the facility or the administrator's designee and obtains written permission to possess the firearm while on the premises or checks his or her firearm. The person may reclaim the firearms upon leaving but must immediately and directly depart from the place or facility.

(6) Subsection (1)(c) of this section does not apply to any administrator or employee of the facility or to any person who, upon entering the place or facility, directly and promptly proceeds to the administrator of the facility or the administrator's designee and obtains written permission to possess the firearm while on the premises.

(7) Subsection (1)(d) of this section does not apply to the proprietor of the premises or his or her employees while engaged in their employment.

(8) Any person violating subsection (1) of this section is guilty of a misdemeanor.

(9) "Weapon" as used in this section means any firearm, explosive as defined in RCW 70.74.010, or instrument or weapon listed in RCW 9.41.250. [1993 c 396 § 1; 1985 c 428 § 2.]

Severability—1985 c 428: See note following RCW 9.41.290.

Chapter 9.46
GAMBLING—1973 ACT

Sections

9.46.070 Gambling commission—Powers and duties.

9.46.070 Gambling commission—Powers and duties. The commission shall have the following powers and duties:

(1) To authorize and issue licenses for a period not to exceed one year to bona fide charitable or nonprofit organizations approved by the commission meeting the requirements of this chapter and any rules and regulations adopted pursuant thereto permitting said organizations to conduct bingo games, raffles, amusement games, and social card games, to utilize punch boards and pull-tabs in accordance with the provisions of this chapter and any rules and regulations adopted pursuant thereto and to revoke or suspend said licenses for violation of any provisions of this chapter or any rules and regulations adopted pursuant thereto: PROVIDED, That the commission shall not deny a license to an otherwise qualified applicant in an effort to limit the number of licenses to be issued: PROVIDED FURTHER, That the commission or director shall not issue, deny, suspend, or revoke any license because of considerations of race, sex, creed, color, or national origin: AND PROVIDED FURTHER, That the commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(2) To authorize and issue licenses for a period not to exceed one year to any person, association, or organization operating a business primarily engaged in the selling of items of food or drink for consumption on the premises, approved by the commission meeting the requirements of this chapter and any rules and regulations adopted pursuant thereto permitting said person, association, or organization to utilize punch boards and pull-tabs and to conduct social card games as a commercial stimulant in accordance with the provisions of this chapter and any rules and regulations adopted pursuant thereto and to revoke or suspend said licenses for violation of any provisions of this chapter and any rules and regulations adopted pursuant thereto: PROVIDED, That the commission shall not deny a license to an otherwise qualified applicant in an effort to limit the number of licenses to be issued: PROVIDED FURTHER, That the commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(3) To authorize and issue licenses for a period not to exceed one year to any person, association, or organization approved by the commission meeting the requirements of this chapter and meeting the requirements of any rules and regulations adopted by the commission pursuant to this chapter as now or hereafter amended, permitting said person, association, or organization to conduct or operate amusement games in such manner and at such locations as the commission may determine;

(4) To authorize, require, and issue, for a period not to exceed one year, such licenses as the commission may by rule provide, to any person, association, or organization to engage in the selling, distributing, or otherwise supplying or in the manufacturing of devices for use within this state for those activities authorized by this chapter;

(5) To establish a schedule of annual license fees for carrying on specific gambling activities upon the premises, and for such other activities as may be licensed by the commission, which fees shall provide to the commission not less than an amount of money adequate to cover all costs incurred by the commission relative to licensing under this

chapter and the enforcement by the commission of the provisions of this chapter and rules and regulations adopted pursuant thereto: PROVIDED, That all licensing fees shall be submitted with an application therefor and such portion of said fee as the commission may determine, based upon its cost of processing and investigation, shall be retained by the commission upon the withdrawal or denial of any such license application as its reasonable expense for processing the application and investigation into the granting thereof: PROVIDED FURTHER, That if in a particular case the basic license fee established by the commission for a particular class of license is less than the commission's actual expenses to investigate that particular application, the commission may at any time charge to that applicant such additional fees as are necessary to pay the commission for those costs. The commission may decline to proceed with its investigation and no license shall be issued until the commission has been fully paid therefor by the applicant: AND PROVIDED FURTHER, That the commission may establish fees for the furnishing by it to licensees of identification stamps to be affixed to such devices and equipment as required by the commission and for such other special services or programs required or offered by the commission, the amount of each of these fees to be not less than is adequate to offset the cost to the commission of the stamps and of administering their dispersal to licensees or the cost of administering such other special services, requirements or programs;

(6) To prescribe the manner and method of payment of taxes, fees and penalties to be paid to or collected by the commission;

(7) To require that applications for all licenses contain such information as may be required by the commission: PROVIDED, That all persons (a) having a managerial or ownership interest in any gambling activity, or the building in which any gambling activity occurs, or the equipment to be used for any gambling activity, or (b) participating as an employee in the operation of any gambling activity, shall be listed on the application for the license and the applicant shall certify on the application, under oath, that the persons named on the application are all of the persons known to have an interest in any gambling activity, building, or equipment by the person making such application: PROVIDED FURTHER, That the commission may require fingerprinting and background checks on any persons seeking licenses under this chapter or of any person holding an interest in any gambling activity, building, or equipment to be used therefor, or of any person participating as an employee in the operation of any gambling activity;

(8) To require that any license holder maintain records as directed by the commission and submit such reports as the commission may deem necessary;

(9) To require that all income from bingo games, raffles, and amusement games be recorded and reported as established by rule or regulation of the commission to the extent deemed necessary by considering the scope and character of the gambling activity in such a manner that will disclose gross income from any gambling activity, amounts received from each player, the nature and value of prizes, and the fact of distributions of such prizes to the winners thereof;

(10) To regulate and establish maximum limitations on income derived from bingo. In establishing limitations pursuant to this subsection the commission shall take into account (i) the nature, character, and scope of the activities of the licensee; (ii) the source of all other income of the licensee; and (iii) the percentage or extent to which income derived from bingo is used for charitable, as distinguished from nonprofit, purposes. However, the commission's powers and duties granted by this subsection are discretionary and not mandatory;

(11) To regulate and establish the type and scope of and manner of conducting the gambling activities authorized by this chapter, including but not limited to, the extent of wager, money, or other thing of value which may be wagered or contributed or won by a player in any such activities;

(12) To regulate the collection of and the accounting for the fee which may be imposed by an organization, corporation or person licensed to conduct a social card game on a person desiring to become a player in a social card game in accordance with RCW 9.46.0281(4);

(13) To cooperate with and secure the cooperation of county, city, and other local or state agencies in investigating any matter within the scope of its duties and responsibilities;

(14) In accordance with RCW 9.46.080, to adopt such rules and regulations as are deemed necessary to carry out the purposes and provisions of this chapter. All rules and regulations shall be adopted pursuant to the administrative procedure act, chapter 34.05 RCW;

(15) To set forth for the perusal of counties, city-counties, cities and towns, model ordinances by which any legislative authority thereof may enter into the taxing of any gambling activity authorized by this chapter;

(16) To establish and regulate a maximum limit on salaries or wages which may be paid to persons employed in connection with activities conducted by bona fide charitable or nonprofit organizations and authorized by this chapter, where payment of such persons is allowed, and to regulate and establish maximum limits for other expenses in connection with such authorized activities, including but not limited to rent or lease payments. However, the commissioner's powers and duties granted by this subsection are discretionary and not mandatory.

In establishing these maximum limits the commission shall take into account the amount of income received, or expected to be received, from the class of activities to which the limits will apply and the amount of money the games could generate for authorized charitable or nonprofit purposes absent such expenses. The commission may also take into account, in its discretion, other factors, including but not limited to, the local prevailing wage scale and whether charitable purposes are benefited by the activities;

(17) To authorize, require, and issue for a period not to exceed one year such licenses or permits, for which the commission may by rule provide, to any person to work for any operator of any gambling activity authorized by this chapter in connection with that activity, or any manufacturer, supplier, or distributor of devices for those activities in connection with such business. The commission shall not require that persons working solely as volunteers in an authorized activity conducted by a bona fide charitable or

bona fide nonprofit organization, who receive no compensation of any kind for any purpose from that organization, and who have no managerial or supervisory responsibility in connection with that activity, be licensed to do such work. The commission may require that licensees employing such unlicensed volunteers submit to the commission periodically a list of the names, addresses, and dates of birth of the volunteers. If any volunteer is not approved by the commission, the commission may require that the licensee not allow that person to work in connection with the licensed activity;

(18) To publish and make available at the office of the commission or elsewhere to anyone requesting it a list of the commission licensees, including the name, address, type of license, and license number of each licensee;

(19) To establish guidelines for determining what constitutes active membership in bona fide nonprofit or charitable organizations for the purposes of this chapter; and

(20) To perform all other matters and things necessary to carry out the purposes and provisions of this chapter. [1993 c 344 § 1; 1987 c 4 § 38; 1981 c 139 § 3. Prior: 1977 ex.s. c 326 § 3; 1977 ex.s. c 76 § 2; 1975-'76 2nd ex.s. c 87 § 4; 1975 1st ex.s. c 259 § 4; 1974 ex.s. c 155 § 4; 1974 ex.s. c 135 § 4; 1973 2nd ex.s. c 41 § 4; 1973 1st ex.s. c 218 § 7.]

Effective date—1993 c 344: "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, 1993." [1993 c 344 § 2.]

Severability—1981 c 139: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 139 § 19.]

Severability—1974 ex.s. c 155: See note following RCW 9.46.010.

Enforcement—Commission as a law enforcement agency: RCW 9.46.210.

Chapter 9.94A
SENTENCING REFORM ACT OF 1981

Sections

9.94A.030 Definitions. 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. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to the provisions in RCW 38.52.430.

(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 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, 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) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(33) "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.

(34) "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.

(35) "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 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 or the state 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.

(36) "Work ethic camp" means an alternative incarceration program designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(37) "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.

(38) "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. [1993 c 338 § 2; 1993 c 251 § 4; 1993 c 164 § 1. Prior: 1992 c 145 § 6; 1992 c 75 § 1; prior: 1991 c 348 § 4; 1991 c 290 § 3; 1991 c 181 § 1; 1991 c 32 § 1; prior: 1990 c 3 § 602; prior: 1989 c 394 § 1; 1989 c 252 § 2; prior: 1988 c 157 § 1; 1988 c 154 § 2; 1988 c 153 § 1; 1988 c 145 § 11; prior: 1987 c 458 § 1; 1987 c 456 § 1; 1987 c 187 § 3; 1986 c 257 § 17; 1985 c 346 § 5; 1984 c 209 § 3; 1983 c 164 § 9; 1983 c 163 § 1; 1982 c 192 § 1; 1981 c 137 § 3.]

Reviser's note: *(1) RCW 13.40.020 was amended by 1993 c 373 § 1, and "criminal history" is now defined in subsection (9) of that section.

(2) This section was amended by 1993 c 164 § 1, 1993 c 251 § 4, and by 1993 c 338 § 2, each without reference to the other. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—Effective date—1993 c 338: See notes following RCW 72.09.400.

Finding—Intent—1993 c 251: See note following RCW 38.52.430.

Effective date—1991 c 348: See note following RCW 46.61.520.

Effective date—Application—1990 c 3 §§ 601-605: See note following RCW 9.94A.127.

Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.

Purpose—1989 c 252: "The purpose of this act is to create a system that: (1) Assists the courts in sentencing felony offenders regarding the offenders' legal financial obligations; (2) holds offenders accountable to victims, counties, cities, the state, municipalities, and society for the assessed costs associated with their crimes; and (3) provides remedies for an individual or other entities to recoup or at least defray a portion of the loss associated with the costs of felonious behavior." [1989 c 252 § 1.]

Prospective application—1989 c 252: "Except for sections 18, 22, 23, and 24 of this act, this act applies prospectively only and not retrospectively. It applies only to offenses committed on or after the effective date of this act." [1989 c 252 § 27.]

Effective dates—1989 c 252: "(1) Sections 1 through 17, 19 through 21, 25, 26, and 28 of this act shall take effect July 1, 1990 unless otherwise directed by law.

(2) Sections 18, 22, 23, and 24 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 July 1, 1989." [1989 c 252 § 30.]

Severability—1989 c 252: "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." [1989 c 252 § 31.]

The above four annotations apply to 1989 c 252. For codification of that act, see Codification Tables, Volume 0.

Application—1988 c 157: "This act applies to crimes committed after July 1, 1988." [1988 c 157 § 7.]

Effective date—1988 c 153: "This act shall take effect July 1, 1988." [1988 c 153 § 16.]

Implementation—1988 c 153: "The department of corrections shall report to the legislature on its plans for implementation of this act prior to January 10, 1989. The report shall address: (1) The classification system used to determine the supervision level; and (2) the contact standards for monitoring offenders. This section shall expire February 1, 1989." [1988 c 153 § 14.]

Application of increased sanctions—1988 c 153: "Increased sanctions authorized by this act are applicable only to those persons committing offenses after July 1, 1988." [1988 c 153 § 15.]

Effective date—Savings—Application—1988 c 145: See notes following RCW 9A.44.010.

Severability—1987 c 458: See note following RCW 48.21.160.

Severability—1986 c 257: See note following RCW 9A.56.010.

Effective date—1986 c 257 §§ 17-35: "Sections 17 through 35 of this act shall take effect July 1, 1986." [1986 c 257 § 38.]

Effective dates—1984 c 209: See note following RCW 9.92.150.

Effective date—1983 c 163: See note following RCW 9.94A.120.

9.94A.060 Sentencing guidelines commission—Membership—Appointments—Terms of office—Expenses and compensation. (1) The commission consists of sixteen voting members, one of whom the governor shall designate as chairperson. With the exception of ex officio voting members, the voting members of the commission shall be appointed by the governor, subject to confirmation by the senate.

(2) The voting membership consists of the following:

(a) The head of the state agency having general responsibility for adult correction programs, as an ex officio member;

(b) The director of financial management or designee, as an ex officio member;

(c) Until June 30, 1998, the chair of the indeterminate sentence review board, as an ex officio member;

(d) The chair of the clemency and pardons board, as an ex officio member;

(e) Two prosecuting attorneys;

(f) Two attorneys with particular expertise in defense work;

(g) Four persons who are superior court judges;

(h) One person who is the chief law enforcement officer of a county or city;

(i) Three members of the public who are not and have never been prosecutors, attorneys, judges, or law enforcement officers.

In making the appointments, the governor shall seek the recommendations of Washington prosecutors in respect to the prosecuting attorney members, of the Washington state bar association in respect to the attorney members, of the association of superior court judges in respect to the members who are judges, and of the Washington association of sheriffs and police chiefs in respect to the member who is a law enforcement officer.

(3) All voting members of the commission, except ex officio voting members, shall serve terms of three years and until their successors are appointed and confirmed. However, the governor shall stagger the terms by appointing four of the initial members for terms of one year, four for terms of two years, and four for terms of three years.

(4) The speaker of the house of representatives and the president of the senate may each appoint two nonvoting

members to the commission, one from each of the two largest caucuses in each house. The members so appointed shall serve two-year terms, or until they cease to be members of the house from which they were appointed, whichever occurs first.

(5) The members of the commission shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Legislative members shall be reimbursed by their respective houses as provided under RCW 44.04.120, as now existing or hereafter amended. Members shall be compensated in accordance with RCW 43.03.250. [1993 c 11 § 1; 1988 c 157 § 2; 1984 c 287 § 10; 1981 c 137 § 6.]

Effective date—1993 c 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 [April 12, 1993]." [1993 c 11 § 2.]

Application—1988 c 157: See note following RCW 9.94A.030.

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

9.94A.120 Sentences. When a person is convicted of a felony, the court shall impose punishment as provided in this section.

(1) Except as authorized in subsections (2), (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) 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 or her 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 or her community supervision, the court may order the offender to serve out the balance of his or her 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;

(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 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. The department may require offenders to pay for special services rendered on or after July 25, 1993, including electronic monitoring, day reporting, and telephone reporting, dependent upon the offender's ability to pay. The department may pay for these services for offenders who are not able to pay.

(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. [1993 c 31 § 3. Prior: 1992 c 145 § 7; 1992 c 75 § 2; 1992 c 45 § 5; prior: 1991 c 221 § 2; 1991 c 181 § 3; 1991 c 104 § 3; 1990 c 3 § 705; 1989 c 252

§ 4; prior: 1988 c 154 § 3; 1988 c 153 § 2; 1988 c 143 § 21; prior: 1987 c 456 § 2; 1987 c 402 § 1; prior: 1986 c 301 § 4; 1986 c 301 § 3; 1986 c 257 § 20; 1984 c 209 § 6; 1983 c 163 § 2; 1982 c 192 § 4; 1981 c 137 § 12.]

Severability—Application—1992 c 45: See notes following RCW 9.94A.151.

Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.

Purpose—Prospective application—Effective dates—Severability—1989 c 252: See notes following RCW 9.94A.030.

Effective date—Implementation—Application of increased sanctions—1988 c 153: See notes following RCW 9.94A.030.

Applicability—1988 c 143 §§ 21-24: "Increased sanctions authorized by sections 21 through 24 of this act are applicable only to those persons committing offenses after March 21, 1988." [1988 c 143 § 25.] Sections 21, 23, and 24 were amendments to RCW 9.94A.120, 9.94A.383, and 9.94A.400, respectively. Section 22, an amendment to RCW 9.94A.170, was vetoed by the governor.

Effective date—1987 c 402: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1987." [1987 c 402 § 3.]

Effective date—1986 c 301 § 4: "Section 4 of this act shall take effect July 1, 1987." [1986 c 301 § 8.]

Severability—1986 c 257: See note following RCW 9A.56.010.

Effective date—1986 c 257 §§ 17-35: See note following RCW 9.94A.030.

Effective dates—1984 c 209: See note following RCW 9.94A.030.

Effective date—1983 c 163: "Sections 1 through 5 of this act shall take effect on July 1, 1984." [1983 c 163 § 7.]

Effective date—1981 c 137: See RCW 9.94A.905.

9.94A.137 Work ethic camp program—Eligibility—Sentencing. (1) An offender is eligible to be sentenced to a work ethic camp if the offender:

(a) Is sentenced to a term of total confinement of not less than twenty-two months or more than thirty-six months;

(b) Is between the ages of eighteen and twenty-eight years; and

(c) Has no current or prior convictions for any sex offenses or violent offenses.

(2) If the sentencing judge determines that the offender is eligible for the work ethic camp and is likely to qualify under subsection (3) of this section, the judge shall impose a sentence within the standard range and may recommend that the offender serve the sentence at a work ethic camp. The sentence shall provide that if the offender successfully completes the program, the department shall convert the period of work ethic camp confinement at the rate of one day of work ethic camp confinement to three days of total standard confinement. The court shall also provide that upon completion of the work ethic camp program, the offender shall be released on community custody for any remaining time of total confinement.

(3) The department shall place the offender in the work ethic camp program, subject to capacity, unless the department determines that the offender has physical or mental impairments that would prevent participation and completion of the program, or the offender refuses to agree to the terms and conditions of the program.

(4) An inmate who fails to complete the work ethic camp program, who is administratively terminated from the program, or who otherwise violates any conditions of supervision, as defined by the department, shall be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing judge and shall be subject to all rules relating to earned early release time.

(5) The length of the work ethic camp program shall be at least one hundred twenty days and not more than one hundred eighty days. Because of the conversion ratio, earned early release time shall not accrue to offenders who successfully complete the program.

(6) During the last two weeks prior to release from the work ethic camp program the department shall provide the offender with comprehensive transition training. [1993 c 338 § 4.]

Findings—Intent—1993 c 338: See RCW 72.09.400.

Severability—Effective date—1993 c 338: See notes following RCW 72.09.400.

9.94A.170 Tolling of term of confinement. (1) A term of confinement, including community custody, ordered in a sentence pursuant to this chapter shall be tolled by any period of time during which the offender has absented him or herself from confinement without the prior approval of the entity in whose custody the offender has been placed. A term of partial confinement shall be tolled during any period of time spent in total confinement pursuant to a new conviction or pursuant to sanctions for violation of sentence conditions on a separate felony conviction.

(2) A term of supervision, including postrelease supervision ordered in a sentence pursuant to this chapter shall be tolled by any period of time during which the offender has absented himself or herself from supervision without prior approval of the entity under whose supervision the offender has been placed.

(3) Any period of supervision shall be tolled during any period of time the offender is in confinement for any reason. However, if an offender is detained pursuant to RCW 9.94A.207 or 9.94A.195 and is later found not to have violated a condition or requirement of supervision, time spent in confinement due to such detention shall not toll to period of supervision.

(4) For confinement or supervision sentences, the date for the tolling of the sentence shall be established by the entity responsible for the confinement or supervision. [1993 c 31 § 2; 1988 c 153 § 9; 1981 c 137 § 17.]

Effective date—Implementation—Application of increased sanctions—1988 c 153: See notes following RCW 9.94A.030.

Effective date—1981 c 137: See RCW 9.94A.905.

9.94A.280 Alien offenders. (1) Subject to the limitations of this section, any alien offender committed to the custody of the department under the sentencing reform act of 1981, chapter 9.94A RCW, who has been found by the United States attorney general to be subject to a final order of deportation or exclusion, may be placed on conditional release status and released to the immigration and naturalization service for deportation at any time prior to the expiration of the offender's term of confinement. Conditional release shall continue until the expiration of the statutory maximum sentence provided by law for the crime or crimes of which the offender was convicted. If the offender has multiple current convictions, the statutory maximum sentence allowed by law for each crime shall run concurrently.

(2) No offender may be released under this section unless the secretary or the secretary's designee find [finds] that such release is in the best interests of the state of Washington. Further, releases under this section may occur only with the approval of the sentencing court and the prosecuting attorney of the county of conviction.

(3) No offender may be released under this section who is serving a sentence for a violent offense or sex offense, as defined in RCW 9.94A.030, or any other offense that is a crime against a person.

(4) The unserved portion of the term of confinement of any offender released under this section shall be tolled at the time the offender is released to the immigration and naturalization service for deportation. Upon the release of an offender to the immigration and naturalization service, the department shall issue a warrant for the offender's arrest within the United States. This warrant shall remain in effect until the expiration of the offender's conditional release.

(5) Upon arrest of an offender, the department shall seek extradition as necessary and the offender shall be returned to the department for completion of the unserved portion of the offender's term of total confinement. The offender shall also be required to fully comply with all the terms and conditions of the sentence.

(6) Alien offenders released to the immigration and naturalization service for deportation under this section are not thereby relieved of their obligation to pay restitution or other legal financial obligations ordered by the sentencing court.

(7) Any offender released pursuant to this section who returns illegally to the United States may not thereafter be released again pursuant to this section.

(8) The secretary is authorized to take all reasonable actions to implement this section and shall assist federal authorities in prosecuting alien offenders who may illegally reenter the United States and enter the state of Washington. [1993 c 419 § 1.]

9.94A.395 Abused victim—Resentencing for murder of abuser. (1) The sentencing court or the court's successor shall consider recommendations from the indeterminate sentence review board for resentencing defendants convicted of murder if the indeterminate sentence review board advises the court of the following:

(a) The defendant was convicted for a murder committed prior to the *effective date of RCW 9.94A.390(1)(h);

(b) RCW 9.94A.390(1)(h), if *effective when the defendant committed the crime, would have provided a basis for the defendant to seek a mitigated sentence; and

(c) Upon review of the sentence, the indeterminate sentence review board believes that the sentencing court, when originally sentencing the defendant for the murder, did not consider evidence that the victim subjected the defendant or the defendant's children to a continuing pattern of sexual or physical abuse and the murder was in response to that abuse.

(2) The court may resentence the defendant in light of RCW 9.94A.390(1)(h) and impose an exceptional mitigating sentence pursuant to that provision. Prior to resentencing, the court shall consider any other recommendation and evidence concerning the issue of whether the defendant committed the crime in response to abuse.

(3) The court shall render its decision regarding reducing the inmate's sentence no later than six months after receipt of the indeterminate sentence review board's recommendation to reduce the sentence imposed. [1993 c 144 § 5.]

***Reviser's note:** RCW 9.94A.390(1)(h) became effective July 23, 1989.

Effective date—1993 c 144: See note following RCW 9.95.045.

Chapter 9.95
INDETERMINATE SENTENCES
(Formerly: Prison terms, paroles, and probation)

Sections

9.95.011 Minimum terms. When the court commits a convicted person to the department of corrections on or after July 1, 1986, for an offense committed before July 1, 1984, the court shall, at the time of sentencing or revocation of probation, fix the minimum term. The term so fixed shall not exceed the maximum sentence provided by law for the offense of which the person is convicted.

The court shall attempt to set the minimum term reasonably consistent with the purposes, standards, and sentencing ranges adopted under RCW 9.94A.040, but the court is subject to the same limitations as those placed on the board under RCW 9.92.090, 9.95.040 (1) through (4), 9.95.115, 9A.32.040, 9A.44.045, and chapter 69.50 RCW. The court's minimum term decision is subject to review to the same extent as a minimum term decision by the parole board before July 1, 1986.

Thereafter, the expiration of the minimum term set by the court minus any time credits earned under RCW 9.95.070 and 9.95.110 constitutes the parole eligibility review date, at which time the board may consider the convicted person for parole under RCW 9.95.100 and 9.95.110 and chapter 72.04A RCW. Nothing in this section affects the board's authority to reduce or increase the minimum term, once set by the court, under RCW 9.95.040, 9.95.052, 9.95.055, 9.95.070, 9.95.080, 9.95.100, 9.95.115, 9.95.125, or 9.95.047. [1993 c 144 § 3; 1986 c 224 § 7.]

Effective date—1993 c 144: See note following RCW 9.95.045.

Effective date—Severability—1986 c 224: See notes following RCW 9.95.001.

9.95.040 Board to fix duration of confinement—Minimum terms prescribed for certain cases. 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 a state correctional facility, the board shall fix the duration of confinement. The term of imprisonment so fixed shall not exceed the maximum provided by law for the offense of which the person was convicted or the maximum fixed by the court where the law does not provide for a maximum term.

Subject to RCW 9.95.047, the following limitations are placed on the board or the court for persons committed to 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 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 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.

(4) Any person convicted of embezzling funds from any institution of public deposit of which 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 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. [1993 c 144 § 4; 1993 c 140 § 1; 1992 c 7 § 24; 1986 c 224 § 9; 1975-'76 2nd ex.s. c 63 § 2; 1961 c 138 § 2; 1955 c 133 § 5. Prior: 1947 c 92 § 1, part; 1935 c 114 § 2, part; Rem. Supp. 1947 § 10249-2, part.]

Reviser's note: This section was amended by 1993 c 140 § 1 and by 1993 c 144 § 4, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—1993 c 144: See note following RCW 9.95.045.

Effective date—Severability—1986 c 224: See notes following RCW 9.95.001.

9.95.045 Abused victim—Reduction in sentence for murder of abuser—Petition for review. (1) An inmate convicted of murder may petition the indeterminate sentence review board to review the inmate's sentence if the petition alleges the following:

(a) The inmate was sentenced for a murder committed prior to July 23, 1989, which was the effective date of section 1, chapter 408, Laws of 1989, as codified in RCW 9.94A.390(1)(h). RCW 9.94A.390(1)(h) provides that the sentencing court may consider as a mitigating factor evidence that the defendant or the defendant's children suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense was a response to that abuse;

(b) RCW 9.94A.390(1)(h), if effective when the defendant committed the crime, would have provided a basis for the defendant to seek a mitigated sentence; and

(c) The sentencing court when determining what sentence to impose, did not consider evidence that the victim subjected the defendant or the defendant's children to a continuing pattern of sexual or physical abuse and the murder was in response to that abuse.

(2) An inmate who seeks to have his or her sentence reviewed under this section must petition the board for review no later than October 1, 1993. The petition may be by letter requesting review.

(3)(a) If the inmate was convicted of a murder committed prior to July 1, 1984, and the inmate is under the jurisdiction of the indeterminate sentence review board, the board shall conduct the review as provided in RCW 9.95.047. If the inmate was sentenced pursuant to chapter 9.94A RCW for a murder committed after June 30, 1984, but before July 23, 1989, the board shall conduct the review and may make appropriate recommendations to the sentencing court as provided in RCW 9.94A.395. The board shall complete its review of the petitions and submit recommendations to the sentencing courts or their successors by October 1, 1994.

(b) When reviewing petitions, the board shall solicit recommendations from the prosecuting attorneys of the counties where the petitioners were convicted, and shall accept input from other interested parties. [1993 c 144 § 1.]

Effective date—1993 c 144: "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 [April 30, 1993]." [1993 c 144 § 7.]

9.95.047 Abused victim—Considerations of board in reviewing petition. (1) If an inmate under the board's jurisdiction files a petition for review under RCW 9.95.045, the board shall review the duration of the inmate's confinement, including review of the minimum term and parole eligibility review dates. The board shall consider whether:

(a) The petitioner was convicted for a murder committed prior to the effective date of RCW 9.94A.390(1)(h);

(b) RCW 9.94A.390(1)(h), if effective when the petitioner committed the crime, would have provided a basis for the petitioner to seek a mitigated sentence; and

(c) The sentencing court and prosecuting attorney, when making their minimum term recommendations, considered evidence that the victim subjected the petitioner or the

petitioner's children to a continuing pattern of sexual or physical abuse and the murder was in response to that abuse.

(2) The board may reset the minimum term and parole eligibility review date of a petitioner convicted of murder if the board finds that had RCW 9.94A.390(1)(h) been effective when the petitioner committed the crime, the petitioner may have received an exceptional mitigating sentence. [1993 c 144 § 2.]

Effective date—1993 c 144: See note following RCW 9.95.045.

9.95.125 On-site parole revocation hearing—Board's decision—Reinstatement or revocation of parole. After the on-site parole revocation hearing has been concluded, the members of the board having heard the matter shall enter their decision of record within ten days, and make findings and conclusions upon the allegations of the violations of the conditions of parole. If the member, or members having heard the matter, should conclude that the allegations of violation of the conditions of parole have not been proven by a preponderance of the evidence, or, those which have been proven by a preponderance of the evidence are not sufficient cause for the revocation of parole, then the parolee shall be reinstated on parole on the same or modified conditions of parole. For parole violations not resulting in new convictions, modified conditions of parole may include sanctions according to an administrative sanction grid. If the member or members having heard the matter should conclude that the allegations of violation of the conditions of parole have been proven by a preponderance of the evidence and constitute sufficient cause for the revocation of parole, then such member or members shall enter an order of parole revocation and return the parole violator to state custody. Within thirty days of the return of such parole violator to a state correctional institution for convicted felons the board shall enter an order determining a new minimum term not exceeding the maximum penalty provided by law for the crime for which the parole violator was originally convicted or the maximum fixed by the court. [1993 c 140 § 2; 1969 c 98 § 7.]

Severability—Effective date—1969 c 98: See notes following RCW 9.95.120.

9.95.130 When parole revoked prisoner deemed escapee until return to custody. From and after the suspension, cancellation, or revocation of the parole of any convicted person and until his or her return to custody the convicted person shall be deemed an escapee and a fugitive from justice. The indeterminate sentence review board may deny credit against the maximum sentence any time during which he or she is an escapee and fugitive from justice. [1993 c 140 § 3; 1955 c 133 § 14. Prior: 1939 c 142 § 1, part; 1935 c 114 § 4, part; RRS § 10249-4, part.]

9.95.210 Conditions of probation. 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, (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, (5) to contribute to a county or interlocal drug fund, and (6) to make restitution to a public agency for the costs of an emergency response under RCW 38.52.430, 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. [1993 c 251 § 3; 1992 c 86 § 1; 1987 c 202 § 146; 1984 c 46 § 1; 1983 c 156 § 4; 1982 1st ex.s. c 47 § 10; 1982 1st ex.s. c 8 § 5; 1981 c 136 § 42; 1980 c 19 § 1. Prior: 1979 c 141 § 7; 1979 c 29 § 2; 1969 c 29 § 1; 1967 c 200 § 8; 1967 c 134 § 16; 1957 c 227 § 4; prior: 1949 c 77 § 1; 1939 c 125 § 1, part; Rem. Supp. 1949 § 10249-5b.]

Finding—Intent—1993 c 251: See note following RCW 38.52.430.

Intent—1987 c 202: See note following RCW 2.04.190.

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.190.

Intent—Reports—1982 1st ex.s. c 8: See note following RCW 7.68.035.

Effective date—1981 c 136: See RCW 72.09.900.

Severability—1939 c 125: See note following RCW 9.95.200.

Restitution
alternative to fine: RCW 9A.20.030.
condition to suspending sentence: RCW 9.92.060.

disposition when victim not found or dead: RCW 7.68.290.

Termination of suspended sentence, restoration of civil rights: RCW 9.92.066.

Violations of probation conditions, rearrest, detention: RCW 72.04A.090.

Chapter 9.96
RESTORATION OF CIVIL RIGHTS

Sections

9.96.050 Final discharge of parolee—Restoration of civil rights—Governor's pardoning power not affected.

9.96.050 Final discharge of parolee—Restoration of civil rights—Governor's pardoning power not affected. When a prisoner on parole has performed the obligations of his or her release for such time as shall satisfy the indeterminate sentence review board that his or her final release is not incompatible with the best interests of society and the welfare of the paroled individual, the board may make a final order of discharge and issue a certificate of discharge to the prisoner. The board retains the jurisdiction to issue a certificate of discharge after the expiration of the prisoner's or parolee's maximum statutory sentence. If not earlier granted, the board shall make a final order of discharge three years from the date of parole unless the parolee is on suspended or revoked status at the expiration of the three years. Such discharge, regardless of when issued, shall have the effect of restoring all civil rights lost by operation of law upon conviction, and the certification of discharge shall so state. This restoration of civil rights shall not restore the right to receive, possess, own, or transport firearms.

The discharge provided for in this section shall be considered as a part of the sentence of the convicted person and shall not in any manner be construed as affecting the powers of the governor to pardon any such person. [1993 c 140 § 4; 1980 c 75 § 1; 1961 c 187 § 1.]

Chapter 9.96A
RESTORATION OF EMPLOYMENT RIGHTS

Sections

9.96A.020 Employment, occupational licensing by public entity—Prior felony conviction no disqualification—Exceptions.

9.96A.020 Employment, occupational licensing by public entity—Prior felony conviction no disqualification—Exceptions. (1) Subject to the exceptions in subsections (3) and (4) of this section, and unless there is another provision of law to the contrary, a person is not disqualified from employment by the state of Washington or any of its counties, cities, towns, municipal corporations, or quasi-municipal corporations, nor is a person disqualified to practice, pursue or engage in any occupation, trade, vocation, or business for which a license, permit, certificate or registration is required to be issued by the state of Washington or any of its counties, cities, towns, municipal corporations, or quasi-municipal corporations solely because of a prior conviction of a felony. However, this section does not preclude the fact of any prior conviction of a crime from being considered.

(2) A person may be denied employment by the state of Washington or any of its counties, cities, towns, municipal corporations, or quasi-municipal corporations, or a person may be denied a license, permit, certificate or registration to pursue, practice or engage in an occupation, trade, vocation, or business by reason of the prior conviction of a felony if the felony for which he or she was convicted directly relates to the position of employment sought or to the specific occupation, trade, vocation, or business for which the license, permit, certificate or registration is sought, and the time elapsed since the conviction is less than ten years.

(3) A person is disqualified for any certificate required or authorized under chapters 28A.405 or 28A.410 RCW, because of a prior guilty plea or the conviction of a felony involving 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, or a violation of similar laws of another jurisdiction, even if the time elapsed since the guilty plea or conviction is ten years or more.

(4) A person is disqualified from employment by school districts, educational service districts, and their contractors hiring employees who will have regularly scheduled unsupervised access to children, because of a prior guilty plea or conviction of a felony involving 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, or a violation of similar laws of another jurisdiction, even if the time elapsed since the guilty plea or conviction is ten years or more.

(5) Subsections (3) and (4) of this section only apply to a person applying for a certificate or for employment on or after July 25, 1993. [1993 c 71 § 1; 1973 c 135 § 2.]

Intent—1993 c 71: "The legislature reaffirms its singular intent that this act shall not affect the duties imposed or powers conferred on the office of the superintendent of public instruction by RCW 28A.410.090." [1993 c 71 § 2.]

Title 9A
WASHINGTON CRIMINAL CODE

(See also Crimes and Punishments, Title 9 RCW)

Chapters

Chapter 9A.04
PRELIMINARY ARTICLE

Sections
9A.04.080 Limitation of actions.

9A.04.080 Limitation of actions. (1) Prosecutions for criminal offenses shall not be commenced after the periods prescribed in this section.

(a) The following offenses may be prosecuted at any time after their commission:

(i) Murder;

(ii) Arson if a death results.

(b) The following offenses shall not be prosecuted more than ten years after their commission:

(i) Any felony committed by a public officer if the commission is in connection with the duties of his or her office or constitutes a breach of his or her public duty or a violation of the oath of office;

(ii) Arson if no death results; or

(iii) Violations of RCW 9A.44.040 or 9A.44.050 if the rape is reported to a law enforcement agency within one year of its commission; except that if the victim is under fourteen years of age when the rape is committed and the rape is reported to a law enforcement agency within one year of its commission, the violation may be prosecuted up to three years after the victim's eighteenth birthday or up to ten years after the rape's commission, whichever is later. If a violation of RCW 9A.44.040 or 9A.44.050 is not reported within one year, the rape may not be prosecuted: (A) More than three years after its commission if the violation was committed against a victim fourteen years of age or older; or (B) more than three years after the victim's eighteenth birthday or more than seven years after the rape's commission, whichever is later, if the violation was committed against a victim under fourteen years of age.

(c) Violations of the following statutes shall not be prosecuted more than three years after the victim's eighteenth birthday or more than seven years after their commission, whichever is later: RCW 9A.44.073, 9A.44.076, 9A.44.083, 9A.44.086, *9A.44.070, 9A.44.080, 9A.44.100(1)(b), or 9A.64.020.

(d) The following offenses shall not be prosecuted more than six years after their commission: Violations of RCW 9A.82.060 or 9A.82.080.

(e) The following offenses shall not be prosecuted more than five years after their commission: Any class C felony under chapter 74.09 RCW.

(f) Bigamy shall not be prosecuted more than three years after the time specified in RCW 9A.64.010.

(g) No other felony may be prosecuted more than three years after its commission.

(h) No gross misdemeanor may be prosecuted more than two years after its commission.

(i) No misdemeanor may be prosecuted more than one year after its commission.

(2) The periods of limitation prescribed in subsection (1) of this section do not run during any time when the person charged is not usually and publicly resident within this state.

(3) If, before the end of a period of limitation prescribed in subsection (1) of this section, an indictment has been found or a complaint or an information has been filed, and the indictment, complaint, or information is set aside, then the period of limitation is extended by a period equal to the length of time from the finding or filing to the setting aside. [1993 c 214 § 1; 1989 c 317 § 3; 1988 c 145 § 14. Prior: 1986 c 257 § 13; 1986 c 85 § 1; prior: 1985 c 455 § 19; 1985 c 186 § 1; 1984 c 270 § 18; 1982 c 129 § 1; 1981 c 203 § 1; 1975 1st ex.s. c 260 § 9A.04.080.]

***Reviser's note:** RCW 9A.44.070 and 9A.44.080 were repealed by 1988 c 145 § 24.

Intent—1989 c 317: See note following RCW 4.16.340.

Effective date—Savings—Application—1988 c 145: See notes following RCW 9A.44.010.

Severability—1986 c 257: See note following RCW 9A.56.010.

Effective date—Severability—1985 c 455: See RCW 9A.82.902 and 9A.82.904.

Severability—Effective date—1984 c 270: See RCW 9A.82.900 and 9A.82.901.

Severability—1982 c 129: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 129 § 11.]

Chapter 9A.36
ASSAULT AND OTHER CRIMES INVOLVING PHYSICAL HARM

Sections
9A.36.078 Malicious harassment—Finding.
9A.36.080 Malicious harassment—Definition and criminal penalty.
9A.36.083 Malicious harassment—Civil action.

9A.36.078 Malicious harassment—Finding. The legislature finds that crimes and threats against persons because of their race, color, religion, ancestry, national origin, gender, sexual orientation, or mental, physical, or sensory handicaps are serious and increasing. The legislature also finds that crimes and threats are often directed against interracial couples and their children or couples of mixed religions, colors, ancestries, or national origins because of bias and bigotry against the race, color, religion, ancestry, or national origin of one person in the couple or family. The legislature finds that the state interest in preventing crimes and threats motivated by bigotry and bias goes beyond the state interest in preventing other felonies or misdemeanors such as criminal trespass, malicious mischief, assault, or other crimes that are not motivated by hatred, bigotry, and bias, and that prosecution of those other crimes inadequately protects citizens from crimes and threats motivated by bigotry and bias. Therefore, the legislature finds that protection of those citizens from threats of harm due to bias and bigotry is a compelling state interest.

The legislature also finds that in many cases, certain discrete words or symbols are used to threaten the victims. Those discrete words or symbols have historically or traditionally been used to connote hatred or threats towards members of the class of which the victim or a member of the victim's family or household is a member. In particular, the legislature finds that cross burnings historically and traditionally have been used to threaten, terrorize, intimidate, and harass African Americans and their families. Cross burnings often preceded lynchings, murders, burning of

homes, and other acts of terror. Further, Nazi swastikas historically and traditionally have been used to threaten, terrorize, intimidate, and harass Jewish people and their families. Swastikas symbolize the massive destruction of the Jewish population, commonly known as the holocaust. Therefore, the legislature finds that any person who burns or attempts to burn a cross or displays a swastika on the property of the victim or burns a cross or displays a swastika as part of a series of acts directed towards a particular person, the person's family or household members, or a particular group, knows or reasonably should know that the cross burning or swastika may create a reasonable fear of harm in the mind of the person, the person's family and household members, or the group.

The legislature also finds that a hate crime committed against a victim because of the victim's gender may be identified in the same manner that a hate crime committed against a victim of another protected group is identified. Affirmative indications of hatred towards gender as a class is the predominant factor to consider. Other factors to consider include the perpetrator's use of language, slurs, or symbols expressing hatred towards the victim's gender as a class; the severity of the attack including mutilation of the victim's sexual organs; a history of similar attacks against victims of the same gender by the perpetrator or a history of similar incidents in the same area; a lack of provocation; an absence of any other apparent motivation; and common sense. [1993 c 127 § 1.]

Severability—1993 c 127: "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." [1993 c 127 § 7.]

9A.36.080 Malicious harassment—Definition and criminal penalty. (1) A person is guilty of malicious harassment if he or she maliciously and intentionally commits one of the following acts because of his or her perception of the victim's race, color, religion, ancestry, national origin, gender, sexual orientation, or mental, physical, or sensory handicap:

(a) Causes physical injury to the victim or another person;

(b) Causes physical damage to or destruction of the property of the victim or another person; or

(c) Threatens a specific person or group of persons and places that person, or members of the specific group of persons, in reasonable fear of harm to person or property. The fear must be a fear that a reasonable person would have under all the circumstances. For purposes of this section, a "reasonable person" is a reasonable person who is a member of the victim's race, color, religion, ancestry, national origin, gender, or sexual orientation, or who has the same mental, physical, or sensory handicap as the victim. Words alone do not constitute malicious harassment unless the context or circumstances surrounding the words indicate the words are a threat. Threatening words do not constitute malicious harassment if it is apparent to the victim that the person does not have the ability to carry out the threat.

(2) In any prosecution for malicious harassment, unless evidence exists which explains to the trier of fact's satisfaction that the person did not intend to threaten the victim or victims, the trier of fact may infer that the person intended to threaten a specific victim or group of victims because of the person's perception of the victim's or victims' race, color, religion, ancestry, national origin, gender, sexual orientation, or mental, physical, or sensory handicap if the person commits one of the following acts:

(a) Burns a cross on property of a victim who is or whom the actor perceives to be of African American heritage; or

(b) Defaces property of a victim who is or whom the actor perceives to be of Jewish heritage by defacing the property with a swastika.

This subsection only applies to the creation of a reasonable inference for evidentiary purposes. This subsection does not restrict the state's ability to prosecute a person under subsection (1) of this section when the facts of a particular case do not fall within (a) or (b) of this subsection.

(3) It is not a defense that the accused was mistaken that the victim was a member of a certain race, color, religion, ancestry, national origin, gender, or sexual orientation, or had a mental, physical, or sensory handicap.

(4) Evidence of expressions or associations of the accused may not be introduced as substantive evidence at trial unless the evidence specifically relates to the crime charged. Nothing in this chapter shall affect the rules of evidence governing impeachment of a witness.

(5) Every person who commits another crime during the commission of a crime under this section may be punished and prosecuted for the other crime separately.

(6) "Sexual orientation" for the purposes of this section means heterosexuality, homosexuality, or bisexuality.

(7) Malicious harassment is a class C felony.

(8) The penalties provided in this section for malicious harassment do not preclude the victims from seeking any other remedies otherwise available under law.

(9) Nothing in this section confers or expands any civil rights or protections to any group or class identified under this section, beyond those rights or protections that exist under the federal or state Constitution or the civil laws of the state of Washington. [1993 c 127 § 2; 1989 c 95 § 1; 1984 c 268 § 1; 1981 c 267 § 1.]

Severability—1993 c 127: See note following RCW 9A.36.078.

Construction—1989 c 95: "The provisions of this act shall be liberally construed in order to effectuate its purpose." [1989 c 95 § 3.]

Severability—1989 c 95: "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." [1989 c 95 § 4.]

Harassment: Chapters 9A.46 and 10.14 RCW.

9A.36.083 Malicious harassment—Civil action. In addition to the criminal penalty provided in RCW 9A.36.080 for committing a crime of malicious harassment, the victim may bring a civil cause of action for malicious harassment against the harasser. A person may be liable to the victim of malicious harassment for actual damages, punitive damages of up to ten thousand dollars, and reasonable attorneys' fees and costs incurred in bringing the action. [1993 c 127 § 3.]

Severability—1993 c 127: See note following RCW 9A.36.078.

Chapter 9A.40
KIDNAPPING, UNLAWFUL IMPRISONMENT, AND CUSTODIAL INTERFERENCE

Sections
9A.40.090 Luring.

9A.40.090 Luring. A person commits the crime of luring if the person:

(1)(a) Orders, lures, or attempts to lure a minor or developmentally disabled person into a structure that is obscured from or inaccessible to the public or into a motor vehicle;

(b) Does not have the consent of the minor's parent or guardian or the developmentally disabled person's guardian; and

(c) Is unknown to the child or developmentally disabled person.

(2) It is a defense to luring, which the defendant must prove by a preponderance of the evidence, that the defendant's actions were reasonable under the circumstances and the defendant did not have any intent to harm the health, safety, or welfare of the minor or developmentally disabled person.

(3) For purposes of this section:

(a) "Minor" means a person under the age of sixteen;

(b) "Developmentally disabled person" means a person with a developmental disability as defined in RCW 71A.10.020.

(4) Luring is a class C felony. [1993 c 509 § 1.]

Chapter 9A.44
SEXUAL OFFENSES

Sections
9A.44.010 Definitions.
9A.44.050 Rape in the second degree.
9A.44.100 Indecent liberties.

9A.44.010 Definitions. As used in this chapter:

(1) "Sexual intercourse" (a) has its ordinary meaning and occurs upon any penetration, however slight, and

(b) Also means any penetration of the vagina or anus however slight, by an object, when committed on one person by another, whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes, and

(c) Also means any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another whether such persons are of the same or opposite sex.

(2) "Sexual contact" means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party.

(3) "Married" means one who is legally married to another, but does not include a person who is living separate and apart from his or her spouse and who has filed in an appropriate court for legal separation or for dissolution of his or her marriage.

(4) "Mental incapacity" is that condition existing at the time of the offense which prevents a person from understanding the nature or consequences of the act of sexual intercourse whether that condition is produced by illness, defect, the influence of a substance or from some other cause.

(5) "Physically helpless" means a person who is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

(6) "Forcible compulsion" means physical force which overcomes resistance, or a threat, express or implied, that places a person in fear of death or physical injury to herself or himself or another person, or in fear that she or he or another person will be kidnapped.

(7) "Consent" means that at the time of the act of sexual intercourse or sexual contact there are actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.

(8) "Significant relationship" means a situation in which the perpetrator is:

(a) A person who undertakes the responsibility, professionally or voluntarily, to provide education, health, welfare, or organized recreational activities principally for minors; or

(b) A person who in the course of his or her employment supervises minors.

(9) "Abuse of a supervisory position" means a direct or indirect threat or promise to use authority to the detriment or benefit of a minor.

(10) "Developmentally disabled," for purposes of RCW 9A.44.050(1)(c) and 9A.44.100(1)(c), means a person with a developmental disability as defined in RCW 71A.10.020.

(11) "Person with supervisory authority," for purposes of RCW 9A.44.050(1) (c) or (e) and 9A.44.100(1) (c) or (e), means any proprietor or employee of any public or private care or treatment facility who directly supervises developmentally disabled, mentally disordered, or chemically dependent persons at the facility.

(12) "Mentally disordered person" for the purposes of RCW 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person with a "mental disorder" as defined in RCW 71.05.020(2).

(13) "Chemically dependent person" for purposes of RCW 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person who is "chemically dependent" as defined in RCW 70.96A.020(4).

(14) "Health care provider" for purposes of RCW 9A.44.050 and 9A.44.100 means a person who is, holds himself or herself out to be, or provides services as if he or she were: (a) A member of a health care profession under chapter 18.130 RCW; or (b) registered or certified under chapter 18.19 RCW, regardless of whether the health care provider is licensed, certified, or registered by the state.

(15) "Treatment" for purposes of RCW 9A.44.050 and 9A.44.100 means the active delivery of professional services by a health care provider which the health care provider holds himself or herself out to be qualified to provide. [1993 c 477 § 1; 1988 c 146 § 3; 1988 c 145 § 1; 1981 c 123 § 1; 1975 1st ex.s. c 14 § 1. Formerly RCW 9.79.140.]

Severability—Effective dates—1988 c 146: See notes following RCW 9A.44.050.

Effective date—1988 c 145: "This act shall take effect July 1, 1988." [1988 c 145 § 26.]

Savings—Application—1988 c 145: "This act shall not have the effect of terminating or in any way modifying any liability, civil or criminal,

which is already in existence on July 1, 1988, and shall apply only to offenses committed on or after July 1, 1988." [1988 c 145 § 25.]

9A.44.050 Rape in the second degree. (1) A person is guilty of rape in the second degree when, under circumstances not constituting rape in the first degree, the person engages in sexual intercourse with another person:

(a) By forcible compulsion;

(b) When the victim is incapable of consent by reason of being physically helpless or mentally incapacitated;

(c) When the victim is developmentally disabled and the perpetrator is a person who is not married to the victim and who has supervisory authority over the victim;

(d) When the perpetrator is a health care provider, the victim is a client or patient, and the sexual intercourse occurs during a treatment session, consultation, interview, or examination. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the client or patient consented to the sexual intercourse with the knowledge that the sexual intercourse was not for the purpose of treatment; or

(e) When the victim is a resident of a facility for mentally disordered or chemically dependent persons and the perpetrator is a person who is not married to the victim and has supervisory authority over the victim.

(2) Rape in the second degree is a class A felony. [1993 c 477 § 2; 1990 c 3 § 901; 1988 c 146 § 1; 1983 c 118 § 2; 1979 ex.s. c 244 § 2; 1975 1st ex.s. c 14 § 5. Formerly RCW 9.79.180.]

Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.

Severability—1988 c 146: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1988 c 146 § 5.]

Effective dates—1988 c 146: "Section 4 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately [March 21, 1988]. The remainder of this act shall take effect July 1, 1988." [1988 c 146 § 6.]

9A.44.100 Indecent liberties. (1) A person is guilty of indecent liberties when he knowingly causes another person who is not his spouse to have sexual contact with him or another:

(a) By forcible compulsion; or

(b) When the other person is incapable of consent by reason of being mentally defective, mentally incapacitated, or physically helpless;

(c) When the victim is developmentally disabled and the perpetrator is a person who is not married to the victim and who has supervisory authority over the victim;

(d) When the perpetrator is a health care provider, the victim is a client or patient, and the sexual contact occurs during a treatment session, consultation, interview, or examination. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the client or patient consented to the sexual contact with the knowledge that the sexual contact was not for the purpose of treatment; or

(e) When the victim is a resident of a facility for mentally disordered or chemically dependent persons and the perpetrator is a person who is not married to the victim and has supervisory authority over the victim.

(2) Indecent liberties is a class B felony. [1993 c 477 § 3; 1988 c 146 § 2; 1988 c 145 § 10; 1986 c 131 § 1; 1975 1st ex.s. c 260 § 9A.88.100. Formerly RCW 9A.88.100.]

Severability—Effective dates—1988 c 146: See notes following RCW 9A.44.050.

Effective date—Savings—Application—1988 c 145: See notes following RCW 9A.44.010.

Chapter 9A.50
INTERFERENCE WITH HEALTH CARE FACILITIES OR PROVIDERS

Sections

9A.50.005 Finding. The legislature finds that seeking or obtaining health care is fundamental to public health and safety. [1993 c 128 § 1.]

9A.50.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Health care facility" means a facility that provides health care services directly to patients, including but not limited to, a hospital, clinic, health care provider's office, health maintenance organization, diagnostic or treatment center, neuropsychiatric or mental health facility, hospice, or nursing home.

(2) "Health care provider" has the same meaning as defined in RCW 7.70.020 (1) and (2), and also means an officer, director, employee, or agent of a health care facility who sues or testifies regarding matters within the scope of his or her employment.

(3) "Aggrieved" means:

(a) A person, physically present at the health care facility when the prohibited actions occur, whose access is or is about to be obstructed or impeded;

(b) A person, physically present at the health care facility when the prohibited actions occur, whose care is or is about to be disrupted;

(c) The health care facility, its employees, or agents;

(d) The owner of the health care facility or the building or property upon which the health care facility is located. [1993 c 128 § 2.]

9A.50.020 Interference with health care facility. It is unlawful for a person except as otherwise protected by state or federal law, alone or in concert with others, to willfully or recklessly interfere with access to or from a

health care facility or willfully or recklessly disrupt the normal functioning of such facility by:

(1) Physically obstructing or impeding the free passage of a person seeking to enter or depart from the facility or from the common areas of the real property upon which the facility is located;

(2) Making noise that unreasonably disturbs the peace within the facility;

(3) Trespassing on the facility or the common areas of the real property upon which the facility is located;

(4) Telephoning the facility repeatedly, or knowingly permitting any telephone under his or her control to be used for such purpose; or

(5) Threatening to inflict injury on the owners, agents, patients, employees, or property of the facility or knowingly permitting any telephone under his or her control to be used for such purpose. [1993 c 128 § 3.]

9A.50.030 Penalty. A violation of RCW 9A.50.020 is a gross misdemeanor. A person convicted of violating RCW 9A.50.020 shall be punished as follows:

(1) For a first offense, a fine of not less than two hundred fifty dollars and a jail term of not less than twenty-four consecutive hours;

(2) For a second offense, a fine of not less than five hundred dollars and a jail term of not less than seven consecutive days; and

(3) For a third or subsequent offense, a fine of not less than one thousand dollars and a jail term of not less than thirty consecutive days. [1993 c 128 § 4.]

9A.50.040 Civil remedies. (1) A person or health care facility aggrieved by the actions prohibited by RCW 9A.50.020 may seek civil damages from those who committed the prohibited acts and those acting in concert with them. A plaintiff in an action brought under this chapter shall not recover more than his or her actual damages and additional sums authorized in RCW 9A.50.050. Once a plaintiff recovers his or her actual damages and any additional sums authorized under this chapter, additional damages shall not be recovered. A person does not have to be criminally convicted of violating RCW 9A.50.020 to be held civilly liable under this section. It is not necessary to prove actual damages to recover the additional sums authorized under RCW 9A.50.050, costs, and attorneys' fees. The prevailing party is entitled to recover costs and attorneys' fees.

(2) The superior courts of this state shall have authority to grant temporary, preliminary, and permanent injunctive relief to enjoin violations of this chapter.

In appropriate circumstances, any superior court having personal jurisdiction over one or more defendants may issue injunctive relief that shall have binding effect on the original defendants and persons acting in concert with the original defendants, in any county in the state.

Due to the nature of the harm involved, injunctive relief may be issued without bond in the discretion of the court, notwithstanding any other requirement imposed by statute.

The state and its political subdivisions shall cooperate in the enforcement of court injunctions that seek to protect against acts prohibited by this chapter. [1993 c 128 § 6.]

9A.50.050 Civil damages. In a civil action brought under this chapter, an individual plaintiff aggrieved by the actions prohibited by RCW 9A.50.020 may be entitled to recover up to five hundred dollars for each day that the actions occurred, or up to five thousand dollars for each day that the actions occurred if the plaintiff aggrieved by the actions prohibited under RCW 9A.50.020 is a health care facility. [1993 c 128 § 7.]

9A.50.060 Informational picketing. Nothing in RCW 9A.50.020 shall prohibit either lawful picketing or other publicity for the purpose of providing the public with information. [1993 c 128 § 8.]

9A.50.070 Protection of health care patients and providers. A court having jurisdiction over a criminal or civil proceeding under this chapter shall take all steps reasonably necessary to safeguard the individual privacy and prevent harassment of a health care patient or health care provider who is a party or witness in a proceeding, including granting protective orders and orders in limine. [1993 c 128 § 9.]

9A.50.900 Construction. Nothing in this chapter shall be construed to limit the right to seek other available criminal or civil remedies. The remedies provided in this chapter are cumulative, not exclusive. [1993 c 128 § 11.]

9A.50.901 Severability—1993 c 128. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1993 c 128 § 12.]

9A.50.902 Effective date—1993 c 128. 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 [April 26, 1993]. [1993 c 128 § 14.]

Chapter 9A.56
THEFT AND ROBBERY

Sections

9A.56.280 Credit cards—Definitions. As used in RCW 9A.56.280 and 9A.56.290, unless the context requires otherwise:

(1) "Cardholder" means a person to whom a credit card is issued or a person who otherwise is authorized to use a credit card.

(2) "Credit card" means a card, plate, booklet, credit card number, credit card account number, or other identifying symbol, instrument, or device that can be used to pay for, or to obtain on credit, goods or services.

(3) "Credit card transaction" means a sale or other transaction in which a credit card is used to pay for, or to obtain on credit, goods or services.

(4) "Credit card transaction record" means a record or evidence of a credit card transaction, including, without limitation, a paper, sales draft, instrument, or other writing and an electronic or magnetic transmission or record.

(5) "Financial institution" means a bank, trust company, mutual savings bank, savings and loan association, or credit union authorized under state or federal law to do business and accept deposits in Washington.

(6) "Merchant" means a person authorized by a financial institution to honor or accept credit cards in payment for goods or services.

(7) "Person" means an individual, partnership, corporation, trust, or unincorporated association, but does not include a financial institution or its authorized employees, representatives, or agents. [1993 c 484 § 1.]

9A.56.290 Credit cards—Unlawful factoring of transactions. (1) A person commits the crime of unlawful factoring of a credit card transaction if the person, with intent to commit fraud or theft against a cardholder, credit card issuer, or financial institution, causes any such party or parties to suffer actual monetary damages that in the aggregate exceed one thousand dollars, by:

(a) Presenting to or depositing with, or causing another to present to or deposit with, a financial institution for payment a credit card transaction record that is not the result of a credit card transaction between the cardholder and the person;

(b) Employing, soliciting, or otherwise causing a merchant or an employee, representative, or agent of a merchant to present to or deposit with a financial institution for payment a credit card transaction record that is not the result of a credit card transaction between the cardholder and the merchant; or

(c) Employing, soliciting, or otherwise causing another to become a merchant for purposes of engaging in conduct made unlawful by this section.

(2) Normal transactions conducted by or through airline reporting corporation-appointed travel agents or cruise-only travel agents recognized by passenger cruise lines are not considered factoring for the purposes of this section.

(3) Unlawful factoring of a credit card transaction is a class C felony. [1993 c 484 § 2.]

Chapter 9A.60
FRAUD

Sections

9A.60.040 Criminal impersonation. (1) A person is guilty of criminal impersonation in the first degree if the person:

(a) Assumes a false identity and does an act in his or her assumed character with intent to defraud another or for any other unlawful purpose; or

(b) Pretends to be a representative of some person or organization or a public servant and does an act in his or her pretended capacity with intent to defraud another or for any other unlawful purpose.

(2) Criminal impersonation in the first degree is a gross misdemeanor.

(3) A person is guilty of criminal impersonation in the second degree if the person:

(a) Claims to be a law enforcement officer or creates an impression that he or she is a law enforcement officer; and

(b) Under circumstances not amounting to criminal impersonation in the first degree, does an act with intent to convey the impression that he or she is acting in an official capacity and a reasonable person would believe the person is a law enforcement officer.

(4) Criminal impersonation in the second degree is a misdemeanor. [1993 c 457 § 1; 1975 1st ex.s. c 260 § 9A.60.040.]

Chapter 9A.76
OBSTRUCTING GOVERNMENTAL OPERATION

Sections

9A.76.200 Harming a police or accelerant detection dog. (1) A person is guilty of harming a police dog or accelerant detection dog if he or she maliciously injures, disables, shoots, or kills by any means any dog that the person knows or has reason to know to be a police dog or accelerant detection dog, as defined in RCW 4.24.410, whether or not the dog is actually engaged in police or accelerant detection work at the time of the injury.

(2) Harming a police dog or accelerant detection dog is a class C felony. [1993 c 180 § 2; 1989 c 26 § 2; 1982 c 22 § 2.]

Title 10
CRIMINAL PROCEDURE

Chapters

Chapter 10.31
WARRANTS AND ARRESTS

Sections

10.31.100 Arrest without warrant. A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to

arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of the officer, except as provided in subsections (1) through (10) of this section.

(1) Any police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor, involving physical harm or threats of harm to any person or property or the unlawful taking of property or involving the use or possession of cannabis, or involving the acquisition, possession, or consumption of alcohol by a person under the age of twenty-one years under RCW 66.44.270 shall have the authority to arrest the person.

(2) A police officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) An order has been issued of which the person has knowledge under RCW 10.99.040(2), 10.99.050, 26.09.060, 26.44.063, chapter 26.26 RCW, or chapter 26.50 RCW restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence or excluding the person from a residence or, in the case of an order issued under RCW 26.44.063, imposing any other restrictions or conditions upon the person; or

(b) The person is eighteen years or older and within the preceding four hours has assaulted that person's spouse, former spouse, or a person eighteen years or older with whom the person resides or has formerly resided and the officer believes: (i) A felonious assault has occurred; (ii) an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or (iii) that any physical action has occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death. Bodily injury means physical pain, illness, or an impairment of physical condition. When the officer has probable cause to believe that spouses, former spouses, or other persons who reside together or formerly resided together have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable effort to consider: (i) The intent to protect victims of domestic violence under RCW 10.99.010; (ii) the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and (iii) the history of domestic violence between the persons involved.

(3) Any police officer having probable cause to believe that a person has committed or is committing a violation of any of the following traffic laws shall have the authority to arrest the person:

(a) RCW 46.52.010, relating to duty on striking an unattended car or other property;

(b) RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(c) RCW 46.61.500 or 46.61.530, relating to reckless driving or racing of vehicles;

(d) RCW 46.61.502 or 46.61.504, relating to persons under the influence of intoxicating liquor or drugs;

(e) RCW 46.20.342, relating to driving a motor vehicle while operator's license is suspended or revoked;

(f) RCW 46.61.525, relating to operating a motor vehicle in a negligent manner.

(4) A law enforcement officer investigating at the scene of a motor vehicle accident may arrest the driver of a motor vehicle involved in the accident if the officer has probable cause to believe that the driver has committed in connection with the accident a violation of any traffic law or regulation.

(5) Any police officer having probable cause to believe that a person has committed or is committing a violation of *RCW 88.12.100 shall have the authority to arrest the person.

(6) An officer may act upon the request of a law enforcement officer in whose presence a traffic infraction was committed, to stop, detain, arrest, or issue a notice of traffic infraction to the driver who is believed to have committed the infraction. The request by the witnessing officer shall give an officer the authority to take appropriate action under the laws of the state of Washington.

(7) Any police officer having probable cause to believe that a person has committed or is committing any act of indecent exposure, as defined in RCW 9A.88.010, may arrest the person.

(8) A police officer may arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that an order has been issued of which the person has knowledge under chapter 10.14 RCW and the person has violated the terms of that order.

(9) Any police officer having probable cause to believe that a person has, within twenty-four hours of the alleged violation, committed a violation of RCW 9A.50.020 may arrest such person.

(10) A police officer having probable cause to believe that a person illegally possesses or illegally has possessed a firearm or other dangerous weapon on private or public elementary or secondary school premises shall have the authority to arrest the person.

For purposes of this subsection, the term "firearm" has the meaning defined in RCW 9.41.010 and the term "dangerous weapon" has the meaning defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

(11) Except as specifically provided in subsections (2), (3), (4), and (6) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

(12) No police officer may be held criminally or civilly liable for making an arrest pursuant to RCW 10.31.100 (2) or (8) if the police officer acts in good faith and without malice. [1993 c 209 § 1; 1993 c 128 § 5; 1988 c 190 § 1. Prior: 1987 c 280 § 20; 1987 c 277 § 2; 1987 c 154 § 1; 1987 c 66 § 1; prior: 1985 c 303 § 9; 1985 c 267 § 3; 1984 c 263 § 19; 1981 c 106 § 1; 1980 c 148 § 8; 1979 ex.s. c 28 § 1; 1969 ex.s. c 198 § 1.]

Reviser's note: *(1) RCW 88.12.100 was recodified as RCW 88.12.025 pursuant to 1993 c 244 § 45.

(2) This section was amended by 1993 c 128 § 5 and by 1993 c 209 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—Effective date—1993 c 128: See RCW 9A.50.901 and 9A.50.902.

Severability—1987 c 280: See RCW 10.14.900.

Effective date—Severability—1984 c 263: See RCW 26.50.901, 26.50.902.

Arrest procedure involving traffic violations: Chapter 46.64 RCW.

Domestic violence, peace officers—Immunity: RCW 26.50.140.

Uniform Controlled Substances Act: Chapter 69.50 RCW.

Chapter 10.34
FUGITIVES OF THIS STATE

Sections

10.34.030 Escape—Retaking in foreign state—Extradition agents. The governor may appoint agents to make a demand upon the executive authority of any state or territory for the surrender of any fugitive from justice, or any other person charged with a felony or any other crime in this state. Whenever an application shall be made to the governor for the appointment of an agent he may require the official submitting the same to provide whatever information is necessary prior to approval of the application. [1993 c 442 § 1; 1967 c 91 § 2; 1891 c 28 § 98; Code 1881 § 971; 1873 p 217 § 157; 1854 p 102 § 5; RRS § 2241.]

Effective date—1993 c 442: "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, 1993." [1993 c 442 § 2.]

Chapter 10.64
JUDGMENTS AND SENTENCES

Sections

10.64.130 Incarceration costs. Once a defendant has been convicted of a misdemeanor or gross misdemeanor, unless the defendant has been found by the court, pursuant to RCW 10.101.020, to be indigent, the court may require the defendant to pay for the cost of incarceration at a rate of up to fifty dollars per day of incarceration. Payment of other court ordered financial obligations, including all legal financial obligations and costs of supervision shall take precedence over the payment of the cost of incarceration ordered by the court. All funds received from defendants for the cost of incarceration in the county or city jail shall be remitted to the county or city for criminal justice purposes. [1993 c 355 § 1.]

Chapter 10.77
CRIMINALLY INSANE—PROCEDURES

Sections

10.77.010 Definitions. As used in this chapter:

(1) A "criminally insane" person means any person who has been acquitted of a crime charged by reason of insanity, and thereupon found to be a substantial danger to other persons or to present a substantial likelihood of committing felonious acts jeopardizing public safety or security unless kept under further control by the court or other persons or institutions.

(2) "Indigent" means any person who is financially unable to obtain counsel or other necessary expert or professional services without causing substantial hardship to the person or his or her family.

(3) "Secretary" means the secretary of the department of social and health services or his or her designee.

(4) "Department" means the state department of social and health services.

(5) "Treatment" means any currently standardized medical or mental health procedure including medication.

(6) "Incompetency" means a person lacks the capacity to understand the nature of the proceedings against him or her or to assist in his or her own defense as a result of mental disease or defect.

(7) No condition of mind proximately induced by the voluntary act of a person charged with a crime shall constitute "insanity".

(8) "Furlough" means an authorized leave of absence for a resident of a state institution operated by the department designated for the custody, care, and treatment of the criminally insane, consistent with an order of conditional release from the court under this chapter, without any requirement that the resident be accompanied by, or be in the custody of, any law enforcement or institutional staff, while on such unescorted leave.

(9) "Developmental disability" means the condition defined in RCW 71A.10.020(2).

(10) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist or psychologist, or a social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary.

(11) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the individual being assisted as manifested by prior charged criminal conduct.

(12) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has, in addition, completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or

eligible to be certified by the American board of psychiatry and neurology.

(13) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW.

(14) "Social worker" means a person with a master's or further advanced degree from an accredited school of social work or a degree deemed equivalent under rules adopted by the secretary.

(15) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for an individual with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge from involuntary confinement, and a projected possible date for discharge from involuntary confinement; and

(g) The type of residence immediately anticipated for the person and possible future types of residences. [1993 c 31 § 4; 1989 c 420 § 3; 1983 c 122 § 1; 1974 ex.s. c 198 § 1; 1973 1st ex.s. c 117 § 1.]

10.77.020 Rights of person under this chapter. (1) At any and all stages of the proceedings pursuant to this chapter, any person subject to the provisions of this chapter shall be entitled to the assistance of counsel, and if the person is indigent the court shall appoint counsel to assist him or her. A person may waive his or her right to counsel; but such waiver shall only be effective if a court makes a specific finding that he or she is or was competent to so waive. In making such findings, the court shall be guided but not limited by the following standards: Whether the person attempting to waive the assistance of counsel, does so understanding:

(a) The nature of the charges;

(b) The statutory offense included within them;

(c) The range of allowable punishments thereunder;

(d) Possible defenses to the charges and circumstances in mitigation thereof; and

(e) All other facts essential to a broad understanding of the whole matter.

(2) Whenever any person is subjected to an examination pursuant to any provision of this chapter, he or she may retain an expert or professional person to perform an examination in his or her behalf. In the case of a person who is indigent, the court shall upon his or her request assist the person in obtaining an expert or professional person to perform an examination or participate in the hearing on his or her behalf. An expert or professional person obtained by an indigent person pursuant to the provisions of this chapter shall be compensated for his or her services out of funds of the department, in an amount determined by it to be fair and reasonable.

(3) Whenever any person has been committed under any provision of this chapter, or ordered to undergo alternative treatment following his or her acquittal of a crime charged by reason of insanity, such commitment or treatment cannot exceed the maximum possible penal sentence for any offense charged for which the person was acquitted by reason of insanity. If at the end of that period the person has not been finally discharged and is still in need of commitment or treatment, civil commitment proceedings may be instituted, if appropriate.

(4) Any time the defendant is being examined by court appointed experts or professional persons pursuant to the provisions of this chapter, the defendant shall be entitled to have his or her attorney present. The defendant may refuse to answer any question if he or she believes his or her answers may tend to incriminate him or her or form links leading to evidence of an incriminating nature. [1993 c 31 § 5; 1974 ex.s. c 198 § 2; 1973 1st ex.s. c 117 § 2.]

10.77.150 Conditional release—Application—Order—Procedure. (1) Persons examined pursuant to RCW 10.77.140, as now or hereafter amended, may make application to the secretary for conditional release. The secretary shall, after considering the reports of experts or professional persons conducting the examination pursuant to RCW 10.77.140, forward to the court of the county which ordered the person's commitment the person's application for conditional release as well as the secretary's recommendations concerning the application and any proposed terms and conditions upon which the secretary reasonably believes the person can be conditionally released. Conditional release may also contemplate partial release for work, training, or educational purposes.

(2) The court of the county which ordered the person's commitment, upon receipt of an application for conditional release with the secretary's recommendation for conditional release, shall within thirty days schedule a hearing. The court may schedule a hearing on applications recommended for disapproval by the secretary. The prosecuting attorney shall represent the state at such hearings and shall have the right to have the patient examined by an expert or professional person of the prosecuting attorney's choice. If the committed person is indigent, and he or she so requests, the court shall appoint a qualified expert or professional person to examine the person on his or her behalf. The issue to be determined at such a hearing is whether or not the person may be released conditionally without substantial danger to other persons, or substantial likelihood of committing felonious acts jeopardizing public safety or security. The court, after the hearing, shall rule on the secretary's recommendations, and if it disapproves of conditional release, may do so only on the basis of substantial evidence. The court may modify the suggested terms and conditions on which the person is to be conditionally released. Pursuant to the determination of the court after hearing, the committed person shall thereupon be released on such conditions as the court determines to be necessary, or shall be remitted to the custody of the secretary. If the order of conditional release

includes a requirement for the committed person to report to a community corrections officer, the order shall also specify that the conditionally released person shall be under the supervision of the secretary of corrections or such person as the secretary of corrections may designate and shall follow explicitly the instructions of the secretary of corrections including reporting as directed to a community corrections officer, remaining within prescribed geographical boundaries, and notifying the community corrections officer prior to making any change in the offender's address or employment.

(3) If the court determines that receiving regular or periodic medication or other medical treatment shall be a condition of the committed person's release, then the court shall require him or her to report to a physician or other medical or mental health practitioner for the medication or treatment. In addition to submitting any report required by RCW 10.77.160, the physician or other medical or mental health practitioner shall immediately upon the released person's failure to appear for the medication or treatment report the failure to the court, to the prosecuting attorney of the county in which the released person was committed, and to the supervising community corrections officer.

(4) Any person, whose application for conditional release has been denied, may reapply after a period of six months from the date of denial. [1993 c 31 § 6; 1982 c 112 § 1; 1974 ex.s. c 198 § 13; 1973 1st ex.s. c 117 § 15.]

10.77.160 Conditional release—Reports as to adherence to terms and conditions of release. When a conditionally released person is required by the terms of his or her conditional release to report to a physician, department of corrections community corrections officer, or medical or mental health practitioner on a regular or periodic basis, the physician, department of corrections community corrections officer, medical or mental health practitioner, or other such person shall monthly, for the first six months after release and semiannually thereafter, or as otherwise directed by the court, submit to the court, the secretary, the institution from which released, and to the prosecuting attorney of the county in which the person was committed, a report stating whether the person is adhering to the terms and conditions of his or her conditional release. [1993 c 31 § 7; 1973 1st ex.s. c 117 § 16.]

10.77.165 Escape or disappearance—Notification requirements. In the event of an escape by a person committed under this chapter from a state institution or the disappearance of such a person on conditional release to the department of social and health services, the superintendent, or in the event of a disappearance of such a person on conditional release to the department of corrections, the community corrections officer shall, as appropriate, notify local law enforcement officers, other governmental agencies, the person's relatives, and any other appropriate persons about information necessary for the public safety or to assist in the apprehension of the person. The notice provisions of this section are in addition to those provided in RCW 10.77.205. [1993 c 31 § 8; 1990 c 3 § 107; 1989 c 420 § 10; 1983 c 122 § 3.]

Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.

10.77.180 Conditional release—Periodic review of case. Each person conditionally released pursuant to RCW 10.77.150, as now or hereafter amended, shall have his or her case reviewed by the court which conditionally released him or her no later than one year after such release and no later than every two years thereafter, such time to be scheduled by the court. Review may occur in a shorter time or more frequently, if the court, in its discretion, on its own motion, or on motion of the person, the secretary of social and health services, the secretary of corrections, medical or mental health practitioner, or the prosecuting attorney, so determines. The sole question to be determined by the court is whether the person shall continue to be conditionally released. The court in making its determination shall be aided by the periodic reports filed pursuant to RCW 10.77.140, as now or hereafter amended, and RCW 10.77.160, and the opinions of the secretary of social and health services and other experts or professional persons. [1993 c 31 § 9; 1974 ex.s. c 198 § 14; 1973 1st ex.s. c 117 § 18.]

10.77.190 Conditional release—Modification of terms—Procedure. (1) Any person submitting reports pursuant to RCW 10.77.160, the secretary, or the prosecuting attorney may petition the court to, or the court on its own motion may schedule an immediate hearing for the purpose of modifying the terms of conditional release if the petitioner or the court believes the released person is failing to adhere to the terms and conditions of his or her conditional release or is in need of additional care and treatment.

(2) If the prosecuting attorney, the secretary of social and health services, the secretary of corrections, or the court, after examining the report filed with them pursuant to RCW 10.77.160, or based on other information received by them, reasonably believes that a conditionally released person is failing to adhere to the terms and conditions of his or her conditional release the court or secretary of social and health services or the secretary of corrections may order that the conditionally released person be apprehended and taken into custody until such time as a hearing can be scheduled to determine the facts and whether or not the person's conditional release should be revoked or modified. The court shall be notified before the close of the next judicial day of the apprehension. Both the prosecuting attorney and the conditionally released person shall have the right to request an immediate mental examination of the conditionally released person. If the conditionally released person is indigent, the court or secretary of social and health services or the secretary of corrections shall, upon request, assist him or her in obtaining a qualified expert or professional person to conduct the examination.

(3) The court, upon receiving notification of the apprehension, shall promptly schedule a hearing. The issue to be determined is whether the conditionally released person did or did not adhere to the terms and conditions of his or her release. Pursuant to the determination of the court upon such hearing, the conditionally released person shall either continue to be conditionally released on the same or modified conditions or his or her conditional release shall be revoked and he or she shall be committed subject to release only in accordance with provisions of this chapter. [1993 c

31 § 10; 1982 c 112 § 2; 1974 ex.s. c 198 § 15; 1973 1st ex.s. c 117 § 19.]

10.77.200 Final discharge—Procedure. (1) Upon application by the committed or conditionally released person, the secretary shall determine whether or not reasonable grounds exist for final discharge. In making this determination, the secretary may consider the reports filed under RCW 10.77.060, 10.77.110, 10.77.140, and 10.77.160, and other reports and evaluations provided by professionals familiar with the case. If the secretary approves the final discharge he or she then shall authorize said person to petition the court.

(2) The petition shall be served upon the court and the prosecuting attorney. The court, upon receipt of the petition for final discharge, shall within forty-five days order a hearing. Continuance of the hearing date shall only be allowed for good cause shown. The prosecuting attorney shall represent the state, and shall have the right to have the petitioner examined by an expert or professional person of the prosecuting attorney's choice. If the petitioner is indigent, and the person so requests, the court shall appoint a qualified expert or professional person to examine him or her. If the petitioner is developmentally disabled, the examination shall be performed by a developmental disabilities professional. The hearing shall be before a jury if demanded by either the petitioner or the prosecuting attorney. The burden of proof shall be upon the petitioner to show by a preponderance of the evidence that the petitioner no longer presents, as a result of a mental disease or defect, a substantial danger to other persons, or a substantial likelihood of committing felonious acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions.

(3) Nothing contained in this chapter shall prohibit the patient from petitioning the court for final discharge or conditional release from the institution in which he or she is committed. The issue to be determined on such proceeding is whether the petitioner, as a result of a mental disease or defect, is a substantial danger to other persons, or presents a substantial likelihood of committing felonious acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions.

Nothing contained in this chapter shall prohibit the committed person from petitioning for release by writ of habeas corpus. [1993 c 31 § 11; 1989 c 420 § 11; 1983 c 25 § 2; 1974 ex.s. c 198 § 16; 1973 1st ex.s. c 117 § 20.]

10.77.210 Right to adequate care and treatment—Records and reports. Any person involuntarily detained, hospitalized, or committed pursuant to the provisions of this chapter shall have the right to adequate care and individualized treatment. The person who has custody of the patient or is in charge of treatment shall keep records detailing all medical, expert, and professional care and treatment received by a committed person, and shall keep copies of all reports of periodic examinations of the patient that have been filed with the secretary pursuant to this chapter. Except as provided in RCW 10.77.205 and 4.24.550 regarding the release of information concerning insane offenders who are acquitted of sex offenses and subsequently committed pursuant to this chapter, all records and reports made pursuant to this chapter, shall be made available only upon request, to the committed person, to his or her attorney, to his or her personal physician, to the supervising community corrections officer, to the prosecuting attorney, to the court, to the protection and advocacy agency, or other expert or professional persons who, upon proper showing, demonstrates a need for access to such records. All records and reports made pursuant to this chapter shall also be made available, upon request, to the department of corrections or the indeterminate sentence review board if the person was on parole, probation, or community supervision at the time of detention, hospitalization, or commitment or the person is subsequently convicted for the crime for which he or she was detained, hospitalized, or committed pursuant to this chapter. [1993 c 31 § 12; 1990 c 3 § 108; 1989 c 420 § 12; 1983 c 196 § 3; 1973 1st ex.s. c 117 § 21.]

Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.

Chapter 10.95
CAPITAL PUNISHMENT—AGGRAVATED FIRST DEGREE MURDER

Sections

10.95.030 Sentences for aggravated first degree murder. (1) Except as provided in subsection (2) of this section, any person convicted of the crime of aggravated first degree murder shall be sentenced to life imprisonment without possibility of release or parole. A person sentenced to life imprisonment under this section shall not have that sentence suspended, deferred, or commuted by any judicial officer and the indeterminate sentence review board or its successor may not parole such prisoner nor reduce the period of confinement in any manner whatsoever including but not limited to any sort of good-time calculation. The department of social and health services or its successor or any executive official may not permit such prisoner to participate in any sort of release or furlough program.

(2) If, pursuant to a special sentencing proceeding held under RCW 10.95.050, the trier of fact finds that there are not sufficient mitigating circumstances to merit leniency, the sentence shall be death. In no case, however, shall a person be sentenced to death if the person was mentally retarded at the time the crime was committed, under the definition of mental retardation set forth in (a) of this subsection. A diagnosis of mental retardation shall be documented by a licensed psychiatrist or licensed psychologist designated by the court, who is an expert in the diagnosis and evaluation of mental retardation. The defense must establish mental retardation by a preponderance of the evidence and the court

must make a finding as to the existence of mental retardation.

(a) "Mentally retarded" means the individual has: (i) Significantly subaverage general intellectual functioning; (ii) existing concurrently with deficits in adaptive behavior; and (iii) both significantly subaverage general intellectual functioning and deficits in adaptive behavior were manifested during the developmental period.

(b) "General intellectual functioning" means the results obtained by assessment with one or more of the individually administered general intelligence tests developed for the purpose of assessing intellectual functioning.

(c) "Significantly subaverage general intellectual functioning" means intelligence quotient seventy or below.

(d) "Adaptive behavior" means the effectiveness or degree with which individuals meet the standards of personal independence and social responsibility expected for his or her age.

(e) "Developmental period" means the period of time between conception and the eighteenth birthday. [1993 c 479 § 1; 1981 c 138 § 3.]

10.95.070 Special sentencing proceeding—Factors which jury may consider in deciding whether leniency merited. In deciding the question posed by RCW 10.95.060(4), the jury, or the court if a jury is waived, may consider any relevant factors, including but not limited to the following:

(1) Whether the defendant has or does not have a significant history, either as a juvenile or an adult, of prior criminal activity;

(2) Whether the murder was committed while the defendant was under the influence of extreme mental disturbance;

(3) Whether the victim consented to the act of murder;

(4) Whether the defendant was an accomplice to a murder committed by another person where the defendant's participation in the murder was relatively minor;

(5) Whether the defendant acted under duress or domination of another person;

(6) Whether, at the time of the murder, the capacity of the defendant to appreciate the wrongfulness of his or her conduct or to conform his or her conduct to the requirements of law was substantially impaired as a result of mental disease or defect. However, a person found to be mentally retarded under RCW 10.95.030(2) may in no case be sentenced to death;

(7) Whether the age of the defendant at the time of the crime calls for leniency; and

(8) Whether there is a likelihood that the defendant will pose a danger to others in the future. [1993 c 479 § 2; 1981 c 138 § 7.]

10.95.130 Questions posed for determination by supreme court in death sentence review—Review in addition to appeal—Consolidation of review and appeal. (1) The sentence review required by RCW 10.95.100 shall be in addition to any appeal. The sentence review and an appeal shall be consolidated for consideration. The defendant and the prosecuting attorney may submit briefs within the time prescribed by the court and present oral argument to the court.

(2) With regard to the sentence review required by *this act, the supreme court of Washington shall determine:

(a) Whether there was sufficient evidence to justify the affirmative finding to the question posed by RCW 10.95.060(4); and

(b) Whether the sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant. For the purposes of this subsection, "similar cases" means cases reported in the Washington Reports or Washington Appellate Reports since January 1, 1965, in which the judge or jury considered the imposition of capital punishment regardless of whether it was imposed or executed, and cases in which reports have been filed with the supreme court under RCW 10.95.120;

(c) Whether the sentence of death was brought about through passion or prejudice; and

(d) Whether the defendant was mentally retarded within the meaning of RCW 10.95.030(2). [1993 c 479 § 3; 1981 c 138 § 13.]

***Reviser's note:** For meaning of "this act," see note following RCW 10.95.100.

10.95.140 Invalidation of sentence, remand for resentencing—Affirmation of sentence, remand for execution. Upon completion of a sentence review:

(1) The supreme court of Washington shall invalidate the sentence of death and remand the case to the trial court for resentencing in accordance with RCW 10.95.090 if:

(a) The court makes a negative determination as to the question posed by RCW 10.95.130(2)(a); or

(b) The court makes an affirmative determination as to any of the questions posed by RCW 10.95.130(2) (b), (c), or (d).

(2) The court shall affirm the sentence of death and remand the case to the trial court for execution in accordance with RCW 10.95.160 if:

(a) The court makes an affirmative determination as to the question posed by RCW 10.95.130(2)(a); and

(b) The court makes a negative determination as to the questions posed by RCW 10.95.130(2) (b), (c), and (d). [1993 c 479 § 4; 1981 c 138 § 14.]

10.95.185 Witnesses. (1) Not less than twenty days prior to a scheduled execution, judicial officers, media representatives, representatives from the families of the victims, and representatives from the family of the defendant who wish to attend and witness the execution, must submit an application to the superintendent. Such application must designate the relationship and reason for wishing to attend.

(2) Not less than fifteen days prior to the scheduled execution, the superintendent shall designate the total number of individuals who will be allowed to attend and witness the planned execution. The superintendent shall determine the number of witnesses that will be allowed in each of the following categories:

(a) Media representatives.

(b) Judicial officers.

(c) Representatives from the families of victims.

(d) Representatives from the family of the defendant. After the list is composed, the superintendent shall serve this list on all parties who have submitted an application pursuant to this section. The superintendent shall develop and implement procedures to determine the persons within each of the categories listed in this subsection who will be allowed to attend and witness the execution.

(3) Not less than ten days prior to the scheduled execution, the superintendent shall file the witness list with the superior court from which the conviction and death warrant was issued with a petition asking that the court enter an order certifying this list as a final order identifying the witnesses to attend the execution. The final order of the court certifying the witness list shall not be entered less than five days after the filing of the petition.

(4) Unless a show cause petition is filed with the superior court from which the conviction and death warrant was issued within five days of the filing of the superintendent's petition, the superintendent's list, by order of the superior court, becomes final, and no other party has standing to challenge its appropriateness.

(5) In no case may the superintendent or the superior court order or allow more than seventeen individuals other than required staff to witness a planned execution.

(6) All witnesses must adhere to the search and security provisions of the department of corrections' policy regarding the witnessing of an execution.

(7) The superior court from which the conviction and death warrant was issued is the exclusive court for seeking judicial process for the privilege of attending and witnessing an execution.

(8) For purposes of this section:

(a) "Judicial officer" means: (i) The superior court judge who signed the death warrant issued pursuant to RCW 10.95.160 for the execution of the individual, (ii) the current prosecuting attorney of the county from which the final judgment and sentence and death warrant were issued, and (iii) the most recent attorney of record representing the individual sentenced to death.

(b) "Media representatives" means representative members of all forms of media.

(c) "Representative from the family of the victim" means a representative from the immediate family of a victim of the individual sentenced to death.

(d) "Representative from the family of the defendant" means a representative from the immediate family of the individual sentenced to death.

(e) "Superintendent" means the superintendent of the Washington state penitentiary. [1993 c 463 § 2.]

Policy—1993 c 463: "The legislature declares that, to the extent that the attendance of witnesses can be accommodated without compromising the security or the orderly operation of the Washington state penitentiary, it is the policy of the state of Washington to provide authorized individuals the opportunity to attend and witness the execution of an individual sentenced to death pursuant to chapter 10.95 RCW. Further, it is the policy of the state of Washington to provide for access to the execution to credentialed members of the media." [1993 c 463 § 1.]

Severability—1993 c 463: "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." [1993 c 463 § 3.]

Chapter 10.97
WASHINGTON STATE CRIMINAL RECORDS PRIVACY ACT

Sections

10.97.070 Discretionary disclosure of suspect's identity to victim. (1) Criminal justice agencies may, in their discretion, disclose to persons who have suffered physical loss, property damage, or injury compensable through civil action, the identity of persons suspected as being responsible for such loss, damage, or injury together with such information as the agency reasonably believes may be of assistance to the victim in obtaining civil redress. Such disclosure may be made without regard to whether the suspected offender is an adult or a juvenile, whether charges have or have not been filed, or a prosecuting authority has declined to file a charge or a charge has been dismissed.

(2) Unless the agency determines release would interfere with an ongoing criminal investigation, in any action brought pursuant to this chapter, criminal justice agencies shall disclose identifying information, including photographs of suspects, if the acts are alleged by the plaintiff or victim to be a violation of RCW 9A.50.020.

(3) The disclosure by a criminal justice agency of investigative information pursuant to subsection (1) of this section shall not establish a duty to disclose any additional information concerning the same incident or make any subsequent disclosure of investigative information, except to the extent an additional disclosure is compelled by legal process. [1993 c 128 § 10; 1977 ex.s. c 314 § 7.]

Severability—Effective date—1993 c 128: See RCW 9A.50.901 and 9A.50.902.

Chapter 10.98
CRIMINAL JUSTICE INFORMATION ACT

Sections

10.98.110 Tracking of felony cases. (1) The department shall maintain records to track felony cases for convicted felons sentenced either to a term of confinement exceeding one year or ordered under the supervision of the department and felony cases under the jurisdiction of the department pursuant to interstate compact agreements.

(2) Tracking shall begin at the time the department receives a judgment and sentence form from a prosecuting attorney and shall include the collection and updating of felons' criminal records from the time of sentencing through discharge.

(3) The department of corrections shall collect information for tracking felons from its offices and from information provided by county clerks, the Washington state patrol *identification and criminal history section, the office of financial management, and any other public or private agency that provides services to help individuals complete their felony sentences. [1993 c 31 § 1; 1987 c 462 § 2; 1984 c 17 § 11.]

***Reviser's note:** The "identification and criminal history" section has been redesignated the "identification, child abuse, and criminal history" section. See RCW 43.43.700.

Effective dates—1987 c 462: See note following RCW 13.04.116.

Chapter 10.99
DOMESTIC VIOLENCE—OFFICIAL RESPONSE

Sections

10.99.030 Law enforcement officers—Training, powers, duties—Report of domestic violence incidents. (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, 1994, 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 statewide crime data with the Washington association of sheriffs and police chiefs:

(a) To include a table, in the annual report of crime in Washington produced by the Washington association of sheriffs and police chiefs pursuant to the contract, showing the total number of actual offenses and the number and percent of the offenses that are domestic violence incidents for the following crimes: (i) Criminal homicide, with subtotals for murder and nonnegligent homicide and manslaughter by negligence; (ii) forcible rape, with subtotals for rape by force and attempted forcible rape; (iii) robbery, with subtotals for firearm, knife or cutting instrument, or other dangerous weapon, and strongarm robbery; (iv) assault, with subtotals for firearm, knife or cutting instrument, other dangerous weapon, hands, feet, aggravated, and other nonaggravated assaults; (v) burglary, with subtotals for forcible entry, nonforcible unlawful entry, and attempted forcible entry; (vi) larceny theft, except motor vehicle theft; (vii) motor vehicle theft, with subtotals for autos, trucks and buses, and other vehicles; and (viii) arson;

(b) To require that the table shall continue to be prepared and contained in the annual report of crime in Washington until that time as comparable or more detailed information about domestic violence incidents is available through the Washington state incident based reporting system and the information is prepared and contained in the annual report of crime in Washington; and

(c) 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 the agencies shall code and report domestic violence incidents to the Washington

association of sheriffs and police chiefs. [1993 c 350 § 3; 1984 c 263 § 21; 1981 c 145 § 5; 1979 ex.s. c 105 § 3.]

Findings—Severability—1993 c 350: See notes following RCW 26.50.035.

Effective date—Severability—1984 c 263: See RCW 26.50.901 and 26.50.902.

Chapter 10.105
PROPERTY INVOLVED IN A FELONY

Sections

10.105.010 Seizure and forfeiture. (1) The following are subject to seizure and forfeiture and no property right exists in them: All personal property, including, but not limited to, any item, object, tool, substance, device, weapon, machine, vehicle of any kind, money, security, or negotiable instrument, which has been or was actually employed as an instrumentality in the commission of, or in aiding or abetting in the commission of any felony, or which was furnished or was intended to be furnished by any person in the commission of, as a result of, or as compensation for the commission of, any felony, or which was acquired in whole or in part with proceeds traceable to the commission of a felony. No property may be forfeited under this section until after there has been a superior court conviction of the owner of the property for the felony in connection with which the property was employed, furnished, or acquired.

A forfeiture of 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 commission of the felony.

(2) Personal property subject to forfeiture under this chapter may be seized by any law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. 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;

(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;

(c) A law enforcement officer has probable cause to believe that the property is directly dangerous to health or safety; or

(d) The law enforcement officer has probable cause to believe that the property was used or is intended to be used in the commission of a felony.

(3) In the event of seizure pursuant to this section, 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. The notice of seizure 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. Notice of seizure in the case of property subject to a security interest that has been perfected by filing a financing statement in accordance with chapter 62A.9 RCW, or a certificate of title shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title.

(4) 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 (1) of this section within forty-five days of the seizure, the item seized shall be deemed forfeited.

(5) If a person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the seized property within forty-five days of the seizure, the law enforcement agency shall give the person or persons 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. Removal may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of the 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 property involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorney's fees. The burden of producing evidence shall be upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the property. The seizing law enforcement agency shall promptly return the property 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 of the property.

(6) When property is forfeited under this chapter, after satisfying any court-ordered victim restitution, the seizing law enforcement agency may:

(a) 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 criminal law;

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public.

(7) 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 public safety and education account.

(a) 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.

(b) 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.

(c) Retained property and net proceeds not required to be paid to the state treasurer, or otherwise required to be spent under this section, shall be retained by the seizing law enforcement agency exclusively for the expansion and improvement of law enforcement activity. Money retained under this section may not be used to supplant preexisting funding sources. [1993 c 288 § 2.]

10.105.900 Application. This chapter does not apply to property subject to forfeiture under chapter 66.32 RCW, RCW 69.50.505, 9.41.098, 9.46.230, 9A.82.100, 9A.83.030, 7.48.090, or 77.12.101. [1993 c 288 § 1.]

Title 11
PROBATE AND TRUST LAW

Chapters

Chapter 11.02
GENERAL PROVISIONS

Sections

11.02.005 Definitions and use of terms. When used in this title, unless otherwise required from the context:

(1) "Personal representative" includes executor, administrator, special administrator, and guardian or limited guardian and special representative.

(2) "Net estate" refers to the real and personal property of a decedent exclusive of homestead rights, exempt property, the family allowance and enforceable claims against, and debts of, the deceased or the estate.

(3) "Representation" refers to a method of determining distribution in which the takers are in unequal degrees of kinship with respect to the intestate, and is accomplished as follows: After first determining who, of those entitled to share in the estate, are in the nearest degree of kinship, the estate is divided into equal shares, the number of shares being the sum of the number of persons who survive the intestate who are in the nearest degree of kinship and the number of persons in the same degree of kinship who died before the intestate but who left issue surviving the intestate; each share of a deceased person in the nearest degree shall be divided among those of the intestate's issue who survive the intestate and have no ancestor then living who is in the line of relationship between them and the intestate, those more remote in degree taking together the share which their ancestor would have taken had he or she survived the intestate. Posthumous children are considered as living at the death of their parent.

(4) "Issue" includes all the lawful lineal descendants of the ancestor and all lawfully adopted children.

(5) "Degree of kinship" means the degree of kinship as computed according to the rules of the civil law; that is, by counting upward from the intestate to the nearest common ancestor and then downward to the relative, the degree of kinship being the sum of these two counts.

(6) "Heirs" denotes those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the real and personal property of a decedent on the decedent's death intestate.

(7) "Real estate" includes, except as otherwise specifically provided herein, all lands, tenements, and hereditaments, and all rights thereto, and all interest therein possessed and claimed in fee simple, or for the life of a third person.

(8) "Will" means an instrument validly executed as required by RCW 11.12.020 and includes all codicils.

(9) "Codicil" means an instrument that is validly executed in the manner provided by this title for a will and that refers to an existing will for the purpose of altering or changing the same, and which need not be attached thereto.

(10) "Guardian" or "limited guardian" means a personal representative of the person or estate of an incompetent or disabled person as defined in RCW 11.88.010 and the term may be used in lieu of "personal representative" wherever required by context.

(11) "Administrator" means a personal representative of the estate of a decedent and the term may be used in lieu of "personal representative" wherever required by context.

(12) "Executor" means a personal representative of the estate of a decedent appointed by will and the term may be used in lieu of "personal representative" wherever required by context.

(13) "Special administrator" means a personal representative of the estate of a decedent appointed for limited purposes and the term may be used in lieu of "personal representative" wherever required by context.

(14) "Trustee" means an original, added, or successor trustee and includes the state, or any agency thereof, when it is acting as the trustee of a trust to which chapter 11.98 RCW applies.

(15) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended or renumbered on July 25, 1993.

(16) Words that import the singular number may also be applied to the plural of persons and things.

(17) Words importing the masculine gender only may be extended to females also. [1993 c 73 § 1; 1985 c 30 § 4. Prior: 1984 c 149 § 4; 1977 ex.s. c 80 § 14; 1975-'76 2nd ex.s. c 42 § 23; 1965 c 145 § 11.02.005. Former RCW sections: Subd. (3), RCW 11.04.110; subd. (4), RCW 11.04.010; subd. (5), RCW 11.04.100; subd. (6), RCW 11.04.280; subd. (7), RCW 11.04.010; subd. (8) and (9), RCW 11.12.240; subd. (14) and (15), RCW 11.02.040.]

Short title—Application—Purpose—Severability—1985 c 30: See RCW 11.02.900 through 11.02.903.

Severability—1984 c 149: "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." [1984 c 149 § 181.]

Effective dates—1984 c 149: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately [March 7, 1984], except sections 1 through 98, 100 through 138, and 147 through 178 of this act which shall take effect January 1, 1985." [1984 c 149 § 180.] For codification of 1984 c 149 see Codification Tables, Volume 0.

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

Severability—Construction—1975-'76 2nd ex.s. c 42: See RCW 26.26.900, 26.26.905.

Effect of decree of adoption: RCW 26.33.260.

Kindred of the half blood: RCW 11.04.035.

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

11.02.091 Written instrument—Limit on characterization as testamentary. (1) An otherwise effective written instrument of transfer may not be deemed testamentary solely because of a provision for a nonprobate transfer at death in the instrument.

(2) "Provision for a nonprobate transfer at death" as used in subsection (1) of this section includes, but is not limited to, a written provision that:

(a) Money or another benefit up to that time due to, controlled, or owned by a decedent before death must be paid after the decedent's death to a person whom the decedent designates either in the instrument or a separate writing, including a will, executed at any time;

(b) Money or another benefit due or to become due under the instrument ceases to be payable in the event of the death of the promisee or the promisor before payment or demand; or

(c) Property, controlled by or owned by the decedent before death, that is the subject of the instrument passes to a person the decedent designates either in the instrument or in a separate writing, including a will, executed at any time.

(3) "Otherwise effective written instrument of transfer" as used in subsection (1) of this section means: An insurance policy; a contract of employment; a bond; a mortgage; a promissory note; a certified or uncertified security; an account agreement; a compensation plan; a pension plan; an individual retirement plan; an employee benefit plan; a joint tenancy; a community property agreement; a trust; a conveyance; a deed of gift; a contract; or another written instrument of a similar nature that would be effective if it did not contain provision for a nonprobate transfer at death.

(4) This section only eliminates a requirement that instruments of transfer comply with formalities for executing wills under chapter 11.12 RCW. This section does not make a written instrument effective as a contract, gift, conveyance, deed, or trust that would not otherwise be effective as such for reasons other than failure to comply with chapter 11.12 RCW.

(5) This section does not limit the rights of a creditor under other laws of this state. [1993 c 291 § 2.]

11.02.130 Safe deposit repository—Lease provision ineffective to create joint tenancy or transfer at one lessee's death. A provision in a lease of a safety deposit repository to the effect that two or more persons have access to the repository, or that purports to create a joint tenancy in the repository or in the contents of the repository, or that purports to vest ownership of the contents of the repository in the surviving lessee, is ineffective to create joint ownership of the contents of the repository or to transfer ownership at death of one of the lessees to the survivor. Ownership of the contents of the repository and devolution of title to those contents is determined according to rules of law without regard to the lease provisions. [1993 c 291 § 3.]

Chapter 11.07
NONPROBATE ASSETS ON DISSOLUTION OR INVALIDATION OF MARRIAGE

Sections

11.07.010 Nonprobate assets on dissolution or invalidation of marriage. (1) This section applies to all nonprobate assets, wherever situated, held at the time of entry by a superior court of this state of a decree of dissolution of marriage or a declaration of invalidity.

(2)(a) If a marriage is dissolved or invalidated, a provision made prior to that event that relates to the payment or transfer at death of the decedent's interest in a nonprobate asset in favor of or granting an interest or power to the decedent's former spouse is revoked. A provision affected by this section must be interpreted, and the nonprobate asset affected passes, as if the former spouse failed to survive the

decedent, having died at the time of entry of the decree of dissolution or declaration of invalidity.

(b) This subsection does not apply if and to the extent that:

(i) The instrument governing disposition of the nonprobate asset expressly provides otherwise;

(ii) The decree of dissolution or declaration of invalidity requires that the decedent maintain a nonprobate asset for the benefit of a former spouse or children of the marriage, payable on the decedent's death either outright or in trust, and other nonprobate assets of the decedent fulfilling such a requirement for the benefit of the former spouse or children of the marriage do not exist at the decedent's death; or

(iii) If not for this subsection, the decedent could not have effected the revocation by unilateral action because of the terms of the decree or declaration, or for any other reason, immediately after the entry of the decree of dissolution or declaration of invalidity.

(3)(a) A payor or other third party in possession or control of a nonprobate asset at the time of the decedent's death is not liable for making a payment or transferring an interest in a nonprobate asset to a decedent's former spouse whose interest in the nonprobate asset is revoked under this section, or for taking another action in reliance on the validity of the instrument governing disposition of the nonprobate asset, before the payor or other third party has actual knowledge of the dissolution or other invalidation of marriage. A payor or other third party is liable for a payment or transfer made or other action taken after the payor or other third party has actual knowledge of a revocation under this section.

(b) This section does not require a payor or other third party to pay or transfer a nonprobate asset to a beneficiary designated in a governing instrument affected by the dissolution or other invalidation of marriage, or to another person claiming an interest in the nonprobate asset, if the payor or third party has actual knowledge of the existence of a dispute between the former spouse and the beneficiaries or other persons concerning rights of ownership of the nonprobate asset as a result of the application of this section among the former spouse and the beneficiaries or among other persons, or if the payor or third party is otherwise uncertain as to who is entitled to the nonprobate asset under this section. In such a case, the payor or third party may, without liability, notify in writing all beneficiaries or other persons claiming an interest in the nonprobate asset of either the existence of the dispute or its uncertainty as to who is entitled to payment or transfer of the nonprobate asset. The payor or third party may also, without liability, refuse to pay or transfer a nonprobate asset in such a circumstance to a beneficiary or other person claiming an interest until the time that either:

(i) All beneficiaries and other interested persons claiming an interest have consented in writing to the payment or transfer; or

(ii) The payment or transfer is authorized or directed by a court of proper jurisdiction.

(c) Notwithstanding subsections (1) and (2) of this section and (a) and (b) of this subsection, a payor or other third party having actual knowledge of the existence of a dispute between beneficiaries or other persons concerning rights to a nonprobate asset as a result of the application of this section may condition the payment or transfer of the nonprobate asset on execution, in a form and with security acceptable to the payor or other third party, of a bond in an amount that is double the fair market value of the nonprobate asset at the time of the decedent's death or the amount of an adverse claim, whichever is the lesser, or of a similar instrument to provide security to the payor or other third party, indemnifying the payor or other third party for any liability, loss, damage, costs, and expenses for and on account of payment or transfer of the nonprobate asset.

(d) As used in this subsection, "actual knowledge" means, for a payor or other third party in possession or control of the nonprobate asset at or following the decedent's death, written notice to the payor or other third party, or to an officer of a payor or third party in the course of his or her employment, received after the decedent's death and within a time that is sufficient to afford the payor or third party a reasonable opportunity to act upon the knowledge. The notice must identify the nonprobate asset with reasonable specificity. The notice also must be sufficient to inform the payor or other third party of the revocation of the provisions in favor of the decedent's spouse by reason of the dissolution or invalidation of marriage, or to inform the payor or third party of a dispute concerning rights to a nonprobate asset as a result of the application of this section. Receipt of the notice for a period of more than thirty days is presumed to be received within a time that is sufficient to afford the payor or third party a reasonable opportunity to act upon the knowledge, but receipt of the notice for a period of less than five business days is presumed not to be a sufficient time for these purposes. These presumptions may be rebutted only by clear and convincing evidence to the contrary.

(4)(a) A person who purchases a nonprobate asset from a former spouse or other person, for value and without actual knowledge, or who receives from a former spouse or other person payment or transfer of a nonprobate asset without actual knowledge and in partial or full satisfaction of a legally enforceable obligation, is neither obligated under this section to return the payment, property, or benefit nor is liable under this section for the amount of the payment or the value of the nonprobate asset. However, a former spouse or other person who, with actual knowledge, not for value, or not in satisfaction of a legally enforceable obligation, receives payment or transfer of a nonprobate asset to which that person is not entitled under this section is obligated to return the payment or nonprobate asset, or is personally liable for the amount of the payment or value of the nonprobate asset, to the person who is entitled to it under this section.

(b) As used in this subsection, "actual knowledge" means, for a person described in (a) of this subsection who purchases or receives a nonprobate asset from a former spouse or other person, personal knowledge or possession of documents relating to the revocation upon dissolution or invalidation of marriage of provisions relating to the payment or transfer at the decedent's death of the nonprobate asset, received within a time after the decedent's death and before the purchase or receipt that is sufficient to afford the person purchasing or receiving the nonprobate asset reasonable opportunity to act upon the knowledge. Receipt of the personal knowledge or possession of the documents for a

period of more than thirty days is presumed to be received within a time that is sufficient to afford the payor or third party a reasonable opportunity to act upon the knowledge, but receipt of the notice for a period of less than five business days is presumed not to be a sufficient time for these purposes. These presumptions may be rebutted only by clear and convincing evidence to the contrary.

(5) As used in this section, "nonprobate asset" means those rights and interests of a person having beneficial ownership of an asset that pass on the person's death under only the following written instruments or arrangements other than the decedent's will:

(a) A payable-on-death provision of a life insurance policy, employee benefit plan, annuity or similar contract, or individual retirement account;

(b) A payable-on-death, trust, or joint with right of survivorship bank account;

(c) A trust of which the person is a grantor and that becomes effective or irrevocable only upon the person's death; or

(d) Transfer on death beneficiary designations of a transfer on death or pay on death security, if such designations are authorized under Washington law. [1993 c 236 § 1.]

Chapter 11.08
ESCHEATS

Sections

11.08.250 Order of court on establishment of claim—Park lands—Appraisal. Upon establishment of the claim to the satisfaction of the court, it shall order payment to the claimant of any escheated funds and delivery of any escheated land, or the proceeds thereof, if sold. If, however, the escheated property shall have been transferred to the state parks and recreation commission or local jurisdiction for park purposes, the court shall order payment to the claimant for the fair market value of the property at the time of transfer, excluding the value of physical improvements to the property while managed by a state agency or local jurisdiction. The value shall be established by independent appraisal obtained by the department of revenue. [1993 c 49 § 2; 1965 c 145 § 11.08.250. Prior: 1955 c 254 § 13.]

Park land: RCW 79.01.612.

11.08.260 Payment of escheated funds to claimant. In the event the order of the court requires the payment of escheated funds or the proceeds of the sale of escheated real property or the appraised value of escheated property transferred for park purposes, a certified copy of such order shall be served upon the department of revenue which shall thereupon take any steps necessary to effect payment to the claimant out of the general fund of the state. [1993 c 49 § 3; 1975 1st ex.s. c 278 § 9; 1965 c 145 § 11.08.260. Prior: 1955 c 254 § 14.]

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

Chapter 11.62
ESTATES UNDER $60,000—DISPOSITION OF DEBTS, PERSONAL PROPERTY TAXES, ETC., BY AFFIDAVIT

Sections

11.62.010 Disposition of personal property, debts by affidavit, proof of death—Contents of affidavit—Procedure—Securities. (1) At any time after forty days from the date of a decedent's death, any person who is indebted to or who has possession of any personal property belonging to the decedent or to the decedent and his or her surviving spouse as a community, which debt or personal property is an asset which is subject to probate, shall pay such indebtedness or deliver such personal property, or so much of either as is claimed, to a person claiming to be a successor of the decedent upon receipt of proof of death and of an affidavit made by said person which meets the requirements of subsection (2) of this section.

(2) An affidavit which is to be made pursuant to this section shall state:

(a) The claiming successor's name and address, and that the claiming successor is a "successor" as defined in RCW 11.62.005;

(b) That the decedent was a resident of the state of Washington on the date of his death;

(c) That the value of the decedent's entire estate subject to probate, not including the surviving spouse's community property interest in any assets which are subject to probate in the decedent's estate, wherever located, less liens and encumbrances, does not exceed sixty thousand dollars;

(d) That forty days have elapsed since the death of the decedent;

(e) That no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction;

(f) That all debts of the decedent including funeral and burial expenses have been paid or provided for;

(g) A description of the personal property and the portion thereof claimed, together with a statement that such personal property is subject to probate;

(h) That the claiming successor has given written notice, either by personal service or by mail, identifying his or her claim, and describing the property claimed, to all other successors of the decedent, and that at least ten days have elapsed since the service or mailing of such notice; and

(i) That the claiming successor is either personally entitled to full payment or delivery of the property claimed or is entitled to full payment or delivery thereof on the behalf and with the written authority of all other successors who have an interest therein.

(3) A transfer agent of any security shall change the registered ownership of the security claimed from the decedent to the person claiming to be the successor with respect to such security upon the presentation of proof of death and of an affidavit made by such person which meets the requirements of subsection (2) of this section. Any governmental agency required to issue certificates of

ownership or of license registration to personal property shall issue a new certificate of ownership or of license registration to a person claiming to be a successor of the decedent upon receipt of proof of death and of an affidavit made by such person which meets the requirements of subsection (2) of this section.

(4) No release from any Washington state or local taxing authority may be required before any assets or debts are paid or delivered to a successor of a decedent as required under this section. [1993 c 291 § 1. Prior: 1988 c 64 § 25; 1988 c 29 § 2; 1987 c 157 § 1; 1977 ex.s. c 234 § 11; 1974 ex.s. c 117 § 4.]

Captions—Severability—1988 c 64: See RCW 83.100.904 and 83.100.905.

Application, effective date—Severability—1977 ex.s. c 234: See notes following RCW 11.16.083.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

Chapter 11.95
POWERS OF APPOINTMENT

Sections

11.95.100 Exercise of powers in favor of holder—Limitations. If the standard governing the exercise of a lifetime or a testamentary power of appointment does not clearly indicate that a broader or more restrictive power of appointment is intended, the holder of the power of appointment may exercise it in his or her favor only for his or her health, education, support, or maintenance as described in section 2041 or 2514 of the Internal Revenue Code and the applicable regulations adopted under the section. [1993 c 339 § 7.]

Severability—1993 c 339: See note following RCW 11.98.200.

11.95.110 Exercise of power in favor of holder—Disregard of provision conferring absolute or similar power—Power of removal. If the holder of a lifetime or testamentary power of appointment may exercise the power in his or her own favor only for his or her health, education, support, or maintenance as described in section 2041 or 2514 of the Internal Revenue Code and the applicable regulations adopted under that section, then a provision of the instrument creating the power of appointment that purports to confer "absolute," "sole," "complete," "conclusive," or a similar discretion shall be disregarded in the exercise of that power in favor of the holder, and that power may then only be exercised reasonably and in accordance with the ascertainable standards set forth in RCW 11.95.100 and this section. A person who has the right to remove or replace a trustee does not possess nor may the person be deemed to possess, by virtue of having that right, the power of the trustee who is subject to removal or to replacement. [1993 c 339 § 8.]

Severability—1993 c 339: See note following RCW 11.98.200.

11.95.120 Exercise of power in favor of holder—Income under marital deduction—Spousal power of appointment. Notwithstanding any provision of RCW 11.95.100 through 11.95.150 seemingly to the contrary, RCW 11.95.100 through 11.95.150 do not limit or restrict the distribution of income of a trust that qualifies or that otherwise could have qualified for the marital deduction under section 2056 or 2523 of the Internal Revenue Code, those Internal Revenue Code sections requiring that all income be distributed to the spouse of the decedent or of the trustor at least annually, whether or not an election was in fact made under section 2056(b)(7) or 2523(f) of the Internal Revenue Code. Further, RCW 11.95.100 through 11.95.150 do not limit or restrict the power of a spouse of the trustor or the spouse of the decedent to exercise a power of appointment described in section 2056(b)(5) or 2523(e) of the Internal Revenue Code with respect to that portion of the trust that could otherwise qualify for the marital deduction under either of those Internal Revenue Code sections. [1993 c 339 § 9.]

Severability—1993 c 339: See note following RCW 11.98.200.

11.95.130 Exercise of power in favor of holder—Inference of law. RCW 11.95.100 through 11.95.150 do not raise an inference that the law of this state prior to July 25, 1993, was different than contained in RCW 11.95.100 through 11.95.150. [1993 c 339 § 10.]

Severability—1993 c 339: See note following RCW 11.98.200.

11.95.140 Exercise of power in favor of holder—Applicability. (1)(a) RCW 11.95.100 and 11.95.110 respectively apply to a power of appointment created under a will, codicil, trust agreement, or declaration of trust, deed, power of attorney, or other instrument executed after July 25, 1993, unless the terms of the instrument refer specifically to RCW 11.95.100 or 11.95.110 respectively and provide expressly to the contrary.

(b) Notwithstanding (a) of this subsection, for the purposes of this section a codicil to a will, an amendment to a trust, or an amendment to another instrument that created the power of appointment in question shall not be deemed to cause that instrument to be executed after July 25, 1993, unless the codicil, amendment, or other instrument clearly shows an intent to have RCW 11.95.100 or 11.95.110 apply.

(2) Notwithstanding subsection (1) of this section, RCW 11.95.100 through 11.95.150 shall apply to a power of appointment created under a will, codicil, trust agreement, or declaration of trust, deed, power of attorney, or other instrument executed prior to July 25, 1993, if the person who created the power of appointment had on July 25, 1993, the power to revoke, amend, or modify the instrument creating the power of appointment, unless:

(a) The terms of the instrument specifically refer to RCW 11.95.100 or 11.95.110 respectively and provide expressly to the contrary; or

(b) The person creating the power of appointment was not competent, on July 25, 1993, to revoke, amend, or

modify the instrument creating the power of appointment and did not regain his or her competence to revoke, amend, or modify the instrument creating the power of appointment on or before his or her death or before the time at which the instrument could no longer be revoked, amended, or modified by the person. [1993 c 339 § 11.]

Severability—1993 c 339: See note following RCW 11.98.200.

11.95.150 Exercise of power in favor of holder—Cause of action. RCW 11.95.100 through 11.95.140 neither create a new cause of action nor impair an existing cause of action that, in either case, relates to a power that was exercised before July 25, 1993. RCW 11.95.100 through 11.95.140 neither create a new cause of action nor impair an existing cause of action that in either case relates to a power proscribed, limited, or qualified under RCW 11.95.100 through 11.95.140. [1993 c 339 § 12.]

Severability—1993 c 339: See note following RCW 11.98.200.

Chapter 11.97
EFFECT OF TRUST INSTRUMENT

Sections

11.97.010 Power of trustor—Trust provisions control. The trustor of a trust may by the provisions of the trust relieve the trustee from any or all of the duties, restrictions, and liabilities which would otherwise be imposed by chapters 11.95, 11.98, 11.100, and 11.104 RCW and RCW 11.106.020, or may alter or deny any or all of the privileges and powers conferred by those provisions; or may add duties, restrictions, liabilities, privileges, or powers to those imposed or granted by those provisions. If any specific provision of those chapters is in conflict with the provisions of a trust, the provisions of the trust control whether or not specific reference is made in the trust to any of those chapters, except as provided in RCW 11.98.200 through 11.98.240 and 11.95.100 through 11.95.150. In no event may a trustee be relieved of the duty to act in good faith and with honest judgment. [1993 c 339 § 1; 1985 c 30 § 38. Prior: 1984 c 149 § 64; 1959 c 124 § 2. Formerly RCW 30.99.020.]

Severability—1993 c 339: See note following RCW 11.98.200.

Short title—Application—Purpose—Severability—1985 c 30: See RCW 11.02.900 through 11.02.903.

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Chapter 11.98
TRUSTS

Sections

11.98.200 Beneficiary trustee—Limitations on power. Due to the inherent conflict of interest that exists between a trustee and a beneficiary of a trust, unless the terms of a trust refer specifically to RCW 11.98.200 through 11.98.240 and provide expressly to the contrary, the powers conferred upon a trustee who is a beneficiary of the trust, other than the trustor as a trustee, and other than the decedent's spouse or the testator's spouse where the spouse is the trustee of a trust for which a marital deduction is or was otherwise allowed or allowable, whether or not an appropriate marital deduction election was in fact made, cannot be exercised by the trustee to make:

(1) Discretionary distributions of either principal or income to or for the benefit of the trustee, except to provide for the trustee's health, education, maintenance, or support as described under section 2041 or 2514 of the Internal Revenue Code and the applicable regulations adopted under that section;

(2) Discretionary allocations of receipts or expenses as between principal and income, unless the trustee acts in a fiduciary capacity whereby the trustee has no power to enlarge or shift a beneficial interest except as an incidental consequence of the discharge of the trustee's fiduciary duties; or

(3) Discretionary distributions of either principal or income to satisfy a legal support obligation of the trustee.

A proscribed power under this section that is conferred upon two or more trustees may be exercised by the trustees that are not disqualified under this section. If there is no trustee qualified to exercise a power proscribed under this section, a person described in RCW 11.96.070 who is entitled to seek judicial proceedings with respect to a trust may apply to a court of competent jurisdiction to appoint another trustee who would not be disqualified, and the power may be exercised by another trustee appointed by the court. Alternatively, another trustee who would not be disqualified may be appointed in accordance with the provisions of the trust instrument if the procedures are provided, or as set forth in RCW 11.98.039 as if the office of trustee were vacant, or by a nonjudicial dispute resolution agreement under RCW 11.96.170. [1993 c 339 § 2.]

Severability—1993 c 339: "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." [1993 c 339 § 14.]

11.98.210 Beneficiary trustee—Disregard of provision conferring absolute or similar power—Power of removal. If a trustee is a beneficiary of the trust and the trust instrument confers the power to make distributions of principal or income for the trustee's health, education, support, or maintenance as described in section 2041 or 2514 of the Internal Revenue Code and the applicable regulations adopted under that section, then a trust provision purporting to confer "absolute," "sole," "complete," "conclusive," or a similar discretion relating to the exercise of such trustee powers shall be disregarded in the exercise of the power, and the power may then only be exercised reasonably and in accordance with the ascertainable standard as set forth in RCW 11.98.200 and this section. A person who has the right to remove or to replace a trustee does not possess nor may the person be deemed to possess by virtue of having

that right the powers of the trustee who is subject to removal or replacement. [1993 c 339 § 3.]

Severability—1993 c 339: See note following RCW 11.98.200.

11.98.220 Beneficiary trustee—Inferences of law—Judicial review. RCW 11.98.200 through 11.98.240 do not raise any inference that the law of this state prior to July 25, 1993, was different than under RCW 11.98.200 through 11.98.240. Further, RCW 11.98.200 through 11.98.240 do not raise an inference that prior to July 25, 1993, a trustee's exercise or failure to exercise a power described in RCW 11.98.200 through 11.98.240 was not subject to review by a court of competent jurisdiction for abuse of discretion or breach of fiduciary duty under chapter 11.96 RCW or other applicable law. Following July 25, 1993, the power of judicial review continues to apply. [1993 c 339 § 4.]

Severability—1993 c 339: See note following RCW 11.98.200.

11.98.230 Beneficiary trustee—Income under marital deduction—Spousal power of appointment. Notwithstanding any provision of RCW 11.98.200 through 11.98.240 seemingly to the contrary, RCW 11.98.200 through 11.98.240 do not limit or restrict the distribution of income of a trust that qualifies or that otherwise could have qualified for the marital deduction under section 2056 or 2523 of the Internal Revenue Code, those Internal Revenue Code sections requiring that all income be distributed to the spouse of the decedent or of the trustor at least annually, whether or not an election was in fact made under section 2056(b)(7) or 2523(f) of the Internal Revenue Code. Further, RCW 11.98.200 through 11.98.240 do not limit or restrict the power of a spouse of the trustor or the spouse of the decedent to exercise a power of appointment described in section 2056(b)(5) or 2523(e) of the Internal Revenue Code with respect to that portion of the trust that could otherwise qualify for the marital deduction under either of those Internal Revenue Code sections. [1993 c 339 § 5.]

Severability—1993 c 339: See note following RCW 11.98.200.

11.98.240 Beneficiary trustee—Applicability—Cause of action. (1)(a)(i) RCW 11.98.200 and 11.98.210 respectively apply to a trust established under a will, codicil, trust agreement, declaration of trust, deed, or other instrument executed after July 25, 1993, unless the instrument's terms refer specifically to RCW 11.98.200 or 11.98.210 respectively and provide expressly to the contrary.

(ii) Notwithstanding (a)(i) of this subsection, for the purposes of this subsection a codicil to a will or an amendment to a trust does not cause that instrument to be executed after the aforementioned date unless the codicil or amendment clearly shows an intent to have RCW 11.98.200 or 11.98.210 apply.

(b) Notwithstanding (a) of this subsection, RCW 11.98.200 and 11.98.210 respectively apply to a trust established under a will or codicil of a decedent dying on or after July 25, 1993, and to an inter vivos trust to which the trustor had on or after July 25, 1993, the power to terminate, revoke, amend, or modify, unless:

(i) The terms of the instrument specifically refer to RCW 11.98.200 or 11.98.210 respectively and provide expressly to the contrary; or

(ii) The decedent or the trustor was not competent, on July 25, 1993, to change the disposition of his or her property, or to terminate, revoke, amend, or modify the trust, and did not regain his or her competence to dispose, terminate, revoke, amend, or modify before the date of the decedent's death or before the trust could not otherwise be revoked, terminated, amended, or modified by the decedent or trustor.

(2) RCW 11.98.200 neither creates a new cause of action nor impairs an existing cause of action that, in either case, relates to a power proscribed under RCW 11.98.200 that was exercised before July 25, 1993. RCW 11.98.210 neither creates a new cause of action nor impairs an existing cause of action that, in either case, relates to a power proscribed, limited, or qualified under RCW 11.98.210. [1993 c 339 § 6.]

Severability—1993 c 339: See note following RCW 11.98.200.

Chapter 11.104
WASHINGTON PRINCIPAL AND INCOME ACT

Sections

11.104.050 Income earned during administration of a decedent's estate. (1) Unless the will or the court otherwise provides and subject to subsection (2) of this section, all expenses incurred in connection with the settlement of a decedent's estate, including debts, funeral expenses, estate taxes, interest due at death, and penalties concerning taxes, family allowances, fees of attorneys and personal representatives, and court costs shall be charged against the principal of the estate, except that the principal shall be reimbursed from income for any increase in estate taxes due to the use of administration expenses that were paid from principal as deductions for income tax purposes.

(2) Unless the will or the court otherwise provides, income from the assets of a decedent's estate after the death of the testator and before distribution, including income from property used to discharge liabilities, shall be determined in accordance with the rules applicable to a trust under this chapter and distributed as follows:

(a) To beneficiaries of any specific bequest, legacy, or devise, the income from the property bequeathed or devised to them respectively, less taxes, ordinary repairs, and other expenses of management and operation of the property, and appropriate portions of interest accrued since the death of the testator and of taxes imposed on income (excluding taxes on capital gains) which accrue during the period of administration;

(b) Subject to (c) of this subsection, to all other beneficiaries, including trusts, the balance of the income less the balance of taxes, ordinary repairs, and other expenses of management and operation of all property from which the estate is entitled to income, plus the balance of all income accrued since the death of the testator, and less the balance of all taxes imposed on income (excluding taxes on capital gains) which accrue during the period of administration, in proportion to their respective interests in the undistributed assets of the estate computed at times of distribution on the basis of the fair value, provided, that the amount of income

earned before the date or dates of payment of any estate or inheritance tax shall be distributed to those beneficiaries in proportion to their interests immediately before the making of those payments. A personal representative who has been granted nonintervention powers under chapter 11.68 RCW may determine the time and manner of distributing the income to a beneficiary entitled to receive the income including:

(i) A residuary beneficiary; and

(ii) A testamentary trust beneficiary to whom trust income must be distributed or, if the trustee named in the will approves or ratifies the distribution, to whom trust income may be distributed; and

(c) Pecuniary bequests not in trust do not receive income, and, subject to the provisions of RCW 11.56.160, all such bequests, including those to the decedent's surviving spouse, are not allocated any share of the expenses identified in subsection (2)(b) of this section.

(3) Any income with respect to which the income taxes have been paid which is payable in whole or in part to one or more charitable or other tax exempt organizations, and for which an income tax charitable deduction was allowable, shall be allocated among the distributees in such manner that the diminution in such taxes resulting from the charitable deduction allowable will inure to the benefit of the charitable or tax exempt organization giving rise to the deduction.

(4) Income received by a trustee under subsection (2) of this section shall be treated as income of the trust. [1993 c 161 § 1; 1985 c 30 § 88. Prior: 1984 c 149 § 120; 1971 c 74 § 5.]

Short title—Application—Purpose—Severability—1985 c 30: See RCW 11.02.900 through 11.02.903.

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Chapter 11.108
TRUST GIFT DISTRIBUTION

Sections

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

(1) The term "pecuniary bequest" means a gift in a governing instrument which either is expressly stated as a fixed dollar amount or is a gift of a dollar amount determinable by the governing instrument, and a gift expressed in terms of a "sum" or an "amount," unless the context dictates otherwise, is a gift of a dollar amount.

(2) The term "marital deduction" means the federal estate tax deduction allowed for transfers to spouses under the Internal Revenue Code.

(3) The term "maximum marital deduction" means the maximum amount qualifying for the marital deduction.

(4) The term "marital deduction gift" means a gift intended to qualify for the marital deduction.

(5) The term "governing instrument" includes a will and codicils, irrevocable, and revocable trusts.

(6) "Fiduciary" means trustee or personal representative. Reference to a fiduciary in the singular includes the plural where the context requires.

(7) The term "gift" refers to all legacies, devises, and bequests made in a governing instrument. [1993 c 73 § 2; 1990 c 224 § 2; 1988 c 64 § 27; 1985 c 30 § 106. Prior: 1984 c 149 § 140.]

Captions—Severability—1988 c 64: See RCW 83.100.904 and 83.100.905.

Short title—Application—Purpose—Severability—1985 c 30: See RCW 11.02.900 through 11.02.903.

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.108.020 Marital deduction gift—Compliance with Internal Revenue Code—Intent. If a governing instrument contains a marital deduction gift, the governing instrument, including any power, duty, or discretionary authority given to the fiduciary, shall be construed to comply with the marital deduction provisions of the Internal Revenue Code in order to conform to that intent. Whether the governing instrument contains a marital deduction gift depends upon the intent of the testator, grantor, or other transferor at the time the governing instrument is executed. If the testator, grantor, or other transferor has adequately evidenced an intention to make a marital deduction gift, the fiduciary shall not take any action or have any power that may impair that deduction, but this does not require the fiduciary to make the election under section 2056(b)(7) of the Internal Revenue Code that is referred to in RCW 11.108.025. [1993 c 73 § 3; 1988 c 64 § 28; 1985 c 30 § 107. Prior: 1984 c 149 § 141.]

Captions—Severability—1988 c 64: See RCW 83.100.904 and 83.100.905.

Short title—Application—Purpose—Severability—1985 c 30: See RCW 11.02.900 through 11.02.903.

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.108.025 Election to qualify property for the marital deduction. Unless a governing instrument directs to the contrary:

(1) The fiduciary shall have the power to make elections, in whole or in part, to qualify property for the marital deduction as qualified terminable interest property under section 2056(b)(7) of the Internal Revenue Code or, if the surviving spouse is not a citizen of the United States, under section 2056A of the Internal Revenue Code.

(2) The fiduciary making an election under section 2056(b)(7) or 2056A of the Internal Revenue Code or making an allocation under section 2632 of the Internal Revenue Code may benefit personally from the election or allocation, with no duty to reimburse any other person interested in the election or allocation. The fiduciary shall have no duty to make any equitable adjustment and shall have no duty to treat interested persons impartially in respect of the election or allocation.

(3) The fiduciary of a trust, if an election is made under section 2056(b)(7) or 2056A of the Internal Revenue Code, if an allocation is made under section 2632 of the Internal

Revenue Code, or if division of a trust is of benefit to the persons interested in the trust, may divide the trust into two or more separate trusts, of equal or unequal value, provided that the terms of the separate trusts which result are substantially identical to the terms of the trust before division, and provided further, in the case of a trust otherwise qualifying for the marital deduction under the Internal Revenue Code, that the division shall not prevent a separate trust for which the election is made from qualifying for the marital deduction. [1993 c 73 § 4; 1991 c 6 § 1; 1990 c 179 § 2; 1988 c 64 § 29.]

Captions—Severability—1988 c 64: See RCW 83.100.904 and 83.100.905.

11.108.050 Marital deduction gift in trust. (1) If a governing instrument indicates the testator's intention to make a marital deduction gift in trust, in addition to the other provisions of this section, each of the following also applies to the trust; provided, however, that such provisions shall not apply to any trust which provides for the entire then remaining trust estate to be paid on the termination of the income interest to the estate of the spouse of the trust's creator, or to a charitable beneficiary, contributions to which are tax deductible for federal income tax purposes:

(a) The only income beneficiary of a marital deduction trust is the testator's surviving spouse;

(b) The income beneficiary is entitled to all of the trust income until the trust terminates;

(c) The trust income is payable to the income beneficiary not less frequently than annually; and

(d) Except in the case of a marital deduction gift in trust, described in subsection (2) of this section, or property that has or would otherwise have qualified for the marital deduction only as the result of an election under section 2056(b)(7) of the Internal Revenue Code, upon termination of the trust, all of the remaining trust assets, including accrued or undistributed income, pass either to the income beneficiary or under the exercise of a general power of appointment granted to the income beneficiary in favor of the income beneficiary's estate or to any other person or entity in trust or outright. The general power of appointment is exercisable by the income beneficiary alone and in all events.

(2) If a governing instrument indicates the testator's intention to make a marital deduction gift in trust and the surviving spouse is not a citizen of the United States, subsection (1)(a), (b), and (c) of this section and each of the following shall apply to the trust:

(a) At least one trustee of the trust shall be an individual citizen of the United States or a domestic corporation, and no distribution, other than a distribution of income, may be made from the trust unless a trustee who is an individual citizen of the United States or a domestic corporation has the right to withhold from the distribution the tax imposed under section 2056A of the Internal Revenue Code on the distribution;

(b) The trust shall meet such requirements as the secretary of the treasury of the United States may by regulations prescribe to ensure collection of estate tax, under section 2056A(b) of the Internal Revenue Code; and

(c) (a) and (b) of this subsection shall no longer apply to the trust if the surviving spouse becomes a citizen of the United States and (i) the surviving spouse is a resident of the United States at all times after the testator's death and before becoming a citizen, or (ii) no tax has been imposed on the trust under section 2056A(b)(1)(A) of the Internal Revenue Code before the surviving spouse becomes a citizen, or (iii) the surviving spouse makes an election under section 2056A(b)(12)(C) of the Internal Revenue Code regarding tax imposed on distributions from the trust before becoming a citizen.

(3) The exercise of the general power of appointment provided in this section shall be done only by the income beneficiary in the manner provided by RCW 11.95.060. [1993 c 73 § 5; 1990 c 179 § 3; 1985 c 30 § 110. Prior: 1984 c 149 § 144.]

Short title—Application—Purpose—Severability—1985 c 30: See RCW 11.02.900 through 11.02.903.

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Chapter 11.110
CHARITABLE TRUSTS

Sections

Fees—Charitable trusts—Charitable solicitations: RCW 43.07.125.

11.110.010 Purpose of chapter. The purpose of this chapter is to facilitate public supervision over the administration of public charitable trusts and similar relationships and to clarify and implement the powers and duties of the attorney general and the secretary of state with relation thereto. [1993 c 471 § 25; 1985 c 30 § 113. Prior: 1967 ex.s. c 53 § 1. Formerly RCW 19.10.010.]

Severability—Effective date—1993 c 471: See RCW 19.09.914 and 19.09.915.

Short title—Application—Purpose—Severability—1985 c 30: See RCW 11.02.900 through 11.02.903.

11.110.040 Information, documents, and reports are public records—Inspection—Publication. All information, documents, and reports filed with the secretary of state under this chapter are matters of public record and shall be open to public inspection, subject to reasonable regulation: PRO-

VIDED, That the secretary of state shall withhold from public inspection any trust instrument so filed whose content is not exclusively for charitable purposes. The secretary of state may publish, on a periodic or other basis, such information as may be necessary or appropriate in the public interest concerning the registration, reports, and information filed with the secretary of state or any other matters relevant to the administration and enforcement of this chapter. [1993 c 471 § 26; 1985 c 30 § 115. Prior: 1967 ex.s. c 53 § 4. Formerly RCW 19.10.040.]

Severability—Effective date—1993 c 471: See RCW 19.09.914 and 19.09.915.

Short title—Application—Purpose—Severability—1985 c 30: See RCW 11.02.900 through 11.02.903.

11.110.050 Register of trustees—Establishment and maintenance. The secretary of state shall establish and maintain a register of trustees as defined in RCW 11.110.020 and, to that end, shall conduct whatever investigation is necessary, and shall obtain from public records, court officers, taxing authorities, trustees, and other sources whatever information, copies of instruments, reports, and records are needed, for the establishment and maintenance of the register. [1993 c 471 § 27; 1985 c 30 § 116. Prior: 1984 c 149 § 149; 1967 ex.s. c 53 § 5. Formerly RCW 19.10.050.]

Severability—Effective date—1993 c 471: See RCW 19.09.914 and 19.09.915.

Short title—Application—Purpose—Severability—1985 c 30: See RCW 11.02.900 through 11.02.903.

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.110.060 Instrument establishing trust, inventory of assets, tax exempt status or claim, tax return to be filed. Every trustee shall file with the secretary of state within two months after receiving possession or control of the trust corpus a copy of the instrument establishing his or her title, powers, or duties, and an inventory of the assets of such charitable trust. In addition, trustees exempted from the provisions of RCW 11.110.070 by RCW 11.110.073 shall file with the secretary of state a copy of the declaration of the tax-exempt status or other basis of the claim for such exemption; a copy of the instrument establishing the trustee's title, powers or duties; an inventory of the assets of such trust; and, annually, a copy of each publicly available United States tax or information return or report of the trust which the trustee files with the internal revenue service. The trustees of charitable trusts existing at the time this chapter takes effect or on August 9, 1971, shall comply with this section within six months thereafter. [1993 c 471 § 28; 1985 c 30 § 117. Prior: 1984 c 149 § 150; 1971 ex.s. c 226 § 2; 1967 ex.s. c 53 § 6. Formerly RCW 19.10.060.]

Severability—Effective date—1993 c 471: See RCW 19.09.914 and 19.09.915.

Short title—Application—Purpose—Severability—1985 c 30: See RCW 11.02.900 through 11.02.903.

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.110.070 Reports of trustee—Filing—Rules and regulations. Except as otherwise provided every trustee subject to this chapter shall file with the secretary of state annual reports, under oath, setting forth information as to the nature of the assets held for charitable purposes and the administration thereof by the trustee, in accordance with rules of the secretary of state.

The secretary of state shall make rules as to the time for filing reports, the contents thereof, and the manner of executing and filing them. The secretary of state may classify trusts and other relationships concerning property held for a charitable purpose as to purpose, nature of assets, duration of the trust or other relationship, amount of assets, amounts to be devoted to charitable purposes, nature of trustee, or otherwise, and may establish different rules for the different classes as to time and nature of the reports required, to the ends (1) that the secretary of state shall receive reasonably current, periodic reports as to all charitable trusts or other relationships of a similar nature which will enable the secretary of state to ascertain whether they are being properly administered, and (2) that periodic reports shall not unreasonably add to the expense of the administration of charitable trusts and similar relationships. The secretary of state may suspend the filing of reports as to a particular charitable trust or relationship for a reasonable, specifically designated time upon written application of the trustee filed with the secretary of state after the secretary of state has filed in the register of charitable trusts a written statement that the interests of the beneficiaries will not be prejudiced thereby and that periodic reports are not required for proper supervision by the secretary of state's office.

A copy of an account filed by the trustee in any court having jurisdiction of the trust or other relationship, if the account substantially complies with the rules of the secretary of state, may be filed as a report required by this section.

The first report for a trust or similar relationship hereafter established, unless the filing thereof is suspended as herein provided, shall be filed not later than one year after any part of the income or principal is authorized or required to be applied to a charitable purpose. If any part of the income or principal of a trust previously established is authorized or required to be applied to a charitable purpose at the time *this act takes effect, the first report, unless the filing thereof is suspended, shall be filed within six months after July 30, 1967. [1993 c 471 § 29; 1985 c 30 § 118. Prior: 1971 ex.s. c 226 § 3; 1967 ex.s. c 53 § 7. Formerly RCW 19.10.070.]

***Reviser's note:** The effective date of this act [1967 ex.s. c 53] was July 30, 1967.

Severability—Effective date—1993 c 471: See RCW 19.09.914 and 19.09.915.

Short title—Application—Purpose—Severability—1985 c 30: See RCW 11.02.900 through 11.02.903.

11.110.075 Trust not exclusively for charitable purposes—Instrument and information not public—Access—Filings and reporting, when required. A trust is not exclusively for charitable purposes, within the meaning of RCW 11.110.040, when the instrument creating it contains a trust for several or mixed purposes, and any one or more of such purposes is not charitable within the meaning of RCW 11.110.020, as enacted or hereafter amended. Such instrument shall be withheld from public inspection by the secretary of state and no information as to such

noncharitable purpose shall be made public. The attorney general shall have free access to such information.

Annual reporting of such trusts to the secretary of state, as required by RCW 11.110.060 or 11.110.070, shall commence within one year after trust income or principal is authorized or required to be used for a charitable purpose.

When a trust consists of a vested charitable remainder preceded by a life estate, a copy of the instrument shall be filed by the trustee or by the life tenant, within two months after commencement of the life estate.

If the trust instrument contains only contingent gifts or remainders to charitable purposes, no charitable trust shall be deemed created until a charitable gift or remainder is legally vested. The first registration or report of such trust shall be filed within two months after trust income or principal is authorized or required to be used for a charitable purpose. [1993 c 471 § 30; 1985 c 30 § 120. Prior: 1984 c 149 § 154; 1971 ex.s. c 226 § 5. Formerly RCW 19.10.075.]

Severability—Effective date—1993 c 471: See RCW 19.09.914 and 19.09.915.

Short title—Application—Purpose—Severability—1985 c 30: See RCW 11.02.900 through 11.02.903.

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.110.080 Custodian of court records to furnish copies to secretary of state—List of tax exemption applications to be filed. The custodian of the records of a court having jurisdiction of probate matters or of charitable trusts shall furnish within two months after receiving possession or control thereof such copies of papers, records, and files of the custodian's office relating to the subject of this chapter as the secretary of state shall require.

Every officer, agency, board or commission of this state receiving applications for exemption from taxation of any charitable trust or similar relationship in which the trustee is subject to this chapter shall annually file with the secretary of state a list of all applications received during the year. [1993 c 471 § 31; 1985 c 30 § 121. Prior: 1967 ex.s. c 53 § 8. Formerly RCW 19.10.080.]

Severability—Effective date—1993 c 471: See RCW 19.09.914 and 19.09.915.

Short title—Application—Purpose—Severability—1985 c 30: See RCW 11.02.900 through 11.02.903.

11.110.125 Violations—Refusal to file reports, perform duties, etc. The willful refusal by a trustee to make or file any report or to perform any other duties expressly required by this chapter, or to comply with any valid rule adopted by the secretary of state under this chapter, shall constitute a breach of trust and a violation of this chapter. [1993 c 471 § 32; 1985 c 30 § 126. Prior: 1971 ex.s. c 226 § 6. Formerly RCW 19.10.125.]

Severability—Effective date—1993 c 471: See RCW 19.09.914 and 19.09.915.

Short title—Application—Purpose—Severability—1985 c 30: See RCW 11.02.900 through 11.02.903.

11.110.130 Violations—Civil action may be prosecuted. A civil action for a violation of this chapter may be prosecuted by the attorney general or by a prosecuting attorney. [1993 c 471 § 33; 1985 c 30 § 127. Prior: 1967 ex.s. c 53 § 13. Formerly RCW 19.10.130.]

Severability—Effective date—1993 c 471: See RCW 19.09.914 and 19.09.915.

Short title—Application—Purpose—Severability—1985 c 30: See RCW 11.02.900 through 11.02.903.

11.110.200 Tax Reform Act of 1969, state implementation—Application of RCW 11.110.200 through 11.110.260 to certain trusts defined in federal code. RCW 11.110.200 through 11.110.260 shall apply only to trusts which are "private foundations" as defined in section 509 of the Internal Revenue Code, "charitable trusts" as described in section 4947(a)(1) of the Internal Revenue Code, or "split-interest trusts" as described in section 4947(a)(2) of the Internal Revenue Code. With respect to any such trust created after December 31, 1969, RCW 11.110.200 through 11.110.260 shall apply from such trust's creation. With respect to any such trust created before January 1, 1970, RCW 11.110.200 through 11.110.260 shall apply only to such trust's federal taxable years beginning after December 31, 1971. [1993 c 73 § 6; 1985 c 30 § 129. Prior: 1984 c 149 § 161; 1971 c 58 § 1. Formerly RCW 19.10.200.]

Short title—Application—Purpose—Severability—1985 c 30: See RCW 11.02.900 through 11.02.903.

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.110.210 Tax Reform Act of 1969, state implementation—Trust instruments deemed to contain prohibiting provisions. The trust instrument of each trust to which RCW 11.110.200 through 11.110.260 applies shall be deemed to contain provisions prohibiting the trustee from:

(1) Engaging in any act of "self-dealing," as defined in section 4941(d) of the Internal Revenue Code, which would give rise to any liability for the tax imposed by section 4941(a) of the Internal Revenue Code;

(2) Retaining any "excess business holdings," as defined in section 4943(c) of the Internal Revenue Code, which would give rise to any liability for the tax imposed by section 4943(a) of the Internal Revenue Code;

(3) Making any investments which would jeopardize the carrying out of any of the exempt purposes of the trust, within the meaning of section 4944 of the Internal Revenue Code, so as to give rise to any liability for the tax imposed by section 4944(a) of the Internal Revenue Code; and

(4) Making any "taxable expenditures," as defined in section 4945(d) of the Internal Revenue Code, which would give rise to any liability for the tax imposed by section 4945(a) of the Internal Revenue Code:

PROVIDED, That this section shall not apply either to those split-interest trusts or to amounts thereof which are not subject to the prohibitions applicable to private foundations by reason of the provisions of section 4947 of the Internal Revenue Code. [1993 c 73 § 7; 1985 c 30 § 130. Prior: 1984 c 149 § 162; 1971 c 58 § 2. Formerly RCW 19.10.210.]

Short title—Application—Purpose—Severability—1985 c 30: See RCW 11.02.900 through 11.02.903.

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.110.220 Tax Reform Act of 1969, state implementation—Trust instruments deemed to contain certain provisions for distribution. The trust instrument of each trust to which RCW 11.110.200 through 11.110.260 applies, except "split-interest" trusts, shall be deemed to contain a provision requiring the trustee to distribute, for the purposes specified in the trust instrument, for each taxable year of the trust, amounts at least sufficient to avoid liability for the tax imposed by section 4942(a) of the Internal Revenue Code. [1993 c 73 § 8; 1985 c 30 § 131. Prior: 1984 c 149 § 163; 1971 c 58 § 3. Formerly RCW 19.10.220.]

Short title—Application—Purpose—Severability—1985 c 30: See RCW 11.02.900 through 11.02.903.

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

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

Title 12
DISTRICT COURTS—CIVIL PROCEDURE

Chapters

Chapter 12.20
JUDGMENTS

Sections

12.20.060 Judgment for costs—Attorney's fee. When the prevailing party in district court is entitled to recover costs as authorized in RCW 4.84.010 in a civil action, the judge shall add the amount thereof to the judgment; in case of failure of the plaintiff to recover or of dismissal of the action, the judge shall enter up a judgment in favor of the defendant for the amount of his or her costs; and in case any party so entitled to costs is represented in the action by an attorney, the judge shall include attorney's fees of one hundred twenty-five dollars as part of the costs: PROVIDED, HOWEVER, That the plaintiff shall not be entitled to such attorney fee unless he or she obtains, exclusive of costs, a judgment in the sum of fifty dollars or more. [1993 c 341 § 1; 1985 c 240 § 2; 1984 c 258 § 89; 1975-'76 2nd ex.s. c 30 § 1; 1915 c 43 § 1; 1893 c 12 § 1; Code 1881 § 1785; 1873 p 350 § 84; 1854 p 237 § 85; RRS § 1862.]

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

Attorneys' fee as costs in damage actions of ten thousand dollars or less: RCW 4.84.250 through 4.84.300.

Title 13
JUVENILE COURTS AND JUVENILE OFFENDERS

Chapters

Juvenile laws and court processes and procedures—Informational materials: RCW 2.56.130.

Chapter 13.04
BASIC JUVENILE COURT ACT
(Formerly: Juvenile courts)

Sections

13.04.043 Administrator—Obtaining interpreters. The administrator of juvenile court shall obtain interpreters as needed consistent with the intent and practice of chapter 2.43 RCW, to enable non-English speaking youth and their families to participate in detention, probation, or court proceedings and programs. [1993 c 415 § 6.]

Intent—1993 c 415: See note following RCW 2.56.031.

Chapter 13.06
JUVENILE OFFENDERS—CONSOLIDATED JUVENILE SERVICES PROGRAMS
(Formerly: Probation services—Special supervision programs)

Sections

13.06.050 Conditions for receiving state funds—Criteria for distribution of funds—Annual report on programs to reduce racial disproportionality. No county shall be entitled to receive any state funds provided by this chapter until its application and plan are approved, and unless and until the minimum standards prescribed by the department of social and health services are complied with and then only on such terms as are set forth in this section. In addition, any county making application for state funds under this chapter that also operates a juvenile detention facility must have standards of operations in place that include: Intake and admissions, medical and health care, communication, correspondence, visiting and telephone use, security and control, sanitation and hygiene, juvenile rights, rules and discipline, property, juvenile records, safety and emergency procedures, programming, release and transfer, training and staff development, and food service.

(1) The distribution of funds to a county or a group of counties shall be based on criteria including but not limited

to the county's per capita income, regional or county at-risk populations, juvenile crime or arrest rates, rates of poverty, size of racial minority populations, existing programs, and the effectiveness and efficiency of consolidating local programs towards reducing commitments to state correctional facilities for offenders whose standard range disposition does not include commitment of the offender to the department and reducing reliance on other traditional departmental services.

(2) The secretary will reimburse a county upon presentation and approval of a valid claim pursuant to the provisions of this chapter based on actual performance in meeting the terms and conditions of the approved plan and contract. Funds received by participating counties under this chapter shall not be used to replace local funds for existing programs.

(3) The secretary, in conjunction with the human rights commission, shall evaluate the effectiveness of programs funded under this chapter in reducing racial disproportionality. The secretary shall investigate whether implementation of such programs has reduced disproportionality in counties with initially high levels of disproportionality. The analysis shall indicate which programs are cost-effective in reducing disproportionality in such areas as alternatives to detention, intake and risk assessment standards pursuant to RCW 13.40.038, alternatives to incarceration, and in the prosecution and adjudication of juveniles. The secretary shall report his or her findings to the legislature by December 1, 1994, and December 1 of each year thereafter. [1993 c 415 § 7; 1983 c 191 § 5; 1979 c 151 § 9; 1977 ex.s. c 307 § 1; 1973 1st ex.s. c 198 § 1; 1971 ex.s. c 165 § 1; 1969 ex.s. c 165 § 5.]

Intent—1993 c 415: See note following RCW 2.56.031.

Effective date—1977 ex.s. c 307: "This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1977." [1977 ex.s. c 307 § 3.]

Effective date—1973 1st ex.s. c 198: "This 1973 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1973." [1973 1st ex.s. c 198 § 3.]

Chapter 13.34

JUVENILE COURT ACT IN CASES RELATING TO DEPENDENCY OF A CHILD AND THE TERMINATION OF A PARENT AND CHILD RELATIONSHIP

Sections

13.34.030 Definitions. For purposes of this chapter:

(1) "Child" and "juvenile" means any individual under the age of eighteen years;

(2) "Dependent child" means any child:

(a) Who has been abandoned; that is, where the child's parent, guardian, or other custodian has evidenced either by statement or conduct, a settled intent to forego, for an extended period, all parental rights or all parental responsibilities despite an ability to do so;

(b) Who is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child;

(c) Who has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development; or

(d) Who has a developmental disability, as defined in RCW 71A.10.020 and whose parent, guardian, or legal custodian together with the department determines that services appropriate to the child's needs can not be provided in the home. However, (a), (b), and (c) of this subsection may still be applied if other reasons for removal of the child from the home exist;

(3) "Guardian ad litem" means a person, appointed by the court to represent the best interest of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter;

(4) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers. [1993 c 241 § 1; 1988 c 176 § 901; 1987 c 524 § 3; 1983 c 311 § 2; 1982 c 129 § 4; 1979 c 155 § 37; 1977 ex.s. c 291 § 31.]

Conflict with federal requirements—1993 c 241: "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." [1993 c 241 § 5.]

Severability—1988 c 176: See RCW 71A.10.900.

Legislative finding—1983 c 311: "The legislature finds that in order for the state to receive federal funds for family foster care under Title IV-B and Title IV-E of the social security act, all children in family foster care must be subjected to periodic court review. Unfortunately, this includes children who are developmentally disabled and who are placed in family foster care solely because their parents have determined that the children's service needs require out-of-home placement. Except for providing such needed services, the parents of these children are completely competent to care for the children. The legislature intends by this act to minimize the embarrassment and inconvenience of developmentally disabled persons and their families caused by complying with these federal requirements." [1983 c 311 § 1.] For codification of 1983 c 311, see Codification Tables, Volume 0.

Severability—1982 c 129: See note following RCW 9A.04.080.

Effective date—Severability—1979 c 155: See notes following RCW 13.04.011.

Effective dates—Severability—1977 ex.s. c 291: See notes following RCW 13.04.005.

13.34.070 Summons when petition filed—Service procedure—Hearing, when—Contempt upon failure to appear. (1) Upon the filing of the petition, the clerk of the court shall issue a summons, one directed to the child, if the child is twelve or more years of age, and another to the parents, guardian, or custodian, and such other persons as appear to the court to be proper or necessary parties to the proceedings, requiring them to appear personally before the court at the time fixed to hear the petition. If the child is developmentally disabled and not living at home, the notice shall be given to the child's custodian as well as to the child's parent. The developmentally disabled child shall not be required to appear unless requested by the court. Where the custodian is summoned, the parent or guardian or both shall also be served with a summons. The fact-finding hearing on the petition shall be held no later than seventy-five days after the filing of the petition, unless exceptional reasons for a continuance are found. The party requesting the continuance shall have the burden of proving by a preponderance of the evidence that exceptional circumstances do exist. To ensure that the hearing on the petition occurs within the seventy-five day time limit, the court shall schedule and hear the matter on an expedited basis.

(2) A copy of the petition shall be attached to each summons.

(3) The summons shall advise the parties of the right to counsel. The summons shall also inform the child's parent, guardian, or legal custodian of his or [her] right to appointed counsel, if indigent, and of the procedure to use to secure appointed counsel.

(4) The summons shall advise the parents that they may be held responsible for the support of the child if the child is placed in out-of-home care.

(5) The judge may endorse upon the summons an order directing any parent, guardian, or custodian having the custody or control of the child to bring the child to the hearing.

(6) If it appears from affidavit or sworn statement presented to the judge that there is probable cause for the issuance of a warrant of arrest or that the child needs to be taken into custody pursuant to RCW 13.34.050, the judge may endorse upon the summons an order that an officer serving the summons shall at once take the child into custody and take him to the place of shelter designated by the court.

(7) If the person summoned as provided in this section is subject to an order of the court pursuant to subsection (5) or (6) of this section, and if the person fails to abide by the order, he may be proceeded against as for contempt of court. The order endorsed upon the summons shall conspicuously display the following legend:

NOTICE:
VIOLATION OF THIS ORDER
IS SUBJECT TO PROCEEDING
FOR CONTEMPT OF COURT
PURSUANT TO RCW 13.34.070.

(8) If a party to be served with a summons can be found within the state, the summons shall be served upon the party personally as soon as possible following the filing of the petition, but in no case later than fifteen court days before the fact-finding hearing, or such time as set by the court. If the party is within the state and cannot be personally served, but the party's address is known or can with reasonable diligence be ascertained, the summons may be served upon the party by mailing a copy thereof by certified mail as soon as possible following the filing of the petition, but in no case later than fifteen court days before the hearing, or such time as set by the court. If a party other than the child is without the state but can be found or the address is known, or can with reasonable diligence be ascertained, service of the summons may be made either by delivering a copy thereof to the party personally or by mailing a copy thereof to the party by certified mail at least ten court days before the fact-finding hearing, or such time as set by the court.

(9) Service of summons may be made under the direction of the court by any person eighteen years of age or older who is not a party to the proceedings or by any law enforcement officer, probation counselor, or department of social and health services social worker.

(10) In any proceeding brought under this chapter where the court knows or has reason to know that the child involved is a member of an Indian tribe, notice of the pendency of the proceeding shall also be sent by registered mail, return receipt requested, to the child's tribe. If the identity or location of the tribe cannot be determined, such notice shall be transmitted to the secretary of the interior of the United States. [1993 c 358 § 1; 1990 c 246 § 2; 1988 c 194 § 2; 1983 c 311 § 3; 1983 c 3 § 16; 1979 c 155 § 40; 1977 ex.s. c 291 § 35; 1913 c 160 § 6; RRS § 1987-6. Formerly RCW 13.04.070.]

Severability—1990 c 246: See note following RCW 13.34.060.

Legislative finding—1983 c 311: See note following RCW 13.34.030.

Effective date—Severability—1979 c 155: See notes following RCW 13.04.011.

Effective dates—Severability—1977 ex.s. c 291: See notes following RCW 13.04.005.

13.34.100 Appointment of guardian ad litem or other suitable person—Limitation—Appointment of counsel for child. (1) The court shall in all contested cases appoint a guardian ad litem for a child who is the subject of an action under this chapter, unless a court for good cause finds the appointment unnecessary. A guardian ad litem may be appointed at the discretion of the court in uncontested proceedings. The requirement of a guardian ad litem

shall be deemed satisfied if the child is represented by independent counsel in the proceedings.

(2) If the court does not have available to it a guardian ad litem program with a sufficient number of volunteers, the court may appoint a suitable person to act as guardian ad litem for the child under this chapter. Another party to the proceeding or the party's employee or representative shall not be so appointed.

(3) Each guardian ad litem program shall maintain a background information record for each guardian ad litem in the program. The background file shall include, but is not limited to, the following information:

(a) Level of formal education;

(b) Training related to the guardian's duties;

(c) Number of years' experience as a guardian ad litem;

(d) Number of appointments as a guardian ad litem; and

(e) Criminal history, as defined in RCW 9.94A.030.

The background information report shall be updated annually. As a condition of appointment, the guardian ad litem's background information record shall be made available to the court. If the appointed guardian ad litem is not a member of a guardian ad litem program the person shall provide the background information to the court.

(4) The appointment of the guardian ad litem shall remain in effect until the court discharges the appointment or no longer has jurisdiction, whichever comes first. The guardian ad litem may also be discharged upon entry of an order of guardianship.

(5) A guardian ad litem through counsel, or as otherwise authorized by the court, shall have the right to present evidence, examine and cross-examine witnesses, and to be present at all hearings. A guardian ad litem shall receive copies of all pleadings and other documents filed or submitted to the court, and notice of all hearings according to court rules. The guardian ad litem shall receive all notice contemplated for a parent or other party in all proceedings under this chapter.

(6) If the child requests legal counsel and is age twelve or older, or if the guardian ad litem or the court determines that the child needs to be independently represented by counsel, the court may appoint an attorney to represent the child's position.

(7) For the purposes of child abuse prevention and treatment act (42 U.S.C. Secs. 5101 et seq.) grants to this state under P.L. 93-247, or any related state or federal legislation, a person appointed pursuant to RCW 13.34.100 shall be deemed a guardian ad litem to represent the best interests of the minor in proceedings before the court. [1993 c 241 § 2; 1988 c 232 § 1; 1979 c 155 § 43; 1977 ex.s. c 291 § 38.]

Conflict with federal requirements—1993 c 241: See note following RCW 13.34.030.

Effective date—Severability—1979 c 155: See notes following RCW 13.04.011.

Effective dates—Severability—1977 ex.s. c 291: See notes following RCW 13.04.005.

13.34.105 Guardian ad litem—Duties—Immunity—Access to information. (1) Unless otherwise directed by the court, the duties of the guardian ad litem include but are not limited to the following:

(a) To represent and be an advocate for the best interests of the child;

(b) To collect relevant information about the child's situation;

(c) To monitor all court orders for compliance and to bring to the court's attention any change in circumstances that may require a modification of the court's order; and

(d) To report to the court information on the legal status of a child's membership in any Indian tribe or band.

(2) The guardian ad litem shall be deemed an officer of the court for the purpose of immunity from civil liability.

(3) Except for information or records specified in RCW 13.50.100(4), the guardian ad litem shall have access to all information available to the state or agency on the case. Upon presentation of the order of appointment by the guardian ad litem, any agency, hospital, school organization, division or department of the state, doctor, nurse, or other health care provider, psychologist, psychiatrist, police department, or mental health clinic shall permit the guardian ad litem to inspect and copy any records relating to the child or children involved in the case, without the consent of the parent or guardian of the child, or of the child if the child is under the age of thirteen years, unless such access is otherwise specifically prohibited by law.

(4) The guardian ad litem shall release case information in accordance with the provisions of RCW 13.50.100. [1993 c 241 § 3.]

Conflict with federal requirements—1993 c 241: See note following RCW 13.34.030.

13.34.110 Hearings, fact-finding and disposition—Time and place, notice—Not generally public—Notes and records. The court shall hold a fact-finding hearing on the petition and, unless the court dismisses the petition, shall make written findings of fact, stating the reasons therefor, and after it has announced its findings of fact shall hold a hearing to consider disposition of the case immediately following the fact-finding hearing or at a continued hearing within fourteen days or longer for good cause shown. The parties need not appear at the fact-finding or dispositional hearing if the parties, their attorneys, the guardian ad litem, and court-appointed special advocates, if any, are all in agreement. The court shall receive and review a social study before entering an order based on agreement. No social file or social study may be considered by the court in connection with the fact-finding hearing or prior to factual determination, except as otherwise admissible under the rules of evidence. Notice of the time and place of the continued hearing may be given in open court. If notice in open court is not given to a party, that party shall be notified by mail of the time and place of any continued hearing.

All hearings may be conducted at any time or place within the limits of the county, and such cases may not be heard in conjunction with other business of any other division of the superior court. The general public shall be excluded, and only such persons may be admitted who are found by the judge to have a direct interest in the case or in the work of the court. If a child resides in foster care or in the home of a relative pursuant to a disposition order entered under RCW 13.34.130, the court may allow the child's foster parent or relative care provider to attend dependency review

proceedings pertaining to the child for the sole purpose of providing information about the child to the court.

Stenographic notes or any device which accurately records the proceedings may be required as provided in other civil cases pursuant to RCW 2.32.200. [1993 c 412 § 7; 1991 c 340 § 3; 1983 c 311 § 4; 1979 c 155 § 44; 1977 ex.s. c 291 § 39; 1961 c 302 § 5. Prior: 1913 c 160 § 10, part; RCW 13.04.090, part. Formerly RCW 13.04.091.]

Legislative finding—1983 c 311: See note following RCW 13.34.030.

Effective date—Severability—1979 c 155: See notes following RCW 13.04.011.

Effective dates—Severability—1977 ex.s. c 291: See notes following RCW 13.04.005.

13.34.120 Social study and reports made available at disposition hearing—Predisposition study—Contents—Notice to parents. (1) To aid the court in its decision on disposition, a social study, consisting of a written evaluation of matters relevant to the disposition of the case, shall be made by the person or agency filing the petition. The study shall include all social records and may also include facts relating to the child's cultural heritage, and shall be made available to the court. The court shall consider the social file, social study, guardian ad litem report, the court-appointed special advocates report, if any, and any reports filed by a party at the disposition hearing in addition to evidence produced at the fact-finding hearing. At least ten working days before the disposition hearing, the department shall mail to the parent and his or her attorney a copy of the agency's social study and proposed service plan, which shall be in writing or in a form understandable to the parents or custodians. In addition, the department shall provide an opportunity for parents to review and comment on the plan at the community service office. If the parents disagree with the agency's plan or any part thereof, the parents shall submit to the court at least twenty-four hours before the hearing, in writing, or signed oral statement, an alternative plan to correct the problems which led to the finding of dependency. This section shall not interfere with the right of the parents or custodians to submit oral arguments regarding the disposition plan at the hearing.

(2) In addition to the requirements set forth in subsection (1) of this section, a predisposition study to the court in cases of dependency alleged pursuant to RCW 13.34.030(2) (b) or (c) shall contain the following information:

(a) A statement of the specific harm or harms to the child that intervention is designed to alleviate;

(b) A description of the specific programs, for both the parents and child, that are needed in order to prevent serious harm to the child; the reasons why such programs are likely to be useful; the availability of any proposed services; and the agency's overall plan for ensuring that the services will be delivered;

(c) If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any previous efforts to work with the parents and the child in the home; the in-home treatment programs which have been considered and rejected; and the parents' attitude toward placement of the child;

(d) A statement of the likely harms the child will suffer as a result of removal. This section should include an exploration of the nature of the parent-child attachment and the meaning of separation and loss to both the parents and the child;

(e) A description of the steps that will be taken to minimize harm to the child that may result if separation occurs; and

(f) Behavior that will be expected before determination that supervision of the family or placement is no longer necessary. [1993 c 412 § 8; 1987 c 524 § 5; 1979 c 155 § 45; 1977 ex.s. c 291 § 40.]

Effective date—Severability—1979 c 155: See notes following RCW 13.04.011.

Effective dates—Severability—1977 ex.s. c 291: See notes following RCW 13.04.005.

13.34.145 Permanency planning hearing—Time limit—Extensions. (1) In all cases where a child has been placed in substitute care for at least fifteen months, the agency having custody of the child shall prepare a permanency plan and present it in a hearing held before the court no later than eighteen months following commencement of the placement episode.

(2) At the permanency planning hearing, the court shall enter findings as required by RCW 13.34.130(5). In addition the court shall: (a) Approve a permanency plan which shall include one of the following: Adoption, guardianship, placement of the child in the home of the child's parent, relative placement with written permanency plan, or family foster care with written permanency agreement; (b) require filing of a petition for termination of parental rights; or (c) dismiss the dependency, unless the court finds, based on clear, cogent, and convincing evidence, that it is in the best interest of the child to continue the dependency beyond eighteen months, based on the permanency plan. Extensions may only be granted in increments of twelve months or less. [1993 c 412 § 1; 1989 1st ex.s. c 17 § 18; 1988 c 194 § 3.]

13.34.150 Modification of orders. Any order made by the court in the case of a dependent child may be changed, modified, or set aside, only upon a showing of a change in circumstance or as provided in RCW 13.34.120. [1993 c 412 § 9; 1990 c 246 § 6; 1977 ex.s. c 291 § 43; 1913 c 160 § 15; RRS § 1987-15. Formerly RCW 13.04.150.]

Severability—1990 c 246: See note following RCW 13.34.060.

Effective dates—Severability—1977 ex.s. c 291: See notes following RCW 13.04.005.

13.34.160 Order of support for dependent child. In an action brought under this chapter, the court may inquire into the ability of the parent or parents of the child to pay child support and may enter an order of child support as set forth in chapter 26.19 RCW. The court may enforce the same by execution, or in any way in which a court of equity may enforce its decrees. All child support orders entered pursuant to this chapter shall be in compliance with the provisions of RCW 26.23.050. [1993 c 358 § 2; 1987 c 435 § 14; 1981 c 195 § 8; 1977 ex.s. c 291 § 44; 1969 ex.s. c

138 § 1; 1961 c 302 § 7; 1913 c 160 § 8; RRS § 1987-8. Formerly RCW 13.04.100.]

Effective date—1987 c 435: See RCW 26.23.900.

Effective dates—Severability—1977 ex.s. c 291: See notes following RCW 13.04.005.

13.34.162 Child support schedule.

Reviser's note: RCW 13.34.162 was both amended and repealed during the 1993 legislative session, each without reference to the other. It has been decodified for publication purposes pursuant to RCW 1.12.025.

13.34.174 Order of alcohol or substance abuse diagnostic investigation and evaluation—Plan of treatment—Breach of plan—Reports. (1) The provisions of this section shall apply when a court orders a party to undergo an alcohol or substance abuse diagnostic investigation and evaluation.

(2) The facility conducting the investigation and evaluation shall make a written report to the court stating its findings and recommendations including family-based services or treatment when appropriate. If its findings and recommendations support treatment, it shall also recommend a treatment plan setting out:

(a) Type of treatment;

(b) Nature of treatment;

(c) Length of treatment;

(d) A treatment time schedule; and

(e) Approximate cost of the treatment.

The affected person shall be included in developing the appropriate plan of treatment. The plan of treatment must be signed by [the] treatment provider and the affected person. The initial written report based on the treatment plan and response to treatment shall be sent to appropriate persons six weeks after initiation of treatment, and after three months, after six months, after twelve months, and thereafter every six months if treatment exceeds twelve months. Reports are to be filed in a timely manner. Close-out of the treatment record must include summary of pretreatment and posttreatment, with final outcome and disposition. The report shall also include recommendations for ongoing stability and decrease in destructive behavior.

The report with the treatment plan shall be filed with the court and a copy given to the person evaluated and the person's counsel. A copy of the treatment plan shall also be given to the department's caseworker and to the guardian ad litem. Any program for chemical dependency shall meet the program requirements contained in chapter 70.96A RCW.

(3) If the court has ordered treatment pursuant to a dependency proceeding it shall also require the treatment program to provide, in the reports required by subsection (2) of this section, status reports to the court, the department, the supervising child-placing agency if any, and the person or person's counsel regarding: (a) The person's cooperation with the treatment plan proposed; and (b) the person's progress in treatment.

(4) In addition, if the party fails or neglects to carry out and fulfill any term or condition of the treatment plan, the program or agency administering the treatment shall report such breach to the court, the department, the guardian ad litem, the supervising child-placing agency if any, and the person or person's counsel, within twenty-four hours, together with its recommendation. These reports shall be made as a declaration by the person who is personally responsible for providing the treatment.

(5) Nothing in this chapter may be construed as allowing the court to require the department to pay for the cost of any alcohol or substance abuse evaluation or treatment program. [1993 c 412 § 5.]

13.34.176 Violation of alcohol or substance abuse treatment conditions—Hearing—Notice—Modification of order. (1) The court or the department, upon receiving a report under RCW 13.34.174(4), may schedule a show cause hearing to determine whether the person is in violation of the treatment conditions. All parties shall be given notice of the hearing. The court shall hold the hearing within ten days of the request for a hearing. At the hearing, testimony, declarations, reports, or other relevant information may be presented on the person's alleged failure to comply with the treatment plan and the person shall have the right to present similar information on his or her own behalf.

(2) If the court finds that there has been a violation of the treatment conditions it shall modify the dependency order, as necessary, to ensure the safety of the child. The modified order shall remain in effect until the party is in full compliance with the treatment requirements. [1993 c 412 § 6.]

13.34.180 Order terminating parent and child relationship—Petition for—Filing—Allegations. A petition seeking termination of a parent and child relationship may be filed in juvenile court by any party to the dependency proceedings concerning that child. Such petition shall conform to the requirements of RCW 13.34.040, shall be served upon the parties as provided in RCW 13.34.070(8), and shall allege:

(1) That the child has been found to be a dependent child under RCW 13.34.030(2); and

(2) That the court has entered a dispositional order pursuant to RCW 13.34.130; and

(3) That the child has been removed or will, at the time of the hearing, have been removed from the custody of the parent for a period of at least six months pursuant to a finding of dependency under RCW 13.34.030(2); and

(4) That the services ordered under RCW 13.34.130 have been offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been offered or provided; and

(5) That there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future. In determining whether the conditions will be remedied the court may consider, but is not limited to, the following factors:

(a) Use of intoxicating or controlled substances so as to render the parent incapable of providing proper care for the child for extended periods of time and documented unwillingness of the parent to receive and complete treatment or documented multiple failed treatment attempts; or

(b) Psychological incapacity or mental deficiency of the parent that is so severe and chronic as to render the parent incapable of providing proper care for the child for extended periods of time, and documented unwillingness of the parent

to receive and complete treatment or documentation that there is no treatment that can render the parent capable of providing proper care for the child in the near future; and

(6) That continuation of the parent and child relationship clearly diminishes the child's prospects for early integration into a stable and permanent home; or

(7) In lieu of the allegations in subsections (1) through (6) of this section, the petition may allege that the child was found under such circumstances that the whereabouts of the child's parent are unknown and no person has acknowledged paternity or maternity and requested custody of the child within two months after the child was found.

A parent's failure to substantially improve parental deficiencies within twelve months following entry of the dispositional order shall give rise to a rebuttable presumption that there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future. The presumption shall not arise unless the petitioner makes a showing that all necessary services reasonably capable of correcting the parental deficiencies within the foreseeable future have been offered or provided.

Notice of rights shall be served upon the parent, guardian, or legal custodian with the petition and shall be in substantially the following form:

"NOTICE

A petition for termination of parental rights has been filed against you. You have important legal rights and you must take steps to protect your interests. This petition could result in permanent loss of your parental rights.

1. You have the right to a fact-finding hearing before a judge.

2. You have the right to have a lawyer represent you at the hearing. A lawyer can look at the files in your case, talk to the department of social and health services and other agencies, tell you about the law, help you understand your rights, and help you at hearings. If you cannot afford a lawyer, the court will appoint one to represent you. To get a court-appointed lawyer you must contact: __(explain local procedure)__.

3. At the hearing, you have the right to speak on your own behalf, to introduce evidence, to examine witnesses, and to receive a decision based solely on the evidence presented to the judge.

You should be present at this hearing.

You may call __(insert agency)__ for more information about your child. The agency's name and telephone number are __(insert name and telephone number)__."

[1993 c 412 § 2; 1993 c 358 § 3; 1990 c 246 § 7; 1988 c 201 § 2; 1987 c 524 § 6; 1979 c 155 § 47; 1977 ex.s. c 291 § 46.]

Reviser's note: This section was amended by 1993 c 358 § 3 and by 1993 c 412 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—1990 c 246: See note following RCW 13.34.060.

Effective date—Severability—1979 c 155: See notes following RCW 13.04.011.

Effective dates—Severability—1977 ex.s. c 291: See notes following RCW 13.04.005.

13.34.190 Order terminating parent and child relationship—Hearings—Granting of, when. 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

(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 whether one or more of the aggravated circumstances listed in RCW 13.34.130(2) exist; and

(4) Such an order is in the best interests of the child. [1993 c 412 § 3; 1992 c 145 § 15; 1990 c 284 § 33; 1979 c 155 § 48; 1977 ex.s. c 291 § 47.]

Finding—Effective date—1990 c 284: See notes following RCW 74.13.250.

Effective date—Severability—1979 c 155: See notes following RCW 13.04.011.

Effective dates—Severability—1977 ex.s. c 291: See notes following RCW 13.04.005.

13.34.232 Guardianship for dependent child—Order, contents. If the court has made a finding under RCW 13.34.231, it shall enter an order establishing a guardianship for the child. The order shall:

(1) Appoint a person or agency to serve as guardian;

(2) Specify the guardian's rights and responsibilities concerning the care, custody, and control of the child. A guardian shall not have the authority to consent to the child's adoption;

(3) Specify an appropriate frequency of visitation between the parent and the child; and

(4) Specify the need for any continued involvement of the supervising agency and the nature of that involvement, if any.

The order shall not affect the child's status as a dependent child, and the child shall remain dependent for the duration of the guardianship. [1993 c 412 § 4; 1981 c 195 § 3.]

Chapter 13.40
JUVENILE JUSTICE ACT OF 1977

Sections

13.40.020 Definitions. 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. 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;

(5) "Community-based rehabilitation" means one or more of the following: Attendance of information classes; counseling, outpatient 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 or limitations as the court may require which may not include confinement;

(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 detention facility operated by or pursuant to a contract with any county. 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. Pretrial confinement or 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 and may be served in a detention group home, detention foster home, or with electronic monitoring. Detention group homes and detention foster homes used for confinement shall not also be used for the placement of dependent children. Confinement in detention group homes and detention foster homes and electronic monitoring are subject to available funds;

(8) "Court", when used without further qualification, means the juvenile court judge(s) or commissioner(s);

(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;

(10) "Department" means the department of social and health services;

(11) "Detention facility" means a county 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;

(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 13.40.080, or any person or entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter;

(13) "Institution" means a juvenile facility established pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

(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;

(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;

(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;

(17) "Middle offender" means a person who has committed an offense and who is neither a minor or first offender nor a serious offender;

(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;

(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;

(20) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

(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;

(22) "Secretary" means the secretary of the department of social and health services;

(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;

(24) "Sex offense" means an offense defined as a sex offense in RCW 9.94A.030;

(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;

(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;

(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. [1993 c 373 § 1; 1990 1st ex.s. c 12 § 1; 1990 c 3 § 301; 1989 c 407 § 1; 1988 c 145 § 17; 1983 c 191 § 7; 1981 c 299 § 2; 1979 c 155 § 54; 1977 ex.s. c 291 § 56.]

Severability—1993 c 373: "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." [1993 c 373 § 3.]

Effective date—1990 1st ex.s. c 12: "This act shall take effect July 1, 1990." [1990 1st ex.s. c 12 § 5.]

Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.

Effective date—Savings—Application—1988 c 145: See notes following RCW 9A.44.010.

Effective date—Severability—1979 c 155: See notes following RCW 13.04.011.

Effective dates—Severability—1977 ex.s. c 291: See notes following RCW 13.04.005.

13.40.027 Juvenile disposition standards commission—Responsibilities generally—Department to assist. (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, (ii) specifically review the guidelines relating to the confinement of minor and first offenders as well as the use of diversion, and (iii) review the application of current and proposed juvenile sentencing standards and guidelines for potential adverse impacts on the sentencing outcomes of racial and ethnic minority youth; (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 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. [1993 c 415 § 9; 1992 c 205 § 103; 1989 c 407 § 2; 1986 c 288 § 9; 1981 c 299 § 4.]

Intent—1993 c 415: See note following RCW 2.56.031.

Part headings not law—Severability—1992 c 205: See notes following RCW 13.40.010.

Severability—1986 c 288: See note following RCW 13.32A.050.

13.40.085 Diversion services costs—Fees—Payment by parent or legal guardian. The county legislative authority may authorize juvenile court administrators to establish fees to cover the costs of the administration and operation of diversion services provided under this chapter. The parent or legal guardian of a juvenile who receives diversion services must pay for the services based on the parent's or guardian's ability to pay. The juvenile court administrators shall develop a fair and equitable payment schedule. No juvenile who is eligible for diversion as provided in this chapter may be denied diversion services based on an inability to pay for the services. [1993 c 171 § 1.]

13.40.215 Juveniles found to have committed violent or sex offense or stalking—Notification of discharge, parole, leave, release, transfer, or escape—To whom

given—Definitions. (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 discharge, parole, or any other authorized leave or release, or before transfer to a community residential facility, the secretary shall send written notice of the discharge, parole, authorized leave or release, or transfer of a juvenile found to have committed a violent offense, a sex offense, or stalking, to the following:

(i) The chief of police of the city, if any, in which the juvenile will reside; and

(ii) The sheriff of the county in which the juvenile 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 juvenile:

(i) The victim of the offense for which the juvenile was found to have committed or the victim's next of kin if the crime was a homicide;

(ii) Any witnesses who testified against the juvenile in any court proceedings involving the offense; 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 juvenile. The notice to the chief of police or the sheriff shall include the identity of the juvenile, the residence where the juvenile will reside, the identity of the person, if any, responsible for supervising the juvenile, and the time period of any authorized leave.

(2)(a) If a juvenile found to have committed a violent offense, a sex offense, or stalking escapes from a facility of the department, the secretary 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 juvenile resided immediately before the juvenile's arrest. If previously requested, the secretary shall also notify the witnesses and the victim of the offense which the juvenile was found to have committed or the victim's next of kin if the crime was a homicide. If the juvenile 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.

(b) The secretary may authorize a leave, for a juvenile found to have committed a violent offense, a sex offense, or stalking, which shall not exceed forty-eight hours plus travel time, to meet an emergency situation such as a death or critical illness of a member of the juvenile's family. The secretary may authorize a leave, which shall not exceed the time medically necessary, to obtain medical care not available in a juvenile facility maintained by the department. Prior to the commencement of an emergency or medical leave, the secretary shall give notice of the leave to the appropriate law enforcement agency in the jurisdiction in which the juvenile will be during the leave period. The notice shall include the identity of the juvenile, the time period of the leave, the residence of the juvenile during the leave, and the identity of the person responsible for supervising the juvenile during the leave. If previously requested, the department shall also notify the witnesses and victim of the offense which the juvenile was found to have committed or the victim's next of kin if the offense was a homicide.

In case of an emergency or medical leave the secretary may waive all or any portion of the requirements for leaves pursuant to RCW 13.40.205 (2)(a), (3), (4), and (5).

(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 secretary 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) "Stalking" means the crime of stalking as defined in RCW 9A.46.110;

(d) "Next of kin" means a person's spouse, parents, siblings, and children. [1993 c 27 § 1; 1990 c 3 § 101.]

Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.

13.40.220 Costs of support, treatment and confinement—Order—Contempt of court. (1) Whenever legal custody of a child is vested in someone other than his or her parents, after due notice to the parents or other persons legally obligated to care for and support the child, and after a hearing, the court may order and decree that the parent or other legally obligated person shall pay in such a manner as the court may direct a reasonable sum representing in whole or in part the costs of support, treatment, and confinement of the child after the decree is entered.

(2) Whenever legal custody of a child is vested in the department of social and health services, after due notice to the parents or other persons legally obligated to care for and support the child, and after a hearing, the court shall order and decree that the parent or other legally obligated person shall pay for support, treatment, and confinement of the child after the decree is entered, following the department of social and health services reimbursement of cost schedule. The department of social and health services shall collect the debt in accordance with chapter 43.20B RCW. The department shall exempt from payment parents receiving adoption support under RCW 74.13.100 through 74.13.145, and parents eligible to receive adoption support under RCW 74.13.150.

(3) If the parent or other legally obligated person willfully fails or refuses to pay such sum, the court may proceed against such person for contempt. [1993 c 466 § 1; 1977 ex.s. c 291 § 76.]

Effective dates—Severability—1977 ex.s. c 291: See notes following RCW 13.04.005.

13.40.430 Disparity in disposition of juvenile offenders—Data collection—Annual report. 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 section 1, chapter 373, Laws of 1993. 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 section 1, chapter 373, Laws of 1993. [1993 c 373 § 2.]

Severability—1993 c 373: See note following RCW 13.40.020.

Chapter 13.50

KEEPING AND RELEASE OF RECORDS BY JUVENILE JUSTICE OR CARE AGENCIES

Sections

13.50.010 Definitions—Conditions when filing petition or information—Duties to maintain accurate records and access.

(1) For purposes of this chapter:

(a) "Juvenile justice or care agency" means any of the following: Police, diversion units, court, prosecuting attorney, defense attorney, detention center, attorney general, the department of social and health services and its contracting agencies, schools; and, in addition, persons or public or private agencies having children committed to their custody;

(b) "Official juvenile court file" means the legal file of the juvenile court containing the petition or information, motions, memorandums, briefs, findings of the court, and court orders;

(c) "Social file" means the juvenile court file containing the records and reports of the probation counselor;

(d) "Records" means the official juvenile court file, the social file, and records of any other juvenile justice or care agency in the case.

(2) Each petition or information filed with the court may include only one juvenile and each petition or information shall be filed under a separate docket number. The social file shall be filed separately from the official juvenile court file.

(3) It is the duty of any juvenile justice or care agency to maintain accurate records. To this end:

(a) The agency may never knowingly record inaccurate information. Any information in records maintained by the department of social and health services relating to a petition filed pursuant to chapter 13.34 RCW that is found by the court, upon proof presented, to be false or inaccurate shall be corrected or expunged from such records by the agency;

(b) An agency shall take reasonable steps to insure the security of its records and prevent tampering with them; and

(c) An agency shall make reasonable efforts to insure the completeness of its records, including action taken by other agencies with respect to matters in its files.

(4) Each juvenile justice or care agency shall implement procedures consistent with the provisions of this chapter to facilitate inquiries concerning records.

(5) Any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency and who has been denied access to those records by the agency may make a motion to the court for an order authorizing that person to inspect the juvenile justice or care agency record concerning that person. The court shall grant the motion to examine records unless it finds that in the interests of justice or in the best interests of the juvenile the records or parts of them should remain confidential.

(6) A juvenile, or his or her parents, or any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency may make a motion to the court challenging the accuracy of any information concerning the moving party in the record or challenging the continued possession of the record by the agency. If the court grants the motion, it shall order the record or information to be corrected or destroyed.

(7) The person making a motion under subsection (5) or (6) of this section shall give reasonable notice of the motion to all parties to the original action and to any agency whose records will be affected by the motion.

(8) The court may permit inspection of records by, or release of information to, any clinic, hospital, or agency which has the subject person under care or treatment, or to individuals or agencies engaged in legitimate research for educational, scientific, or public purposes. The court may also permit inspection of, or release of information from, records which have been sealed pursuant to RCW 13.50.050(11). Access to records or information for research purposes shall be permitted only if the anonymity of all persons mentioned in the records or information will be preserved. Each person granted permission to inspect juvenile justice or care agency records for research purposes shall present a notarized statement to the court stating that the names of juveniles and parents will remain confidential.

(9) Juvenile detention facilities shall release records to the juvenile disposition standards commission under RCW 13.40.025 upon request. The commission shall not disclose the names of any juveniles or parents mentioned in the records without the named individual's written permission. [1993 c 374 § 1; 1990 c 246 § 8; 1986 c 288 § 11; 1979 c 155 § 8.]

Severability—1990 c 246: See note following RCW 13.34.060.

Severability—1986 c 288: See note following RCW 13.32A.050.

Effective date—Severability—1979 c 155: See notes following RCW 13.04.011.

Chapter 13.64

EMANCIPATION OF MINORS

Sections

13.64.010 Declaration of emancipation. (Effective January 1, 1994.) Any minor who is sixteen years of age or older and who is a resident of this state may petition in the superior court for a declaration of emancipation. [1993 c 294 § 1.]

13.64.020 Petition for emancipation—Filing fee. (Effective January 1, 1994.) (1) A petition for emancipation shall be signed and verified by the petitioner, and shall include the following information: (a) The full name of the petitioner, the petitioner's birthdate, and the state and county of birth; (b) a certified copy of the petitioner's birth certificate; (c) the name and last known address of the petitioner's parent or parents, guardian, or custodian; (d) the petitioner's present address, and length of residence at that address; (e) a declaration by the petitioner indicating that he or she has the ability to manage his or her financial affairs, including any supporting information; and (f) a declaration by the petitioner indicating that he or she has the ability to manage his or her personal, social, educational, and nonfinancial affairs, including any supporting information.

(2) A reasonable filing fee not to exceed fifty dollars shall be set by the court. [1993 c 294 § 2.]

13.64.030 Service of petition—Notice—Date of hearing. (Effective January 1, 1994.) The petitioner shall serve a copy of the filed petition and notice of hearing on the petitioner's parent or parents, guardian, or custodian at least fifteen days before the emancipation hearing. No summons shall be required. Service shall be waived if proof is made to the court that the address of the parent or parents, guardian, or custodian is unavailable or unascertainable. The petitioner shall also serve notice of the hearing on the department if the petitioner is subject to dependency disposition order under RCW 13.34.130. The hearing shall be held no later than sixty days after the date on which the petition is filed. [1993 c 294 § 3.]

13.64.040 Hearing on petition. (Effective January 1, 1994.) The hearing on the petition shall be before a judge, sitting without a jury. Prior to the presentation of proof the judge shall determine whether: (1) The petitioning minor understands the consequences of the petition regarding his or her legal rights and responsibilities; (2) a guardian ad litem should be appointed to investigate the allegations of the petition and file a report with the court. [1993 c 294 § 4.]

13.64.050 Emancipation decree—Certified copy—Notation of emancipated status. (Effective January 1, 1994.) (1) The court shall grant the petition for emancipation, except as provided in subsection (2) of this section, if the petitioner proves the following facts by clear and convincing evidence: (a) That the petitioner is sixteen years of age or older; (b) that the petitioner is a resident of the state; (c) that the petitioner has the ability to manage his or her financial affairs; and (d) that the petitioner has the ability to manage his or her personal, social, educational, and nonfinancial affairs.

(2) A parent, guardian, custodian, or in the case of a dependent minor, the department, may oppose the petition for emancipation. The court shall deny the petition unless it finds, by clear and convincing evidence, that denial of the grant of emancipation would be detrimental to the interests of the minor.

(3) Upon entry of a decree of emancipation by the court the petitioner shall be given a certified copy of the decree. The decree shall instruct the petitioner to obtain a Washington driver's license or a Washington identification card and direct the department of licensing make a notation of the emancipated status on the license or identification card. [1993 c 294 § 5.]

13.64.060 Power and capacity of emancipated minor. (Effective January 1, 1994.) (1) An emancipated minor shall be considered to have the power and capacity of an adult, except as provided in subsection (2) of this section. A minor shall be considered emancipated for the purposes of, but not limited to:

(a) The termination of parental obligations of financial support, care, supervision, and any other obligation the parent may have by virtue of the parent-child relationship, including obligations imposed because of marital dissolution;

(b) The right to sue or be sued in his or her own name;

(c) The right to retain his or her own earnings;

(d) The right to establish a separate residence or domicile;

(e) The right to enter into nonvoidable contracts;

(f) The right to act autonomously, and with the power and capacity of an adult, in all business relationships, including but not limited to property transactions;

(g) The right to work, and earn a living, subject only to the health and safety regulations designed to protect those under age of majority regardless of their legal status; and

(h) The right to give informed consent for receiving health care services.

(2) An emancipated minor shall not be considered an adult for: (a) The purposes of the adult criminal laws of the state unless the decline of jurisdiction procedures contained in RCW 13.40.110 are used; (b) the criminal laws of the state when the emancipated minor is a victim and the age of the victim is an element of the offense; or (c) those specific constitutional and statutory age requirements regarding voting, use of alcoholic beverages, and other health and safety regulations relevant to the minor because of the minor's age. [1993 c 294 § 6.]

13.64.070 Declaration of emancipation—Voidable. (Effective January 1, 1994.) A declaration of emancipation obtained by fraud is voidable. The voiding of any such declaration shall not affect any obligations, rights, or interests that arose during the period the declaration was in effect. [1993 c 294 § 7.]

13.64.080 Forms to initiate petition of emancipation. (Effective January 1, 1994.) The office of the administrator for the courts shall prepare and distribute to the county court clerks appropriate forms for minors seeking to initiate a petition of emancipation. [1993 c 294 § 8.]

13.64.900 Effective date—1993 c 294. This act shall take effect January 1, 1994. [1993 c 294 § 11.]

Chapter 13.70
SUBSTITUTE CARE OF CHILDREN—REVIEW BOARD SYSTEM

Sections

13.70.005 Periodic case review. Periodic case review of all children in substitute care may be provided in counties designated by the office of the administrator for the courts, in accordance with this chapter.

The administrator for the courts shall coordinate and assist, within available funds, in the administration of local citizen review boards created by this chapter. [1993 c 505 § 1. Prior: 1991 c 363 § 14; 1991 c 127 § 2; 1989 1st ex.s. c 17 § 2.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

13.70.100 Child in substitute care—No dependency petition—Procedures—Review. (1) This section shall apply to cases where a child has been placed in substitute care pursuant to written parental consent and a dependency petition has not been filed under chapter 13.34 RCW. If a dependency petition is subsequently filed and the child's placement in substitute care continues pursuant to a court order entered in a proceeding under chapter 13.34 RCW, the provisions set forth in RCW 13.70.110 shall apply.

(2) Within thirty days following commencement of the placement episode, the department shall send a copy of the written parental consent to the juvenile court with jurisdiction over the geographical area in which the child resides.

(3) Within forty-five days following commencement of the placement episode, the court shall assign the child's case to a board and forward to the board a copy of the written parental consent to placement.

(4) The board shall review the case plan for each child in substitute care whose case is assigned to the board by the court. The review shall take place at times set by the board. The first review shall occur within ninety days following commencement of the placement episode. The second review shall occur within six months following commencement of the placement episode. The final board review shall occur no later than six months following the second review unless the child is no longer in substitute care or unless a guardianship order or adoption decree is entered.

(5) The board shall prepare written findings and recommendations with respect to:

(a) Whether reasonable efforts were made before the placement to prevent or eliminate the need for removal of the child from the home;

(b) Whether reasonable efforts have been made subsequent to the placement to make it possible for the child to be returned home;

(c) 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;

(d) Whether there is a continuing need for and whether the placement is appropriate;

(e) Whether there has been compliance with the case plan;

(f) Whether progress has been made toward alleviating the need for placement;

(g) A likely date by which the child may be returned home or other permanent plan of care may be implemented; and

(h) Other problems, solutions, or alternatives the board determines should be explored.

(6) Within ten working days following the review, the board shall send a copy of its findings and recommendations to the child's parents and their attorneys, the child's custodians and their attorneys, mature children and their attorneys, and the department and other child placement agencies directly responsible for supervising the child's placement. If the child is an Indian as defined in the Indian child welfare act, 25 U.S.C. 1901 et seq., a copy of the board's findings and recommendations shall also be sent to the child's Indian tribe.

(7) If the department is unable or unwilling to implement the board recommendations, the department shall submit to the board, within ten working days after receipt of the findings and recommendations, an implementation report setting forth the reasons why the department in unable or unwilling to implement the board's recommendations. The report will also set forth the case plan which the department intends to implement.

(8) The court shall not review the findings and recommendations of the board in cases where the child has been placed in substitute care with signed parental consent unless a dependency petition has been filed and the child has been taken into custody under RCW 13.34.050. [1993 c 505 § 2; 1989 1st ex.s. c 17 § 12.]

13.70.140 Review by court. A permanency planning hearing shall be held before the court in accordance with RCW 13.34.145. Thereafter, court review hearings shall occur at least once every six months, under RCW 13.34.130(5), until the child is no longer within the jurisdiction of the court or the child returns home or a guardianship order or adoption decree is entered. The court may review the case more frequently upon the court's own motion or upon the request of any party to the proceeding. [1993 c 505 § 4; 1989 1st ex.s. c 17 § 16.]

Title 14
AERONAUTICS

Chapters

Chapter 14.20
AIRCRAFT DEALERS

Sections

14.20.010 Definitions. When used in this chapter and RCW 47.68.250 and 82.48.100:

(1) "Person" includes a firm, partnership, or corporation;

(2) "Dealer" means a person engaged in the business of selling, exchanging, or acting as a broker of aircraft or who offers for sale two or more aircraft within a calendar year;

(3) "Aircraft" means any weight-carrying device or structure for navigation of the air, designed to be supported by the air, but which is heavier than air and is mechanically driven;

(4) "Secretary" means the secretary of the state department of transportation. [1993 c 208 § 1; 1984 c 7 § 9; 1955 c 150 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

14.20.020 Aircraft dealer licensure—Penalty. (1) It is unlawful for a person to act as an aircraft dealer without a currently valid aircraft dealer's license issued under this chapter. A person acting as an aircraft dealer without a currently issued aircraft dealer's license is guilty of a misdemeanor and shall be punished by either a fine of not more than one thousand dollars or by imprisonment for not more than ninety days, or both. A person convicted on a second or subsequent conviction within a five-year period is guilty of a gross misdemeanor and shall be punished by either a fine of not more than five thousand dollars or by imprisonment for not more than one year, or both. In addition to, or in lieu of, the penalties provided in this section, or as a condition to the suspension of a sentence that may be imposed under this section, the court in its discretion may prohibit the violator from acting as an aircraft dealer within the state for such a period as it may determine but not to exceed one year. Violation of the duly imposed prohibition of the court may be treated as a separate offense under this section or as contempt of court.

(2) Any person applying for an aircraft dealer's license shall do so at the office of the secretary on a form provided for that purpose by the secretary. [1993 c 208 § 2; 1984 c 7 § 10; 1983 c 135 § 1; 1955 c 150 § 2.]

Severability—1984 c 7: See note following RCW 47.01.141.

Title 15
AGRICULTURE AND MARKETING

Chapters

Chapter 15.13
HORTICULTURAL PLANTS AND FACILITIES—INSPECTION AND LICENSING

Sections

15.13.250 Definitions. For the purpose of this chapter:

(1) "Department" means the department of agriculture of the state of Washington.

(2) "Director" means the director of the department or 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.

(4) "Horticultural plant" includes, but is not limited to, any horticultural, floricultural, and viticultural plant, for planting, propagation or ornamentation growing or otherwise. The term does not apply to cut plant material, except

cuttings, budsticks, scion wood, and similar plant parts used for propagative purposes, or to olericultural plants.

(5) "Horticultural facilities" means, but is not limited to, the premises where horticultural plants are grown, stored, handled or delivered for sale or transportation, and all vehicles and equipment, whether aerial or surface, used to transport such horticultural plants.

(6) "Plant pests" means, but is not limited to any living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants, weeds, or reproductive parts thereof, viruses or any organisms similar to or allied with any of the foregoing, or any infectious substance, which can directly or indirectly injure or cause disease or damage in any plant or parts thereof, or any processed, manufactured, or other products of plants.

(7) "Inspection and/or certification" means, but is not limited to, the inspection of any horticultural plants at any time prior to, during, or subsequent to harvest, or sale, by the director, and the issuance by the director of a written certificate stating the grades, classifications, and if such horticultural plants meet Washington requirements for freedom from infestation by plant pests and are in compliance with all other provisions of this chapter and rules adopted hereunder.

(8) "Nursery dealer" means any person who sells, holds for sale, or offers for sale, or plants, grows, receives, or handles horticultural plants, including turf for sale or for planting, including lawns, for another person.

(9) "Sell" means to sell, hold for sale, offer for sale, handle, or to use as an inducement for the sale of another article or product.

(10) "Master license system" means the mechanism established by chapter 19.02 RCW by which master licenses, endorsed for individual state-issued licenses, are issued and renewed utilizing a master application and a master license expiration date common to each renewable license endorsement.

(11) "Certificate" or "certificate of inspection" means an official document certifying compliance with the requirements of this chapter. The term "certificate" includes labels, rubber stamp imprints, tags, permits, written statements, or a form of certification document that accompanies the movement of inspected and certified plant material.

(12) "Turf" means field-cultivated turf grass sod consisting of grass varieties, or blends of grass varieties, and dichondra for use in residential and commercial landscapes.

(13) "Collected horticultural plant" means a noncultivated native plant, collected in its native habitat and sold for horticultural purposes. For purposes of this chapter, such plants shall be regarded as collected horticultural plants for the first calendar year after collection. [1993 c 120 § 1; 1990 c 261 § 1; 1985 c 36 § 1; 1982 c 182 § 19; 1971 ex.s. c 33 § 1.]

Severability—1982 c 182: See RCW 19.02.901.

15.13.260 Enforcement—Rules and regulations—Scope. The director shall enforce the provisions of this chapter and may adopt any rule necessary to carry out its purpose and provisions including but not limited to the following:

(1) The director may adopt rules establishing grades and/or classifications for any horticultural plant and standards for such grades and/or classifications.

(2) The director may adopt rules for labeling or tagging and for the inspection and/or certification of any horticultural plant as to variety, quality, size and freedom from infestation by plant pests.

(3) The director shall adopt rules establishing fees for inspection of horticultural plants and methods of collection thereof.

(4) The director may adopt rules prescribing minimum informational requirements for advertising for the sale of horticultural plants within the state.

(5) The director shall when adopting rules or regulations under the provisions of this chapter, hold a public hearing and satisfy all the requirements of chapter 34.05 RCW (administrative procedure act), concerning the adoption of rules and regulations. [1993 c 120 § 2; 1990 c 261 § 2; 1985 c 36 § 2; 1971 ex.s. c 33 § 2.]

15.13.265 Enforcement—Access to nursery dealer premises. The director may enter upon the premises of a nursery dealer at reasonable times for the purpose of carrying out the provisions of this chapter. If the director is denied access, the director may apply to a court of competent jurisdiction for a search warrant authorizing access to the premises. The court may upon such application issue the search warrant for the purposes requested. Denial of access to the director to perform inspections may subject a nursery dealer to revocation of the nursery license as provided in RCW 15.13.350. [1993 c 120 § 7.]

15.13.270 Licensing exemptions—Permits for clubs, conservation districts, nonprofit associations, educational organizations—Fee. The provisions of this chapter relating to licensing do not apply to: (1) Persons making casual or isolated sales that do not exceed one hundred dollars annually; (2) any garden club, conservation district, or charitable nonprofit association conducting not more than three sales per year for not more than four consecutive days each of horticultural plants as defined in RCW 15.13.250 and which are grown by or donated to its members; (3) educational organizations associated with private or public secondary schools. However, such a club, conservation district, association, or organization shall apply to the director for a permit to conduct such sales. The director may adopt rules establishing categories of sales and fees for the permit. The fees shall be deposited in the agricultural local fund.

All horticultural plants sold under such a permit issued by the director shall be subject to all the other provisions of this chapter except licensing as set forth herein. [1993 c 120 § 3; 1990 c 261 § 3; 1985 c 36 § 3; 1983 1st ex.s. c 73 § 2; 1971 ex.s. c 33 § 3.]

15.13.280 Nursery dealer licenses—Farmers markets—Application—Fees—Expiration—Posting—Audit. (1) No person shall act as a nursery dealer without a license for each place of business where horticultural plants are sold except as provided in RCW 15.13.270. Any person applying for such a license shall apply through the master license

system. The application shall be accompanied by a fee established by the director by rule. The director shall establish by rule, in accordance with chapter 34.05 RCW, a schedule of fees for retail nursery dealer licenses and a schedule of fees for wholesale nursery dealer licenses which shall be based upon the amount of a person's retail or wholesale sales of horticultural plants and turf. The schedule for retail licenses shall include, but shall not be limited to, separate fees for at least the following two categories: (a) A fee for a person whose gross business sales of such materials do not exceed two thousand five hundred dollars; and (b) a fee for a person whose gross business sales of such materials exceed two thousand five hundred dollars.

(2) Except as provided in RCW 15.13.270, a person conducting both retail and wholesale sales of horticultural plants at a place of business shall secure for the place of business (a) a retail nursery dealer license if retail sales of the plants and turf exceed such wholesale sales, or (b) a wholesale nursery dealer license if wholesale sales of the plants and turf exceed such retail sales.

(3) For farmers markets that are registered as nonprofit associations with the office of the secretary of state and at which individual producers are selling directly to consumers as provided in RCW 36.71.090, the director may allow a farmers market, as an alternative to licensing of individual producers, to obtain one wholesale nursery dealer license, as provided in subsection (1) of this section, at the appropriate level to cover all producers at each site at which the market operates.

(4) The licensing fee that must accompany an application for a new license shall be based upon the estimated gross business sales of horticultural plants and turf for the ensuing licensing year. The fee for renewing a license shall be based upon the licensee's gross sales of such products during the preceding licensing year.

(5) The license shall expire on the master license expiration date unless it has been revoked or suspended prior to the expiration date by the director for cause. Each license shall be posted in a conspicuous place open to the public in the location for which it was issued.

(6) The department may audit licensees during normal business hours to determine that appropriate fees have been paid. [1993 c 120 § 4; 1987 c 35 § 1; 1985 c 36 § 4; 1983 1st ex.s. c 73 § 3; 1982 c 182 § 20; 1971 ex.s. c 33 § 4.]

Severability—1982 c 182: See RCW 19.02.901.

Master license
expiration date: RCW 19.02.090.
system
existing licenses or permits registered under, when: RCW 19.02.810.
generally: RCW 15.13.250(10).
to include additional licenses: RCW 19.02.110.

15.13.310 Assessment on gross sale price of wholesale market value of fruit trees, ornamental trees, and rootstock—Method for determining—Due date—Gross sale period—Audit. (1) There is hereby levied an annual assessment on the gross sale price of the wholesale market value for all fruit trees, fruit tree related ornamental trees, and fruit tree rootstock produced in Washington, and sold within the state or shipped from the state of Washington by any licensed nursery dealer during any license period, as set forth in this chapter. Fruit tree related ornamental tree nursery stock shall be limited to the genera, Chaenomeles, Cydonia, Crataegus, Malus, Prunus, Pyrus, and Sorbus. This annual assessment is based on the first sale price of such nursery stock except for rootstocks which are replanted and/or grafted or budded and planted for growing-on in the nursery. The director shall by rule subsequent to a hearing determine the rate of an assessment conforming with the costs necessary to carry out the fruit tree certification and nursery improvement programs specified in RCW 15.13.470.

Such wholesale market price may be determined by the wholesale catalogue price of the seller of such fruit trees, fruit tree related ornamental trees, or fruit tree rootstock or of the shipper moving such fruit trees, fruit tree related ornamentals, or fruit tree rootstock out of the state. If the seller or shipper do not have a catalogue, then such wholesale market price may be based on the actual selling price or an average wholesale market price. The director in determining such average wholesale market price may use catalogues of various businesses licensed under the provisions of this chapter or any other reasonable method.

(2) Such assessment shall be due and payable on the first day of July of each year.

(3) The gross sale period shall be from July 1 to June 30 of the previous license period.

(4) The department may audit the records of licensees during normal business hours to determine that the appropriate assessment has been paid. [1993 c 120 § 5; 1990 c 261 § 4; 1987 c 35 § 2; 1983 1st ex.s. c 73 § 4; 1971 ex.s. c 33 § 7.]

15.13.320 Advisory committee—Appointment—Terms—Filling vacancies. An advisory committee is hereby established to advise the director in the administration of the fruit tree and fruit tree related ornamental tree certification and nursery improvement program.

(1) The committee shall consist of five fruit tree nursery dealers and the director or the director's designated appointee.

(2) The director shall appoint this committee from names submitted by the Washington state nursery and landscape association.

(3) The terms of the members of the committee shall be staggered and the members shall serve a term of three years and until their successor has been appointed and qualified.

In the event a committee member resigns, is disqualified, or vacates a position on the committee for any other reason the vacancy shall be filled by the director under the provisions of this section governing appointments. [1993 c 120 § 6; 1990 c 261 § 5; 1983 1st ex.s. c 73 § 5; 1971 ex.s. c 33 § 8.]

15.13.370 Request for inspector's services during shipping season—Costs—Certificate of inspection. Any person licensed under the provisions of this chapter may request, upon the payment of actual costs to the department as prescribed by the director, the services of a nursery plant services inspector at such licensee's place of business or point of shipment during the shipping season. Subsequent to inspection the inspector shall issue to such licensee a certificate of inspection signed by the inspector covering any horticultural plants which the inspector finds not to be

infected with plant pests and in compliance with the provisions of this chapter and rules adopted under this chapter. [1993 c 120 § 8; 1990 c 261 § 8; 1971 ex.s. c 33 § 13.]

15.13.390 Unlawful selling, shipment, or transport of plants within state, when. It is unlawful for any person to sell, ship, or transport any horticultural plant in this state unless it meets standards established in rule for freedom from infestation by plant pests. No person shall sell, ship, or transport any horticultural plant in this state unless it meets the requirements of this chapter or rules adopted under this chapter. [1993 c 120 § 9; 1971 ex.s. c 33 § 15.]

15.13.400 Unlawful shipment or delivery of plants into state, when—Certificate and inspection requirements. (1) It is unlawful for any person to ship or deliver any horticultural plant into this state unless such horticultural plant is accompanied by an inspection certificate from the state or country of origin stating that such horticultural plant meets Washington requirements for freedom from infestation by plant pests and is in conformance with not less than the minimal requirements of this chapter or rules adopted under this chapter. The director may require the shipper or receiver to file a copy of the manifest of nursery cargo or shipment of horticultural plants into this state with the director in Olympia, Washington, on or before the date such horticultural plants enter into the state of Washington.

(2) The director may by rule require that any or all such horticultural plants delivered or shipped into the state be inspected for conformance with the requirements of this chapter and rules adopted under this chapter, prior to release by the person delivering or transporting such horticultural plants into this state even though accompanied by acceptable inspection certificates issued by the state or country of origin. [1993 c 120 § 10; 1971 ex.s. c 33 § 16.]

15.13.410 Shipments into state to be marked or tagged—Contents. Each shipment of horticultural plants transported or shipped into the state and/or offered for retail sale within the state shall be legibly marked or tagged in a conspicuous manner.

(1) The department shall by rule establish marking or tagging requirements for the following plant types:

(a) Fruit trees and ornamental trees and shrubs;

(b) Perennial plants;

(c) Flowering and nonflowering annuals and biennials;

(d) Turf grasses;

(e) Collected horticultural plants; and

(f) Aquatic and semi-aquatic plants.

(2) When plants, other than floricultural products are on display for retail sale, each unit of sale shall be tagged as prescribed in rule.

(3) The director may, whenever the director finds that any horticultural plant is not properly marked, order it off sale until it is properly marked, or order that it be returned to the consignor for proper marking. [1993 c 120 § 11; 1990 c 261 § 10; 1971 ex.s. c 33 § 17.]

15.13.420 Unlawful acts enumerated. It shall be unlawful for any person:

(1) To falsely represent that the person is the agent or representative of any nursery dealer in horticultural plants;

(2) To deceive or defraud another in the sale of horticultural plants by substituting inferior or different grades from those ordered;

(3) To bring into this state or to sell, offer for sale, hold for sale, distribute, ship or deliver any horticultural plants not in conformity with standards established in rule concerning infestation by plant pests;

(4) To sell, offer for sale, hold for sale, solicit orders for or distribute horticultural plants by any method which has the capacity and tendency or effect of deceiving any purchaser or prospective purchaser as to the quantity, size, grade, kind, species, age, maturity, condition, vigor, hardiness, number of times transplanted, growth ability, growth characteristics, rate of growth or time required before flowering or fruiting, price, origin or place where grown, or in any other material respect;

(5) To alter an official certificate or other official inspection document for plant materials covered by this chapter or to represent a document as an official certificate when such is not the case;

(6) To make the following representations directly or indirectly, without limiting the effects of this section:

(a) That any horticultural plant has been propagated by grafting or budding methods, when such is not the fact;

(b) That any horticultural plant is healthy and will grow anywhere without the use of fertilizer, or will survive and produce without special care, when such is not a fact;

(c) That any horticultural plant blooms the year around, or will bear an extraordinary number of blooms of unusual size or quality, when such is not a fact;

(d) That any horticultural plant is a new variety, when in fact it is a standard variety to which the person who is selling or holding such horticultural plant for sale has given a new name;

(e) That any horticultural plant cannot be purchased through usual outlets, or that limited stocks are available, when such is not the fact;

(f) That any horticultural plant offered for sale will be delivered in time for the next, or any specified, seasonal planting when the seller is aware of factors which make such delivery improbable;

(g) That the appearance of any horticultural plant is normal or usual when the appearance so represented is in fact abnormal or unusual;

(h) That the root system of any horticultural plant is appreciably larger than that which actually exists, whether accomplished by means of packaging, balling or otherwise;

(i) That bulblets are bulbs;

(j) That any horticultural plant is rare or an unusual item, when such is not the fact;

(7) To sell, offer for sale or hold for sale, or plant for another person any horticultural plants on the basis of grade, unless such horticultural plants have been graded and/or classified and meet the standards prescribed by the director for such grades and/or classifications;

(8) To substitute any other horticultural plant for a horticultural plant covered by an inspection certificate;

(9) To sell, offer for sale, or hold for sale, or plant for another person, any horticultural plant which is dead, in a

dying condition, seriously broken, frozen, or damaged, or abnormally potbound. [1993 c 120 § 12; 1990 c 261 § 11; 1971 ex.s. c 33 § 18.]

15.13.425 False advertisements. No publisher, radio and television broadcast licensee, advertising agency, or agency or medium for the dissemination of an advertisement, except the grower, packer, distributor, or seller of the article to which the advertisement relates, shall be subject to the penalties of RCW 15.13.490 by reason of dissemination of any false advertisement, unless the person has refused on the request of the director to furnish the name and address of the grower, packer, distributor, seller, or advertising agency in the state of Washington, who caused dissemination of the false advertisement. [1993 c 120 § 13.]

15.13.430 Hold order on infected or infested plants—Selling, offering to sell, or moving unlawful. When the department has cause to believe that any horticultural plants are infested or infected by any plant pest, chemical or other damage, the director may issue a hold order on such horticulture plants. A hold order may prescribe conditions under which plants must be held to prevent spread of the infestation or infection. Treatment or other corrective measures shall be the sole responsibility of the persons holding the plant material for sale. It shall be unlawful to sell, offer for sale, or move such plants until released in writing by the director. [1993 c 120 § 14; 1971 ex.s. c 33 § 19.]

15.13.440 Order of condemnation. The director shall condemn any or all horticultural plants in a shipment or when any such horticultural plants are held for sale, or offered for sale and they are found to be dead, in a dying condition, seriously broken, diseased, infested with harmful insects to the extent that treatment is not practical, damaged or frozen or abnormally potbound and shall order such horticultural plants to be destroyed or returned at shipper's option. [1993 c 120 § 15; 1990 c 261 § 12; 1971 ex.s. c 33 § 20.]

15.13.445 Hold order or condemnation—Hearing opportunity. Upon issuance of an order by the director under RCW 15.13.430 or 15.13.440, the seller or holder of the plant material is entitled to a hearing under chapter 34.05 RCW. [1993 c 120 § 16.]

15.13.470 Disposition of moneys collected under chapter—Expenditure. All moneys collected under this chapter shall be paid to the director, deposited in an account within the agricultural local fund, and used solely for carrying out this chapter and rules adopted under this chapter. No appropriation is required for the disbursement of moneys from the account by the director. Any residual balance of funds remaining in the nursery inspection fund on July 26, 1987, shall be transferred to that account within the agricultural local fund: PROVIDED, That all fees collected for fruit tree, fruit tree related ornamental tree, and fruit tree rootstock assessments as set forth in this chapter shall be deposited in the northwest nursery fund to be used only for the Washington fruit tree and fruit tree related ornamental tree certification and nursery improvement programs as set forth in this chapter and chapter 15.14 RCW. [1993 c 120 § 17; 1990 c 261 § 13; 1987 c 35 § 3; 1985 c 36 § 5; 1975 1st ex.s. c 257 § 1; 1971 ex.s. c 33 § 25.]

Construction—Effective date—1975 1st ex.s. c 257: See RCW 15.53.9053 and note.

15.13.480 Cooperation, agreements to further chapter—Agreements to facilitate export. The director may cooperate with and enter into agreements with governmental agencies of this state, other states and agencies of the federal government in order to carry out the purpose and provisions of this chapter.

The director may enter into agreements with the United States department of agriculture for the issuance of phytosanitary certificates and other inspection documents, according to federal procedures, to facilitate the export of nursery products from the state. [1993 c 120 § 18; 1971 ex.s. c 33 § 26.]

Chapter 15.35
WASHINGTON STATE MILK POOLING ACT

Sections

15.35.010 Short title. This chapter may be known and cited as the Washington state milk pooling act to provide for equitable pricing and pooling among producers and processors of milk and milk products. [1993 c 345 § 1; 1971 ex.s. c 230 § 1.]

15.35.030 Declaration of public interest. It is hereby declared that:

(1) Milk is a necessary article of food for human consumption;

(2) The production, distribution, and maintenance of an adequate supply of healthful milk of proper chemical and physical content, free from contamination, is vital to the public health and welfare;

(3) It is the policy of the state to promote, foster, and encourage the intelligent production and orderly marketing of adequate supplies of pure and wholesome milk and milk products necessary to its citizens, to promote competitive prices, and to eliminate economic waste, destructive trade practices, and improper accounting for milk purchased from producers;

(4) Economic factors concerning the production, marketing, and sale of milk in the state may not be accurately reflected in federal programs;

(5) Conditions within the milk industry of this state are such that it may be necessary to establish marketing areas wherein pricing and pooling arrangements between producers are necessary, and for that purpose the director shall have the administrative authority, with such additional duties as are herein prescribed, after investigations and public hearings, to prescribe such marketing areas and modify the same when advisable or necessary. [1993 c 345 § 2; 1991 c 239 § 1; 1971 ex.s. c 230 § 3.]

15.35.060 Purposes. The purposes of this chapter are to:

(1) Authorize and enable the director to prescribe marketing areas and to establish pricing and pooling arrangements which are necessary to prevent disorderly marketing of milk due to varying factors of costs of production, health regulations, transportation, and other factors in said marketing areas of this state;

(2) Authorize and enable the director to formulate marketing plans subject to the provisions of this chapter, in accordance with chapter 34.05 RCW, which provide for pricing and pooling arrangements and declare such plans in effect for any marketing area;

(3) Provide funds for administration and enforcement of this chapter by assessments to be paid by producers. [1993 c 345 § 3; 1991 c 239 § 2; 1971 ex.s. c 230 § 6.]

15.35.070 Powers conferred to be liberally construed—Monopoly—Price setting. It is the intent of the legislature that the powers conferred in this chapter shall be liberally construed. Nothing in this chapter shall be construed as permitting or authorizing the development of conditions of monopoly in the production or distribution of milk, nor shall this chapter give the director authority to establish wholesale or retail prices for processed milk products. [1993 c 345 § 5; 1991 c 239 § 3; 1971 ex.s. c 230 § 7.]

15.35.080 Definitions. 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 or another state comprising one or more counties 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 RCW 15.36.011 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 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 from 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 or, if the director so provides by rule, a person who markets to a milk dealer milk produced under a grade A permit issued by another state;

(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. [1993 c 345 § 4; 1992 c 58 § 1; 1991 c 239 § 4; 1971 ex.s. c 230 § 8.]

15.35.100 Director's authority—Subpoena power—Rules. Subject to the provisions of this chapter, the director is hereby vested with the authority:

(1) To investigate all matters pertaining to the production, processing, storage, transportation, and distribution of milk and milk products in the state, and shall have the authority to:

(a) Establish classifications of processed milk and milk products, and a minimum price or a formula to determine a minimum price to be paid by milk dealers for milk used to produce each such class of products;

(b) Require that payment be made by dealers to producers of fluid milk or their cooperative associations and prescribe the method and time of such payments by dealers to producers or their cooperative associations in accordance with a marketing plan for milk;

(c) Determine what constitutes a natural milk market area;

(d) Establish quota systems within marketing plans, and to determine by using uniform rules, what portion of the milk produced by each producer shall be assigned to each quota classification;

(e) Provide for the pooling of minimum class values from the sales of each class of milk to milk dealers, and the equalization of returns to producers;

(f) Provide and establish market pools for a designated market area with such rules as the director may adopt;

(g) Employ an executive officer, who shall be known as the milk pooling administrator;

(h) Employ such persons or contract with such entities as may be necessary and incur all expenses necessary to carry out the purposes of this chapter;

(i) Determine by rule, what portion of any increase in the available quotas shall be assigned to new producers or existing producers.

(2) To issue subpoenas to compel the attendance of witnesses and/or the production of books, documents, and records anywhere in the state in any hearing affecting the authority of privileges granted by a license issued under the provisions of this chapter. Witnesses shall be entitled to fees for attendance and travel as provided for in chapter 2.40 RCW.

(3) To make, adopt, and enforce all rules necessary to carry out the purposes and policies of this chapter subject to the provisions of chapter 34.05 RCW concerning the adoption of rules. Nothing contained in this chapter shall be construed to abrogate or affect the status, force, or operation of any provision of the public health laws enacted by the state or any municipal corporation or the public service laws of this state. [1993 c 345 § 6; 1991 c 239 § 6; 1971 ex.s. c 230 § 10.]

15.35.105 Minimum milk price—Competition from outside the marketing area. (1) In establishing a minimum milk price or a formula to determine a minimum milk price, as provided under RCW 15.35.060 and 15.35.100, the director shall, in addition to other appropriate criteria, consider the:

(a) Cost of producing fluid milk for human consumption;

(b) Transportation costs;

(c) Milk prices in states or regions outside of the state that influence prices within the marketing areas;

(d) Demand for fluid milk for human consumption;

(e) Alternative enterprises available to producers; and

(f) Economic impact on milk dealers.

(2) A milk dealer who believes that actual competition from outside the marketing area is having a significant economic impact on that milk dealer, may petition the director for a public hearing on an expedited basis to consider whether the minimum milk price in the market plan should be changed relative to the milk price to a competitor located outside the state plus transportation costs for that competitor to compete with the petitioning milk dealer.

(a) To be considered, the petition must identify the specific action requested, and must be accompanied by a statement summarizing the facts and evidence that would be provided at a public hearing by or on behalf of the petitioner to support the need for the requested action, including an identification of circumstances that have changed since the last rule-making proceeding at which the minimum price was established.

(b) Within twenty-one days of receiving the petition, the director shall either:

(i) Adopt rules on an emergency basis, in accordance with RCW 34.05.350;

(ii) File, and distribute to all milk dealers and other interested parties, notice that a hearing will be held within sixty days of receiving the petition;

(iii) Advise the petitioner in writing that the request for rule making is denied, and explain the reasons for the denial; or

(iv) Advise the petitioner in writing that the petition provides insufficient information from which to find that rule making should be initiated, and request that the petition be resubmitted with additional information.

(c) Except as otherwise specifically provided in this section, this petition must be handled in accordance with RCW 34.05.330, and the rule-making procedures of chapter 34.05 RCW.

(3) The director may adopt rules of practice or procedure with respect to the proceedings. [1993 c 345 § 7; 1991 c 239 § 7.]

15.35.110 Referendum on establishing or discontinuing market area pooling arrangement. (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;

(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 RCW 15.35.115(1), shall be authorized to vote both as producers and as milk dealers.

(3) Except as provided in subsection (4) of this section, the director, within ninety days from the date the results of a referendum approved under subsection (2) of this section are filed with the secretary of state, shall adopt rules to establish a market pool in the market area, as provided for in this chapter. In conducting hearings on rules proposed for adoption under this subsection, the director shall invite public comment on whether milk regulation similar to the market area pooling plan proposed in the rules exists in neighboring states and whether a lack of such milk regulation in neighboring states would render such a market area pooling plan in this state ineffective or impractical.

(4) If, following hearings held under subsection (3) of this section, the director determines that the lack of milk regulation in neighboring states similar to the market area pooling plan proposed for this state would render such a pooling arrangement in this state ineffective or impractical, the director shall so state in writing. The director shall file the statement with the code reviser for publication in the Washington State Register. In such a case, a market area pooling plan shall not be established in the market area

under subsection (3) of this section based upon the referendum that precipitated the hearings.

If the director determines that such a lack of milk regulation in neighboring states would not render such a market area pooling plan ineffective or impractical in this state, the director shall adopt rules in accordance with subsection (3) of this section.

(5) If fifty-one percent of the producers and producer-dealers voting representing fifty-one percent of the milk produced and fifty-one percent of the milk dealers and producer-dealers 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.

(6) A referendum of affected producers, producer-dealers, and milk dealers shall be conducted only when a market area pooling arrangement is to be established. Only producers, milk dealers, and producer-dealers who are subject to the plan may vote on the termination of a pooling plan. [1993 c 345 § 8; 1992 c 58 § 4; 1991 c 239 § 8; 1971 ex.s. c 230 § 11.]

15.35.115 Referendum on establishing or discontinuing market area pooling arrangement—Producer-dealers. (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 milk 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 milk 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. [1993 c 345 § 9; 1992 c 58 § 2.]

15.35.150 Determination of quota. (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 a market area in fluid form or, in the director's discretion, in other forms.

(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 available quota in a reasonable proportion. The director may establish a method to proportionately decrease quota allocations in the event decreases in milk usage 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. [1993 c 345 § 10; 1992 c 58 § 5; 1991 c 239 § 11; 1971 ex.s. c 230 § 15.]

15.35.250 Marketing assessment on producers—Additional assessment for milk testing—Penalty—Court action. (1) There is hereby levied upon all milk sold or received in any marketing area subject to a marketing plan established under the provisions of this chapter an assessment, not to exceed five cents per one hundred pounds of all such milk, to be paid by the producer of such milk. Such assessment shall be collected by the first milk dealer who receives or handles such milk from any producer or his or her agent subject to such marketing plan and shall be paid to the director for deposit into the agricultural local fund.

The amount to be assessed and paid to the director under any marketing plan shall be determined by the director within the limits prescribed by this subsection and shall be

determined according to the necessities required to carry out the purpose and provisions of this chapter under any such marketing plan.

(2) In the event a producer's milk dealer does not provide milk testing in a state-certified laboratory, the director may levy an additional assessment on all such milk, not to exceed three cents per one hundred pounds of milk, to be paid by the producer of such milk. Such assessment shall be collected by the first milk dealer who receives or handles such milk from any producer or the producer's agent subject to the marketing plan and shall be paid to the director for deposit into the agricultural local fund. Moneys from such assessments shall be used to provide testing of the milk in a state-certified laboratory.

The amount to be assessed and paid to the director under this subsection shall be determined by the director within the limits prescribed by this subsection.

(3) Upon the failure of any dealer to withhold out of amounts due to or to become due to a producer at the time a dealer is notified by the director of the amounts to be withheld and upon failure of such dealer to pay such amounts, the director subject to the provisions of RCW 15.35.260, may revoke the license of the dealer required by RCW 15.35.230. The director may commence an action against the dealer in a court of competent jurisdiction in the county in which the dealer resides or has his principal place of business to collect such amounts. If it is determined upon such action that the dealer has wrongfully refused to pay the amounts the dealer shall be required to pay, in addition to such amounts, all the costs and disbursements of the action, to the director as determined by the court. If the director's contention in such action is not sustained, the director shall pay to the dealer all costs and disbursements of the action as determined by the court. [1993 c 345 § 11; 1991 c 239 § 15; 1971 ex.s. c 230 § 25.]

Chapter 15.36
FLUID MILK

Sections

15.36.105 Dairy inspection program—Assessment. (Expires June 30, 1994.) There is levied on all milk processed in this state an assessment not to exceed fifty-four one-hundredths 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. [1993 1st sp.s. c 19 § 1; 1992 c 160 § 1.]

15.36.115 Examination of milk and milk products—Residue test results—Civil penalty. (1) If the results of an antibiotic, pesticide, or other drug residue test under RCW 15.36.110 are above the actionable level established in the pasteurized milk ordinance published by the United States public health service and determined using procedures set forth in the current edition of "Standard Methods for the Examination of Dairy Products," a producer holding a grade A permit is subject to a civil penalty. The penalty shall be in an amount equal to one-half the value of the sum of the volumes of milk equivalent produced under the permit on the day prior to and the day of the adulteration. The value of the milk shall be computed by the weighted average price for the federal market order under which the milk is delivered.

(2) The penalty is imposed by the department giving a written notice which is either personally served upon or transmitted by certified mail, return receipt requested, to the person incurring the penalty. The notice of the civil penalty shall be a final order of the department unless, within fifteen days after the notice is received, the person incurring the penalty appeals the penalty by filing a notice of appeal with the department. If a notice of appeal is filed in a timely manner, a hearing shall be conducted on behalf of the department by the office of administrative hearings in accordance with chapters 34.05 and 34.12 RCW. At the conclusion of the hearing, the department shall determine whether the penalty should be affirmed, and, if so, shall issue a final order setting forth the civil penalty assessed, if any. The order may be appealed to superior court in accordance with chapter 34.05 RCW. Tests performed for antibiotic, pesticide, or other drug residues by a state or certified industry laboratory of a milk sample drawn by a department official or a licensed dairy technician shall be admitted as prima facie evidence of the presence or absence of an antibiotic, pesticide, or other drug residue.

(3) Any penalty imposed under this section is due and payable upon the issuance of the final order by the department. The penalty shall be deducted by the violator's marketing organization from the violator's final payment for the month following the issuance of the final order. The department shall promptly notify the violator's marketing organization of any penalties contained in the final order.

(4) All penalties received or recovered from violations of this section shall be remitted monthly by the violator's marketing organization to the Washington state dairy

products commission and deposited in a revolving fund to be used solely for the purposes of education and research. No appropriation is required for disbursements from this fund.

(5) In case of a violation of the antibiotic, pesticide, or other drug residue test requirements, an investigation shall be made to determine the cause of the residue which shall be corrected. Additional samples shall be taken as soon as possible and tested as soon as feasible for antibiotic, pesticide, or other drug residue by the department or a certified laboratory. After the notice has been received by the producer and the results of a test of such an additional sample indicate that residues are above the actionable level or levels referred to in subsection (1) of this section, the producer's milk may not be sold until a sample is shown to be below the actionable levels established for the residues. [1993 c 212 § 1. Prior: 1989 c 354 § 18; 1989 c 175 § 48; 1984 c 226 § 1.]

Severability—1989 c 354: See note following RCW 15.32.010.

Effective date—1989 c 175: See note following RCW 34.05.010.

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

15.36.595 Violations of standards for component parts of fluid dairy products—Civil penalty—Procedure. (1) The director of agriculture shall adopt rules imposing a civil penalty for violations of the standards for component parts of fluid dairy products which are established by RCW 15.36.030 or adopted pursuant to RCW 69.04.398. The penalty shall not exceed ten thousand dollars and shall be such as is necessary to achieve proper enforcement of the standards. The rules shall be adopted before January 1, 1987, and shall become effective on July 1, 1987.

(2) The penalty is imposed by the department giving a written notice which is either personally served upon or transmitted by certified mail, return receipt requested, to the person incurring the penalty. The notice of the civil penalty shall be a final order of the department unless, within fifteen days after the notice is received, the person incurring the penalty appeals the penalty by filing a notice of appeal with the department. If a notice of appeal is filed in a timely manner, a hearing shall be conducted on behalf of the department by the office of administrative hearings in accordance with chapters 34.05 and 34.12 RCW. At the conclusion of the hearing, the department shall determine whether the penalty should be affirmed, reduced, or not imposed and shall issue a final order setting forth the civil penalty assessed, if any. The order may be appealed to superior court in accordance with chapter 34.05 RCW. Tests performed for the component parts of milk products by a state laboratory of a milk sample collected by a department official shall be admitted as prima facie evidence of the amounts of milk components in the product.

(3) Any penalty imposed under this section is due and payable upon the issuance of the final order by the department.

(4) All penalties received or recovered from violations of this section shall be remitted by the violator to the department and deposited in the revolving fund of the Washington state dairy products commission. One-half of the funds received shall be used for purposes of education with the remainder one-half to be used for dairy processing or marketing research, or both. No appropriation is required for disbursements from this fund.

(5) In case of a violation of the standards for the composition of milk products, an investigation shall be made to determine the cause of the violation which shall be corrected. Additional samples shall be taken as soon as possible and tested by the department. [1993 c 212 § 3; 1989 c 175 § 49; 1986 c 203 § 19.]

Effective date—1989 c 175: See note following RCW 34.05.010.

Severability—1986 c 203: See note following RCW 15.04.100.

Chapter 15.53
COMMERCIAL FEED

Sections

15.53.9014 Registration of feeds—Exemptions—Application—Renewal—Fees—May be refused. (1) Each commercial feed shall be registered with the department and such registration shall be renewed annually before such commercial feed may be distributed in this state: PROVIDED, That sales of food processing byproducts from fruit, vegetable, or potato processing plants, freezing or dehydrating facilities, or juice or jelly preserving plants; unmixed seed, whole or processed, made directly from the entire seed; unground hay, straw, stover, silage, cobs, husks, and hulls, when not mixed with other material; bona fide experimental feeds on which accurate records and experimental programs are maintained; and customer-formula feeds are exempt from such registration. The exemption for byproducts provided by this subsection does not apply to byproducts or products of sugar refineries or to materials used in the preparation of pet foods.

(a) Beginning July 1, 1993, each registration for a commercial feed product distributed in packages of ten pounds or more shall be accompanied by a fee of eleven dollars. If such commercial feed is also distributed in packages of less than ten pounds it shall be registered under subsection (b) of this section.

(b) Beginning July 1, 1993, each registration for a commercial feed product distributed in packages of less than ten pounds shall be accompanied by an annual registration fee of forty-five dollars on each such commercial feed so distributed, but no inspection fee may be collected on packages of less than ten pounds of the commercial feed so registered.

(2) The application for registration shall be on forms provided by the department.

(3) The department may require that such application be accompanied by a label and/or other printed matter describing the product. All registrations expire on December 31st of each year, and are renewable unless such registration is canceled by the department or it has called for a new registration, or unless canceled by the registrant.

(4) The application shall include the information required by RCW 15.53.9016(1)(b) through (1)(e).

(5) A distributor shall not be required to register any commercial feed brand or product which is already registered under the provisions of this chapter.

(6) Changes in the guarantee of either chemical or ingredient composition of a commercial feed registered under the provisions of this chapter may be permitted if there is satisfactory evidence that such changes would not result in a lowering of the feed value of the product for the purpose for which designed.

(7) The department is empowered to refuse registration of any application not in compliance with the provisions of this chapter and to cancel any registration subsequently found to be not in compliance with any provisions of this chapter, but a registration shall not be refused or canceled until the registrant has been given opportunity to be heard before the department and to amend his application in order to comply with the requirements of this chapter.

(8) If an application for renewal of the registration provided for in this section is not filed prior to January 1st of any one year, a penalty of ten dollars shall be assessed and added to the original fee and shall be paid by the applicant before the renewal registration may be issued, unless the applicant furnishes an affidavit that he has not distributed this feed subsequent to the expiration of his or her prior registration. [1993 1st sp.s. c 19 § 2; 1982 c 177 § 2; 1975 1st ex.s. c 257 § 4; 1965 ex.s. c 31 § 4.]

Construction—Effective date—1975 1st ex.s. c 257: See RCW 15.53.9053 and note.

Chapter 15.54

FERTILIZERS, MINERALS, AND LIMES

(Washington commercial fertilizer act)

Sections

15.54.270 Definitions. Terms used in this chapter have the meaning given to them in this chapter unless the context clearly indicates otherwise.

(1) "Brand" means a term, design, or trademark used in connection with the distribution and sale of one or more grades of commercial fertilizers.

(2) "Bulk fertilizer" means commercial fertilizer distributed in a nonpackage form such as, but not limited to, tote bags, tote tanks, bins, tanks, trailers, spreader trucks, and railcars.

(3) "Calcium carbonate equivalent" means the acid-neutralizing capacity of an agricultural liming material expressed as a weight percentage of calcium carbonate.

(4) "Commercial fertilizer" means a substance containing one or more recognized plant nutrients and that is used for its plant nutrient content or that is designated for use or claimed to have value in promoting plant growth, and shall include limes, gypsum, and manipulated animal and vegetable manures. It does not include unmanipulated animal and vegetable manures and other products exempted by the department by rule.

(5) "Customer-formula fertilizer" means a mixture of commercial fertilizer or materials of which each batch is mixed according to the specifications of the final purchaser.

(6) "Department" means the department of agriculture of the state of Washington or its duly authorized representative.

(7) "Director" means the director of the department of agriculture.

(8) "Distribute" means to import, consign, manufacture, produce, compound, mix, or blend commercial fertilizer, or to offer for sale, sell, barter, exchange, or otherwise supply commercial fertilizer in this state.

(9) "Distributor" means a person who distributes.

(10) "Grade" means the percentage of total nitrogen, available phosphoric acid, and soluble potash stated in whole numbers in the same terms, order, and percentages as in the "guaranteed analysis," unless otherwise allowed by a rule adopted by the department. Specialty fertilizers may be guaranteed in fractional units of less than one percent of total nitrogen, available phosphorus or phosphoric acid, and soluble potassium or potash. Fertilizer materials, bone meal, manures, and similar materials may be guaranteed in fractional units.

(11) "Guaranteed analysis."

(a) Until the director prescribes an alternative form of "guaranteed analysis" by rule the term "guaranteed analysis" shall mean the minimum percentage of plant nutrients claimed in the following order and form:

Total nitrogen (N)	percent
Available phosphoric acid (P205) . . .	percent
Soluble potash (K20)	percent

The percentage shall be stated in whole numbers unless otherwise allowed by the department by rule.

The "guaranteed analysis" may also include elemental guarantees for phosphorus (P) and potassium (K).

(b) For unacidulated mineral phosphatic material and basic slag, bone, tankage, and other organic phosphatic materials, the total phosphoric acid or degree of fineness may also be guaranteed.

(c) Guarantees for plant nutrients other than nitrogen, phosphorus, and potassium shall be as allowed or required by rule of the department. The guarantees for such other nutrients shall be expressed in the form of the element.

(d) The guaranteed analysis for limes shall include the percentage of calcium or magnesium expressed as their carbonate; the calcium carbonate equivalent as determined by

methods prescribed by the association of official analytical chemists; and the minimum percentage of material that will pass respectively a one hundred mesh, sixty mesh, and ten mesh sieve. The mesh size declaration may also include the percentage of material that will pass additional mesh sizes.

(e) In commercial fertilizer, the principal constituent of which is calcium sulfate (gypsum), the percentage of calcium sulfate (CaS04.2H20) shall be given along with the percentage of total sulfur.

(12) "Label" means the display of all written, printed, or graphic matter, upon the immediate container, or a statement accompanying a fertilizer.

(13) "Labeling" includes all written, printed, or graphic matter, upon or accompanying a commercial fertilizer, or advertisement, brochures, posters, television, and radio announcements used in promoting the sale of such fertilizer.

(14) "Licensee" means the person who receives a license to distribute a fertilizer under the provisions of this chapter.

(15) "Lime" means a substance or a mixture of substances, the principal constituent of which is calcium or magnesium carbonate, hydroxide, or oxide, singly or combined.

(16) "Manipulation" means processed or treated in any manner, including drying to a moisture content less than thirty percent.

(17) "Manufacture" means to compound, produce, granulate, mix, blend, repackage, or otherwise alter the composition of fertilizer materials.

(18) "Official sample" means a sample of commercial fertilizer taken by the department and designated as "official" by the department.

(19) "Packaged fertilizer" means commercial fertilizers, either agricultural or specialty, distributed in nonbulk form.

(20) "Person" means an individual, firm, brokerage, partnership, corporation, company, society, or association.

(21) "Percent" or "percentage" means the percentage by weight.

(22) "Registrant" means the person who registers commercial fertilizer under the provisions of this chapter.

(23) "Specialty fertilizer" means a commercial fertilizer distributed primarily for nonfarm use, such as, but not limited to, use on home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses, and nurseries.

(24) "Ton" means the net weight of two thousand pounds avoirdupois.

(25) "Total nutrients" means the sum of the percentages of total nitrogen, available phosphoric acid, and soluble potash as guaranteed and as determined by analysis. [1993 c 183 § 1; 1987 c 45 § 1; 1967 ex.s. c 22 § 1.]

Construction—1987 c 45: "This act shall not be construed as affecting any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule, regulation, or order adopted under those sections, nor as affecting any proceeding instituted under those sections." [1987 c 45 § 32.]

Severability—1987 c 45: "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." [1987 c 45 § 33.]

Effective date—1967 ex.s. c 22: See RCW 15.54.930.

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

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

15.54.275 Commercial fertilizer distribution license. (1) No person may distribute a commercial fertilizer in this state, except packaged fertilizers, until a license to distribute has been obtained by that person. An annual license is required for each out-of-state or in-state location that distributes nonpackaged commercial fertilizer in Washington state. An application for each location shall be filed on forms provided by the master license system and shall be accompanied by an annual fee of twenty-five dollars per location. The license shall expire on the master license expiration date.

(2) An application for license shall include the following:

(a) The name and address of licensee.

(b) Any other information required by the department by rule.

(3) The name and address shown on the license shall be shown on all labels, pertinent invoices, and storage facilities for fertilizer distributed by the licensee in this state.

(4) If an application for license renewal provided for in this section is not filed prior to [the] master license expiration date, a delinquency fee of twenty-five dollars shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license shall be issued. The assessment of this delinquency fee shall not prevent the department from taking any other action as provided for in this chapter. The penalty shall not apply if the applicant furnishes an affidavit that he or she has not distributed this commercial fertilizer subsequent to the expiration of his or her prior license. [1993 c 183 § 2.]

15.54.276 through 15.54.320 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

15.54.325 Packaged fertilizer registration—Required for distribution. (1) No person may distribute in this state a packaged fertilizer until it is registered with the department by the distributor whose name appears on the label. An application for each packaged fertilizer product shall be made on a form furnished by the department and shall be accompanied by an initial fee of twenty-five dollars for the first product and ten dollars for each additional product. Labels for each product shall accompany the application. All companies planning to mix packaged customer-formula fertilizers shall include the statement "customer-formula grade mixes" under the column headed "product name" on the product registration application form. All customer-formula fertilizers sold under one brand name shall be considered one product. Upon the approval of an application by the department, a copy of the registration shall be furnished to the applicant. All registrations expire on June 30th of each year except that for the period beginning January 1, 1994, the registration shall expire on June 30, 1995.

(2) An application for registration shall include the following:

(a) The product name;

(b) The brand and grade;

(c) The guaranteed analysis;

(d) Name and address of the registrant;

(e) Labels for each product being registered;

(f) Any other information required by the department by rule.

(3) If an application for renewal of the product registration provided for in this section is not filed prior to July 1st of any one year, a penalty of ten dollars per product shall be assessed and added to the original fee and shall be paid by the applicant before the renewal registration shall be issued. The assessment of this late collection fee shall not prevent the department from taking any other action as provided for in this chapter. The penalty shall not apply if the applicant furnishes an affidavit that he or she has not distributed this commercial fertilizer subsequent to the expiration of his or her prior registration. [1993 c 183 § 3.]

15.54.330 Packaged fertilizer registration—Application review—Labels and guarantees. (1) The department shall examine the packaged fertilizer product registration application form and labels for conformance with the requirements of this chapter. If the application and appropriate labels are in proper form and contain the required information, the particular packaged fertilizer products shall be registered by the department and a certificate of registration shall be issued to the applicant.

(2) In reviewing the packaged fertilizer product registration application, the department may consider experimental data, manufacturers' evaluations, data from agricultural experiment stations, product review evaluations, or other authoritative sources to substantiate labeling claims. The data shall be from statistically designed and analyzed trials representative of the soil, crops, and climatic conditions found in the northwestern area of the United States.

(3) In determining whether approval of a labeling statement or guarantee of an ingredient is appropriate, the department may require the submission of a written statement describing the methodology of laboratory analysis utilized, the source of the ingredient material, and any reference material relied upon to support the label statement or guarantee of ingredient. [1993 c 183 § 4; 1967 ex.s. c 22 § 21.]

15.54.340 Labeling requirements. (1) Any packaged fertilizer distributed in this state in containers shall have placed on or affixed to the package a label setting forth in clearly legible and conspicuous form the following information:

(a) The net weight;

(b) The product name, brand, and grade. The grade is not required if no primary nutrients are claimed;

(c) The guaranteed analysis;

(d) The name and address of the registrant or licensee. The name and address of the manufacturer, if different from the registrant or licensee, may also be stated; and

(e) Other information as required by the department by rule.

(2) If a commercial fertilizer is distributed in bulk, a written or printed statement of the information required by subsection (1) above shall accompany delivery and be supplied to the purchaser at the time of delivery.

(3) Each delivery of a customer-formula fertilizer shall be subject to containing those ingredients specified by the purchaser, which ingredients shall be shown on the statement or invoice with the amount contained therein, and a record of all invoices of customer-formula grade mixes shall be kept by the registrant or licensee for a period of twelve months and shall be available to the department upon request: PROVIDED, That each such delivery shall be accompanied by either a statement, invoice, a delivery slip, or a label if bagged, containing the following information: The net weight; the brand; the guaranteed analysis which may be stated to the nearest tenth of a percent or to the next lower whole number; the name and address of the registrant or licensee, or manufacturer, or both; and the name and address of the purchaser. [1993 c 183 § 5; 1987 c 45 § 12; 1967 ex.s. c 22 § 22.]

Construction—Severability—1987 c 45: See notes following RCW 15.54.270.

15.54.350 Inspection fees. (1) There shall be paid to the department for all commercial fertilizers distributed in this state to nonregistrants or nonlicensees an inspection fee of fifteen cents per ton of lime and thirty cents per ton of all other commercial fertilizer distributed during the year beginning July 1st and ending June 30th.

(2) Distribution of commercial fertilizers for shipment to points outside this state may be excluded.

(3) When more than one distributor is involved in the distribution of a commercial fertilizer, the last registrant or licensee who distributes to a nonregistrant or nonlicensee is responsible for paying the inspection fee, unless the payment of fees has been made by a prior distributor of the fertilizer. [1993 c 183 § 6; 1987 c 45 § 13; 1981 c 297 § 18; 1975 1st ex.s. c 257 § 9; 1967 ex.s. c 22 § 23.]

Construction—Severability—1987 c 45: See notes following RCW 15.54.270.

Severability—1981 c 297: See note following RCW 15.36.110.

Construction—Effective date—1975 1st ex.s. c 257: See RCW 15.53.9053 and note.

15.54.362 Reports—Inspection fees—Confidentiality, exception. (1) Every registrant or licensee who distributes commercial fertilizer in this state shall file a semiannual report on forms provided by the department setting forth the number of net tons of each commercial fertilizer so distributed in this state. The reports will cover the following periods: January 1 through June 30 and July 1 through December 31 of each year. Upon permission of the department, an annual statement under oath may be filed for the annual reporting period of July 1 through June 30 of any year by any person distributing within the state less than one hundred tons for each six-month period during any calendar year, and upon filing such statement, such person shall pay the inspection fee required under RCW 15.54.350. The department may accept sales records or other records accurately reflecting the tonnage sold and verifying such reports.

(2) Each person responsible for the payment of inspection fees for commercial fertilizer distributed in this state shall include the inspection fees with the report on the same dates and for the same reporting periods mentioned in subsection (1) of this section. If in one year a registrant or licensee distributes less than eighty-three tons of commercial fertilizer or less than one hundred sixty-seven tons of commercial lime or equivalent combination of the two, the registrant or licensee shall pay the minimum inspection fee. The minimum inspection fee shall be twenty-five dollars per year.

(3) The department may, upon request, require registrants or licensees to furnish information setting forth the net tons of commercial fertilizer distributed to each location in this state.

(4) Semiannual or annual reports filed after the close of the corresponding reporting period shall pay a late filing fee of twenty-five dollars. Inspection fees which are due and have not been remitted to the department by the due date shall have a late-collection fee of ten percent, but not less than twenty-five dollars, added to the amount due when payment is finally made. The assessment of this late collection fee shall not prevent the department from taking any other action as provided for in this chapter.

(5) It shall be a misdemeanor for any person to divulge any information provided under this section that would reveal the business operation of the person making the report. However, nothing contained in this subsection may be construed to prevent or make unlawful the use of information concerning the business operations of a person in any action, suit, or proceeding instituted under the authority of this chapter, including any civil action for the collection of unpaid inspection fees, which action is hereby authorized and which shall be as an action at law in the name of the director of the department. [1993 c 183 § 7; 1987 c 45 § 14.]

Construction—Severability—1987 c 45: See notes following RCW 15.54.270.

15.54.370 Official samples—Inspection, analysis, testing—Right of entry. (1) It shall be the duty of the department to inspect, sample, make analysis of, and test commercial fertilizers distributed within this state at such time and place and to such an extent as it may deem necessary to determine whether such fertilizers are in compliance with the provisions of this chapter. The department is authorized to stop any commercial vehicle transporting fertilizers on the public highways and direct it to the nearest scales approved by the department to check weights of fertilizers being delivered. The department is also authorized, upon presentation of proper identification, to enter any distributor's premises, including any vehicle of transport, at all reasonable times in order to have access to commercial fertilizers and to records relating to their distribution.

(2) The methods of sampling and analysis shall be those adopted by the department from officially recognized sources.

(3) The department, in determining for administrative purposes whether a fertilizer is deficient in any component or total nutrients, shall be guided solely by the official sample as defined in RCW 15.54.270 and obtained and analyzed as provided for in this section.

(4) When the inspection and analysis of an official sample has been made, the results of analysis shall be forwarded by the department to the registrant or licensee and to the purchaser, if known. Upon request and within thirty days, the department shall furnish to the registrant or licensee a portion of the sample concerned.

(5) Analysis of an official sample by the department shall be accepted as prima facie evidence by any court of competent jurisdiction. [1993 c 183 § 8; 1987 c 45 § 16; 1967 ex.s. c 22 § 25.]

Construction—Severability—1987 c 45: See notes following RCW 15.54.270.

15.54.380 Penalties for deficiencies upon analysis of commercial fertilizers—Appeal—Disposition of penalties. (1) If the analysis shall show that any commercial fertilizer falls short of the guaranteed analysis in any one plant nutrient or in total nutrients, penalty shall be assessed in favor of the department in accordance with the following provisions:

(a) A penalty of three times the commercial value of the deficiency, if such deficiency in any one plant nutrient is more than two percent under guarantee on any one commercial fertilizer in which that plant nutrient is guaranteed up to and including ten percent; a penalty of three times the commercial value of the deficiency, if such deficiency in any one plant nutrient is more than three percent under guarantee on any one commercial fertilizer in which that plant nutrient is guaranteed from ten and one-tenth percent to twenty percent; a penalty of three times the commercial value of the deficiency, if such deficiency in any one plant nutrient is more than four percent under guarantee on any one commercial fertilizer in which that plant nutrient is guaranteed twenty and one-tenth percent and above.

(b) A penalty of three times the commercial value of the total nutrient deficiency shall be assessed when such deficiency is more than two percent under the calculated total nutrient guarantee.

(c) When a commercial fertilizer is subject to penalty under both (a) and (b) above, only the larger penalty shall be assessed.

(2) All penalties assessed under this section on any one commercial fertilizer, represented by the sample analyzed, shall be paid to the department within three months after the date of notice from the department to the registrant or licensee. The department shall deposit the amount of the penalty into the fertilizer, agricultural mineral and lime account.

(3) Nothing contained in this section shall prevent any person from appealing to a court of competent jurisdiction for a judgment as to the justification of such penalties imposed under subsections (1) and (2) above.

(4) The civil penalties payable in subsections (1) and (2) above shall in no manner be construed as limiting the consumer's right to bring a civil action in damage against the registrant or licensee paying said civil penalties. [1993 c 183 § 9; 1987 c 45 § 17; 1967 ex.s. c 22 § 26.]

Construction—Severability—1987 c 45: See notes following RCW 15.54.270.

15.54.414 Adulteration. No person may distribute an adulterated commercial fertilizer. A commercial fertilizer is adulterated:

(1) If it contains any deleterious or harmful ingredient in sufficient amount to render it injurious to beneficial plant life when applied in accordance with directions for use on the label, or if adequate warning statements or directions for use which may be necessary to protect plant life are not shown upon the label;

(2) If its composition falls below or differs from that which it is purported to possess by its labeling; or

(3) If it contains unwanted viable seed. [1993 c 183 § 10; 1987 c 45 § 21.]

Construction—Severability—1987 c 45: See notes following RCW 15.54.270.

15.54.420 Unlawful acts. It shall be unlawful for any person to:

(1) Distribute an adulterated or misbranded commercial fertilizer;

(2) Fail, refuse, or neglect to place upon or attach to each package of distributed commercial fertilizer a label containing all of the information required by this chapter;

(3) Fail, refuse, or neglect to deliver to a purchaser of bulk commercial fertilizer a statement containing the information required by this chapter;

(4) Distribute a packaged fertilizer product which has not been registered with the department;

(5) Distribute bulk fertilizer without holding a license to do so;

(6) Distribute unregistered packaged fertilizer. It is the responsibility of the person who manufactures or subsequently packages that fertilizer to register it prior to distribution in this state;

(7) Refuse or neglect to keep and maintain records, or to make reports when and as required; or

(8) Make false or fraudulent records, invoices, or reports. [1993 c 183 § 11; 1987 c 45 § 22; 1967 ex.s. c 22 § 30.]

Construction—Severability—1987 c 45: See notes following RCW 15.54.270.

15.54.436 Cancellation of license to distribute or of registration—Refusal to register if fraudulent or deceptive practices used—Opportunity for hearing. The department may cancel the license to distribute commercial fertilizer or registration of any packaged fertilizer product or refuse to license a distributor or register any packaged fertilizer product as provided in this chapter due to:

(1) An incomplete or insufficient license or registration application;

(2) The misbranding or adulteration of a commercial fertilizer; or

(3) A violation of this chapter or rules adopted under this chapter.

If the department cancels or refuses to renew an existing license or registration due to the misbranding or adulteration of a commercial fertilizer or due to a violation of this chapter or a rule adopted hereunder, the licensee/registrant or applicant may request a hearing as provided for in chapter 34.05 RCW. [1993 c 183 § 12; 1987 c 45 § 24.]

Construction—Severability—1987 c 45: See notes following RCW 15.54.270.

15.54.470 Violations—Department discretion—Duty of prosecuting attorney—Injunctions. (1) Any person who violates any provision of this chapter shall be guilty of a misdemeanor, and the fines collected shall be disposed of as provided under RCW 15.54.480.

(2) Nothing in this chapter shall be considered as requiring the department to report for prosecution or to cancel the registration of a packaged fertilizer product or to stop the sale of fertilizers for violations of this chapter, when violations are of a minor character, and/or when the department believes that the public interest will be served and protected by a suitable notice of the violation in writing.

(3) It shall be the duty of each prosecuting attorney to whom any violation of this chapter is reported, to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the department reports a violation of this chapter for such prosecution, an opportunity shall be given the distributor to present his or her view in writing or orally to the department.

(4) The department is hereby authorized to apply for, and the court authorized to grant, a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rule adopted under this chapter, notwithstanding the existence of any other remedy at law. Any such injunction shall be issued without bond. [1993 c 183 § 13; 1967 ex.s. c 22 § 35.]

15.54.800 Enforcement of chapter—Adoption of rules. (1) The director shall administer and enforce the provisions of this chapter and any rules adopted under this chapter. All authority and requirements provided for in chapter 34.05 RCW apply to this chapter in the adoption of rules.

(2) The director may adopt appropriate rules for carrying out the purpose and provisions of this chapter, including but not limited to rules providing for:

(a) Definitions of terms;

(b) Determining standards for labeling and registration of fertilizers and agricultural minerals and limes;

(c) The collection and examination of fertilizers and agricultural mineral and limes;

(d) Recordkeeping by registrants and licensees;

(e) Regulation of the use and disposal of fertilizers for the protection of ground water and surface water; and

(f) The safe handling, transportation, storage, display, and distribution of fertilizers. [1993 c 183 § 14; 1987 c 45 § 9.]

Construction—Severability—1987 c 45: See notes following RCW 15.54.270.

Chapter 15.58
WASHINGTON PESTICIDE CONTROL ACT

Sections

15.58.415 Registration and license fee surcharge—Agricultural local fund—Incidents and investigations. Each registration and licensing fee under this chapter is increased by a surcharge of six dollars to be deposited in the agricultural local fund, provided that an additional one-time surcharge of five dollars shall be collected on January 1, 1990. The revenue raised by the imposition of this surcharge shall be used to assist in funding the pesticide incident reporting and tracking review panel, department of social and health services' pesticide investigations, and the department of agriculture's pesticide investigations. [1993 1st sp.s. c 19 § 3; 1989 c 380 § 32.]

Pesticide incident reporting and tracking review panel: RCW 70.104.080.

Chapter 15.60
APIARIES

Sections

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

(1) "Department" means the department of agriculture of the state of Washington.

(2) "Director" means the director of the state department of agriculture or the director's authorized representative.

(3) "Apiary" means a site where hives of bees or hives are kept or found.

(4) "Abandoned hive" means any hive, with or without bees, that evidences a lack of being properly managed in that it has not been supered in the spring, except nucs, or unsupered in the fall, or is otherwise unmanaged and left without authorization and unattended on the property of another person or on public land.

(5) "Apiarist" means any person who owns bees or is a keeper of bees.

(6) "Beekeeping equipment" means any implements or devices used in the manipulation of bees, their brood, or hives in an apiary.

(7) "Bees" means adult insects, eggs, larvae, pupae, or other immature stages of the species Apis mellifera.

(8) "Certificate" or "certificate of inspection" means an official document certifying compliance with the requirements of this chapter and accompanying the movement of inspected bees, bee hives, or beekeeping equipment.

(9) "Colony" refers to a natural group of bees having a queen or queens.

(10) "Compliance agreement" means a written agreement between the department and a person engaged in apiculture, or handling, selling, or moving of hives or beekeeping equipment in which the person agrees to comply with stipulated requirements.

(11) "Feral colony" means a colony of bees in a natural cavity or a manufactured structure not intended for the keeping of bees on movable frames and comb.

(12) "Swarm" means a natural group of bees having a queen or queens, which is the progeny of a parent colony, without a hive, and not a feral colony.

(13) "Disease" means American foulbrood, European foulbrood, chalkbrood, nosema, sacbrood, or any other viral, fungal, bacterial or insect-related disease affecting bees or their brood.

(14) "Regulated bee pests" means a disease of bees for which maximum allowable limits of infection, or mites, or other parasites are set in rule.

(15) "Hive" means a manufactured receptacle or container prepared for the use of bees, that includes movable frames, combs, and substances deposited into the hive by bees.

(16) "Person" means a natural person, individual, firm, partnership, company, society, association, corporation or every officer, agent, or employee of one of these entities.

(17) "Bee pests" means a disease, mite, or other parasite that causes injury to bees.

(18) "Nets" means a device that is made of fabricated material and that is designed and utilized to prevent the escape of bees from bee hives during transit.

(19) "Apparently free" means no specified bee pest was found during inspection of survey activities.

(20) "Substantially free" means levels of specified bee pests found during inspection or survey activities were within established tolerances.

(21) "Africanized honey bee" means any bee of the subspecies Apis mellifera scutellata.

(22) "Super" means the portion of a hive in which honey is stored by bees. [1993 c 89 § 1; 1988 c 4 § 1; 1977 ex.s. c 362 § 1; 1961 c 11 § 15.60.005. Prior: 1955 c 271 § 1.]

15.60.007 Apiary inspection program. There is created within the department of agriculture an apiary inspection program. The director shall: Provide regulation and inspection services, assure availability of bee colonies for pollination, facilitate the interstate movement of honey bees, promote improved apicultural practices, combat bee pests that pose an economic threat to the industry, and, in cooperation with the cooperative extension program of Washington State University, provide education to promote the vitality of the apiary industry. [1993 c 89 § 2; 1988 c 4 § 14.]

15.60.010 Apiary advisory committee. An apiary advisory committee is established to advise the director on

the administration of this chapter. The apiary advisory committee may consist of up to eleven members.

(1) The committee shall include six apiarists, appointed by the director, and representing the major geographical divisions of the beekeeping industry in the state as established in rule. In making an appointment, the director shall seek nominations from the beekeepers' organizations within the geographic area and from nonaffiliated apiarists. Apiarists may nominate themselves.

(2) The committee shall include the director and a representative from the Washington State University apiary program or cooperative extension.

(3) The committee may include up to three representatives of receivers of pollination services.

(4) The terms of the apiarist members of the committee shall be staggered and the members shall serve a term of three years and until their successors have been appointed and qualified.

In the event a committee member resigns, is disqualified, or vacates a position on the committee for any reason, the vacancy shall be filled by the director under the provisions of this section.

(5) The committee shall meet at least once yearly. It may also meet at the call of the director or the request of any three members of the committee. Members of the committee shall serve without compensation but shall be reimbursed for travel expenses incurred in attending meetings of the board and any other official duty authorized by the board and approved by the director, pursuant to RCW 43.03.050 and 43.03.060, if apiarists are charged a registration fee, under RCW 15.60.050, to cover the expenses of the committee. [1993 c 89 § 3; 1975-'76 2nd ex.s. c 34 § 16; 1961 c 11 § 15.60.010. Prior: 1933 ex.s. c 59 § 1; RRS § 3170-1; prior: 1919 c 116 § 1.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

15.60.015 Bee pests—Control—Quarantine. (1) The director shall determine, with the advice of the apiary advisory committee, if a bee pest represents a significant threat to the apiary industry in the state and may by rule establish maximum allowable levels for these bee pests, for movement of colonies into or within Washington and prescribe procedures for inspection, treatment, or other mitigation measures if such tolerances are exceeded.

(2) The director may inspect apiaries for the presence of bee pests. To support the general health of the apiary industry, the director may investigate outbreaks of any bee disease or infestations of other pests, or bee losses suspected of being caused by pesticides and other chemicals; and conduct surveys for the presence of or levels of a bee pest.

(3) It is the responsibility of every apiarist to perform or cause to be performed any acts necessary to control regulated bee pests in the apiarist's bees or bee equipment where levels exceed maximum allowable limits set in rule. If the director finds a hive in an apiary to be infected or infested beyond maximum allowable limits by bee pests, the director may cause the apiary to be quarantined.

(a) The director shall plainly mark the hives containing regulated bee pests and shall, in writing, notify the apiarist stating the disease or pest found in each hive, identifying the hive by reference to the mark placed upon it, and ordering eradication of such disease or pest as prescribed by the director within a specified time. When the apiarist cannot be contacted immediately, the notice shall be served by placing it conspicuously in the apiary, or by mailing a copy to the apiarist's registered address. If the apiarist fails to take action to control the bee pest in accordance with the notice, the director may control the bee pest or cause the bee pest to be controlled.

(b) When the apiarist cannot be determined, the notice shall be served by posting the notice conspicuously in the apiary. Any apiary presenting an immediate threat of infestation or infection to other apiaries may be impounded by the director and moved to a location where it no longer poses an immediate threat of infestation or infection to other apiaries.

(c) The quarantine shall not be lifted until such time as the director determines that the regulated bee pest has been controlled. During the time the apiary is quarantined, no bees, honey, hives, beekeeping equipment, or other material may be removed from the apiary without written authorization from the director.

(4) A person who inspects an infected or infested hive or knowingly comes in contact with a bee pest, shall, before proceeding to another apiary, disinfect their person, clothing, gloves, tools, and beekeeping equipment that have come in contact with infected or infested bees or material.

(5) An apiarist whose apiary has been found to be infected or infested by a regulated bee pest shall be entitled, upon written request, to a scientific analysis of the infected or infested hive before any action to control the bee pest is taken. The results of the analysis shall be conclusive as to whether the apiary is infested or infected with a regulated bee pest. The costs of scientific analysis shall be paid by the apiarist if the apiary is found to be infested or infected. If the apiary is found not to be infested or infected, the department shall pay the cost of the scientific analysis. The laboratory performing the scientific analysis shall be approved by the director.

(6) Except as provided in subsection (5) of this section, the apiarist shall be responsible for all costs of the department resulting from the quarantine or impoundment of an apiary or the control of a bee pest.

(7) A person aggrieved by an order issued or act taken by the director pursuant to this section is, upon application, entitled to a review of that order or act pursuant to RCW 34.05.479. The application shall serve to stay any order or action, other than a quarantine order, pending the adjudicative proceeding. [1993 c 89 § 4; 1988 c 4 § 2; 1977 ex.s. c 362 § 2; 1961 c 11 § 15.60.015. Prior: 1955 c 271 § 2.]

15.60.020 Abandoned hives—Impoundment. (1) Whenever the director finds an abandoned hive, or a hive wherein the combs or frames are immovable or that are so constructed as to impede or hinder inspection, and if the hive constitutes a threat of infestation or infection by a bee pest to bees, the director may impound the hive and remove it to a place of safety.

(2) The director shall make a reasonable effort to identify the owner of the hive. If the owner of the hive can be determined, the director shall notify the owner that a violation of this chapter exists. The notice shall be in the

same manner as that provided for bee pests and shall specify the actions that the owner must take to eliminate the threat of infestation or infection by bee pests to bees before the owner can take possession of the hive. Failure of the owner to take the necessary action within the time specified in the notice shall constitute abandonment, and the director may take any action necessary to eliminate the threat of infestation or infection to bees.

(3) If the owner of the hive cannot be reasonably ascertained then the director shall provide for notice by publication in a paper of general circulation at least once each week for two consecutive weeks. Notice by publication need not be provided where the cost of publication exceeds the value of the hive.

(4) Whenever the owner of the hive cannot be determined, or can be determined but fails to take possession of the hive, the director may sell or otherwise dispose of the hive.

(5) The owner of an abandoned hive is liable for all costs of the department resulting from the impounding or sale of a hive and any action taken to eliminate the threat of infestation or infection by a bee pest to bees.

(6) A person aggrieved by an order issued or act taken by the director pursuant to this section is, upon application, entitled to a review of that order or act pursuant to RCW 34.05.479. The application shall serve to stay any order or action pending the adjudicative proceeding. [1993 c 89 § 5; 1988 c 4 § 3; 1975-'76 2nd ex.s. c 34 § 17; 1961 c 11 § 15.60.020. Prior: 1955 c 271 § 4; prior: 1949 c 105 § 1, part; 1945 c 113 § 1, part; 1933 ex.s. c 59 § 2, part; 1919 c 116 § 3, part; Rem. Supp. 1949 § 3170-2, part.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

15.60.025 Specific rule-making authority. In addition to the powers conferred on the director under other provisions of this chapter, the director shall have the power to adopt rules with the advice of the apiary advisory committee and pursuant to the administrative procedure act, chapter 34.05 RCW:

(1) Specifying marking and identification requirements for all hives of bees in the state of Washington including resident colonies, migratory colonies registered in Washington, and colonies brought into the state for pollination services;

(2) Establishing requirements for netting and other handling of bees in transit;

(3) Prescribing bee breeding procedures and standards to prevent Africanization and permitting importation pursuant to the conditions set forth in RCW 15.60.140;

(4) Establishing standards for certification of bees, bee hives, and beekeeping equipment including but not limited to:

(a) Standards of colony strength for hives of bees for pollination services;

(b) Standards for queen bee production and marketing;

(5) A beekeeper certification program that may provide for decreased levels of inspection for those beekeepers whose apiaries consistently have levels of disease within established tolerances;

(6) Establishing fees for inspection or certification services;

(7) Conducting such activities as may be otherwise necessary for carrying out the purposes of this chapter. [1993 c 89 § 6; 1988 c 4 § 4; 1977 ex.s. c 362 § 8.]

15.60.030 Bringing bees or equipment into state—Requirements. (1) It shall be unlawful for a person to bring any packaged bees, queens, hives with or without bees, or other used beekeeping equipment into this state for any purpose without first having secured a certificate of inspection from the state of origin department of agriculture, which shall be based on an official inspection, certifying compliance with the requirements of this chapter and rules adopted under this chapter. New equipment without bees shall not be regulated.

(2) A copy of the certificate shall be sent to the department by mail or telefax prior to shipment of hives with or without bees, or equipment into the state and a copy shall accompany the shipment. Queens and packaged bees are exempt from this subsection. The certificate shall verify that the hives in a shipment are in compliance with the limits established in rule for regulated bee pests, the state of origin, the number of hives or description of other regulated items in the shipment, and the destination of the shipment, including the name and complete address and phone number of the person in charge of the apiary location at destination.

(3) Queen and package bee producers shall provide the department a list of Washington destination shipments with names and addresses of receivers by August 1st of each calendar year.

(4) Packaged bees, queens, hives with or without bees, and beekeeping equipment found by the director to have been imported in violation of this section may be held for inspection by the department. Inspection costs shall be charged to the apiarist in charge of the bees, hives, or equipment. Fees collected shall be placed in the apiary inspection account established in RCW 15.60.040.

(5) A Washington registered apiarist who obtains a valid inspection certificate and moves bees out of state for wintering shall be allowed to return the bees to the state without an additional inspection certificate provided that the bees are returned to the state prior to May 15th each year. [1993 c 89 § 7; 1988 c 4 § 5; 1981 c 296 § 7; 1977 ex.s. c 362 § 3; 1965 c 44 § 1; 1961 c 11 § 15.60.030. Prior: 1955 c 271 § 5; prior: 1949 c 105 § 1, part; 1945 c 113 § 1, part; 1933 ex.s. c 59 § 2, part; 1919 c 116 § 3, part; Rem. Supp. 1949 § 3170-2, part.]

Severability—1981 c 296: See note following RCW 15.04.020.

15.60.040 Apiary inspection account. There is established an apiary inspection account within the agricultural local fund. All money collected under this chapter including fees for requested services, required inspections, or treatments, and registration fees shall be placed in the apiary inspection account. No appropriation is required for disbursement from the apiary inspection account. [1993 c 89 § 8; 1988 c 4 § 6; 1981 c 296 § 8; 1977 ex.s. c 362 § 4; 1961 c 11 § 15.60.040. Prior: 1959 c 174 § 1; 1955 c 271 § 6; prior: (i) 1949 c 105 § 2; 1933 ex.s. c 59 § 3; Rem.

Supp. 1949 § 3170-3. (ii) 1933 ex.s. c 59 § 4; RRS § 3170-4.]

Severability—1981 c 296: See note following RCW 15.04.020.

15.60.042 Request of department services. A registered apiarist or other interested party may request the services of an apiary inspector to provide inspection and certification services to facilitate the movement of honey bees, bee hives, or beekeeping equipment or to provide other requested services. The director shall prescribe a fee for those services that shall, as closely as practical, cover the full cost of the services rendered, including the salaries and expenses of the personnel involved. [1993 c 89 § 9; 1988 c 4 § 7.]

15.60.043 Fees, charges, and penalties. The inspection fees and other charges provided in this chapter shall become due and payable upon billing by the department. A late charge of one and one-half percent per month shall be assessed on the unpaid balance against persons more than thirty days in arrears. In addition to any other penalties, the director may refuse to perform an inspection or certification service for a person in arrears unless the person makes payment in full prior to such inspection or certification service. [1993 c 89 § 10; 1988 c 4 § 8; 1981 c 296 § 9; 1977 ex.s. c 362 § 9.]

Severability—1981 c 296: See note following RCW 15.04.020.

15.60.050 Registration of hives. Each person owning one or more hives with bees shall register that ownership with the director on or before April 1st each year.

(1) Registration application shall include the name, address, and phone number of the owner, the number of colonies of bees owned, and such registration fee as may be prescribed in rule under subsection (2) of this section. The director shall issue to each apiarist registered with the department an apiarist identification number. The apiarist identification number shall be displayed on hives of an apiary in a manner prescribed by the director in rule.

(2) A registration fee may be set in rule by the director, with the advice of the apiary advisory committee. The fee shall be used for covering the expenses of the apiary advisory committee and may be used for supporting the apiary program of the department or funding research projects of benefit to the apiary industry that the director may select upon the advice of the apiary advisory committee. [1993 c 89 § 11; 1988 c 4 § 9; 1977 ex.s. c 362 § 5; 1961 c 11 § 15.60.050. Prior: 1933 ex.s. c 59 § 6; RRS § 3170-6.]

15.60.100 Director's powers. In addition to the powers conferred on the director under other provisions of this chapter, the director shall have the power to:

(1) Cooperate with and enter into agreements with governmental agencies of this state, other states, and agencies of the federal government in order to carry out the purposes and provisions of this chapter.

(2) Conduct educational or other programs in cooperation with Washington State University cooperative extension to enhance the welfare of Washington apiculture.

(3) Enter into compliance and other agreements with persons engaged in apiculture, or handling, selling, or moving of hives or beekeeping equipment.

(4) Do such things as may be necessary and incidental to his or her functions pursuant to this chapter. [1993 c 89 § 12; 1988 c 4 § 10; 1981 c 296 § 10; 1977 ex.s. c 362 § 7; 1961 c 11 § 15.60.100. Prior: 1955 c 271 § 9; prior: (i) 1941 c 130 § 2; Rem. Supp. 1941 § 3183-2. (ii) 1941 c 130 § 3, part; Rem. Supp. 1941 § 3183-3, part. (iii) 1949 c 105 § 5; 1941 c 130 § 5; 1933 ex.s. c 59 § 7; 1919 c 116 § 11; Rem. Supp. 1949 § 3183-5. (iv) 1949 c 105 § 3; Rem. Supp. 1949 § 3170-10.]

Severability—1981 c 296: See note following RCW 15.04.020.

15.60.110 Access and entry by director. The director shall have access at reasonable times to all apiaries and places where beekeeping equipment is kept to conduct inspections for the presence of bee pests and to otherwise carry out the purposes of this chapter. If the director is denied access, the director may apply to any court of competent jurisdiction for a search warrant authorizing access to the premises. The court may upon the showing of good cause issue the search warrant for the purposes requested. [1993 c 89 § 13; 1988 c 4 § 11; 1977 ex.s. c 362 § 6; 1961 c 11 § 15.60.110. Prior: 1955 c 271 § 10; prior: 1941 c 130 § 3, part; Rem. Supp. 1941 § 3183-3, part.]

15.60.120 Queen bee rearing apiaries. (1) Every person rearing queen bees for sale or use by another apiarist shall request each queen rearing apiary be inspected for the presence of disease during active brood rearing. No person may ship queen bees from a queen rearing apiary without a certificate of inspection certifying that such apiary is apparently free from disease.

(2) The apiarist rearing queen bees may be required to do so under procedures and standards as may be established in rule for assuring freedom from bee pests and Africanized honey bees. [1993 c 89 § 14; 1988 c 4 § 12; 1981 c 296 § 11; 1961 c 11 § 15.60.120. Prior: 1933 ex.s. c 59 § 8, part; RRS § 3170-8, part.]

Severability—1981 c 296: See note following RCW 15.04.020.

15.60.140 Africanized honey bees. (1) Africanized honey bees may be imported into the state under the following conditions:

(a) Hybrids of Apis mellifera scutellata may be permitted into Washington if they have been bred or certified for acceptable behavior and approved by the director.

(b) Africanized honey bees or their hybrids may be imported under terms and conditions established in permit for research purposes.

(c) If the director, with concurrence from the apiary advisory committee and after opportunity for one or more public hearings, pursuant to adoption of rules:

(i) Finds that Africanized honey bees have become widely established and that exclusion is no longer technically feasible; and

(ii) Determines that deregulation is in the best interest of Washington agriculture; and

(iii) Has approved a plan to mitigate the impact of Africanized honey bees.

(2) If the director finds Africanized honey bees or hybrids of Africanized honey bees that have been imported into the state under circumstances other than those provided in subsection (1) of this section, the director may impound and destroy or cause to be destroyed such bees. The apiarist shall be entitled upon written request to a scientific analysis under the terms provided in RCW 15.60.015. A person aggrieved by an order issued or act taken by the director pursuant to this subsection is, upon application, entitled to a review of that order or act pursuant to RCW 34.05.479. The application shall serve to stay an order or action pending the adjudicative proceeding unless the director determines that the bees cannot be impounded without presenting an imminent threat of Africanization to other bees within the state. [1993 c 89 § 15; 1988 c 4 § 13; 1981 c 296 § 12; 1961 c 11 § 15.60.140. Prior: (i) 1949 c 105 § 4; 1933 ex.s. c 59 § 12; Rem. Supp. 1949 § 3170-12. (ii) 1941 c 130 § 6; Rem. Supp. 1941 § 3183-6.]

Severability—1981 c 296: See note following RCW 15.04.020.

15.60.150 Unlawful acts enumerated. It shall be unlawful for a person to:

(1) Willfully or maliciously kill honey bees in an apiary, or, for the purpose of injuring honey bees place any poisonous or sweetened substance in a place where it is accessible to them within this state except that bees in swarms or feral colonies may be depopulated;

(2) Alter an official certificate or other official inspection document for bees, hives, or beekeeping equipment covered by this chapter or to represent a document as an official certificate where such is not the case;

(3) Knowingly import into the state bees of the subspecies Apis mellifera scutellata (Africanized honey bees) except as provided in RCW 15.60.120;

(4) Resist, impede, or hinder the director in the discharge of the director's duties and responsibilities under this chapter;

(5) Fail to take prompt and sufficient action to control regulated bee pests in excess of limits set in rule;

(6) Abandon a hive;

(7) Maintain a hive, except for educational purposes, wherein the combs or frames are immovable or that is so constructed as to impede or hinder inspection. [1993 c 89 § 16; 1981 c 296 § 13; 1961 c 11 § 15.60.150. Prior: 1897 c 12 §§ 1, 2; no RRS.]

Severability—1981 c 296: See note following RCW 15.04.020.

15.60.170 Violations—Penalty. (1) A person who violates or fails to comply with any of the provisions of this chapter or any rule adopted under this chapter shall be guilty of a misdemeanor, and for a second and each subsequent violation a gross misdemeanor.

(2) Whenever the director finds that a person has committed a violation of any of the provisions of this chapter or any rule adopted under this chapter and that violation has not been punished as a misdemeanor or gross misdemeanor, the director may impose and collect a civil penalty not exceeding one thousand dollars for each violation. Each violation shall be a separate and distinct offense. A person who knowingly, through an act of omission or commission, procures or aids or abets in the violation shall be considered to have violated this section and may be subject to the civil penalty. [1993 c 89 § 17; 1991 c 363 § 15; 1989 c 354 § 64.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Severability—1989 c 354: See note following RCW 15.32.010.

15.60.180 Apiary coordinated areas—Hearing to establish. When the county legislative authority determines that it would be desirable to establish an apiary coordinated area or areas in their county, they shall make an order fixing a time and place when a hearing will be held, notice of which shall be published at least once each week for two successive weeks in a newspaper having general circulation within the county. It shall be the duty of the county legislative authority at the time fixed for such hearing, to hear all persons interested in the establishment of apiary coordinated areas as defined in RCW 15.60.180, 15.60.190, and 15.60.210. [1993 c 89 § 18; 1989 c 354 § 65.]

Severability—1989 c 354: See note following RCW 15.32.010.

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

15.60.220 Apiary coordinated areas within certain counties. The county legislative authority of any county with a population of from forty thousand to less than seventy thousand located east of the Cascade crest and bordering in the southern side of the Snake river shall have the power to designate by an order made and published, as provided in RCW 15.60.190, certain territories as apiary coordinated areas in which they may designate the number of colonies per apiary, the distance between apiaries, the minimum required setback distance from property lines, and the time of year the regulations shall be in effect. No territory so designated shall be less than two square miles in area. [1993 c 89 § 20.]

15.60.230 Injunction. The director may bring an action to enjoin the violation of any provision of this chapter or any rule adopted under this chapter in the superior court in the county in which such violation occurs notwithstanding the existence of other remedies at law. [1993 c 89 § 19.]

Chapter 15.65
WASHINGTON STATE AGRICULTURAL ENABLING ACT OF 1961—COMMODITY BOARDS

Sections

15.65.020 Definitions. The following terms are hereby defined:

(1) "Director" means the director of agriculture of the state of Washington or his duly appointed representative. The phrase "director or his designee" means the director unless, in the provisions of any marketing agreement or order, he has designated an administrator, board or other designee to act for him in the matter designated, in which

case "director or his designee" means for such order or agreement the administrator, board or other person(s) so designated and not the director.

(2) "Department" means the department of agriculture of the state of Washington.

(3) "Marketing order" means an order issued by the director pursuant to this chapter.

(4) "Marketing agreement" means an agreement entered into and issued by the director pursuant to this chapter.

(5) "Agricultural commodity" means llamas, alpacas, or any other animal or any distinctive type of agricultural, horticultural, viticultural, floricultural, vegetable, or animal product, including, but not limited to, products qualifying as organic food products under chapter 15.86 RCW and private sector cultured aquatic products as defined in RCW 15.85.020 and other fish and fish products, either in its natural or processed state, including bees and honey and Christmas trees but not including timber or timber products. The director is hereby authorized to determine (on the basis of common usage and practice) what kinds, types or subtypes should be classed together as an agricultural commodity for the purposes of this chapter.

(6) "Production area" and "marketing area" means any area defined as such in any marketing order or agreement in accordance with RCW 15.65.350. "Affected area" means the marketing or production area so defined in such order, agreement or proposal.

(7) "Unit" of an agricultural commodity means a unit of volume, weight, quantity, or other measure in which such commodity is commonly measured. The director shall designate in each marketing order and agreement the unit to be used therein.

(8) "Affected unit" means in the case of marketing agreements and orders drawn on the basis of a production area, any unit of the commodity specified in or covered by such agreement or order which is produced in such area and sold or marketed or delivered for sale or marketing; and "affected unit" means, in the case of marketing agreements and orders drawn on the basis of marketing area, any unit of the commodity specified in or covered by such agreement or order which is stored in frozen condition or sold or marketed or delivered for sale or marketing within such marketing area: PROVIDED, That in the case of marketing agreements "affected unit" shall include only those units which are produced by producers or handled by handlers who have assented to such agreement.

(9) "Affected commodity" means that part or portion of any agricultural commodity which is covered by or forms the subject matter of any marketing agreement or order or proposal, and includes all affected units thereof as herein defined and no others.

(10) "Producer" means any person engaged in the business of producing any agricultural commodity for market in commercial quantities. "Affected producer" means any producer of an affected commodity. "To produce" means to act as a producer. For the purposes of RCW 15.65.140 and 15.65.160 as now or hereafter amended "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the seed and its resulting agricultural product or the agricultural product delivered for further production or increase.

(11) "Handler" means any person who acts, either as principal, agent or otherwise, in processing, selling, marketing or distributing an agricultural commodity or storage of a frozen agricultural commodity which was not produced by him. "Handler" does not mean a common carrier used to transport an agricultural commodity. "Affected handler" means any handler of an affected commodity. "To handle" means to act as a handler.

(12) "Producer-handler" means any person who acts both as a producer and as a handler with respect to any agricultural commodity. A producer-handler shall be deemed to be a producer with respect to the agricultural commodities which he produces, and a handler with respect to the agricultural commodities which he handles, including those produced by himself.

(13) "Cooperative association" means any incorporated or unincorporated association of producers which conforms to the qualifications set out in the act of congress of the United States of February 18, 1922 as amended, known as the "Capper-Volstead Act" and which is engaged in making collective sales or in marketing any agricultural commodity or product thereof or in rendering service for or advancing the interests of the producers of such commodity on a nonprofit cooperative basis.

(14) "Member of a cooperative association" means any producer who markets his product through such cooperative association and who is a voting stockholder of or has a vote in the control of or is a party to a marketing agreement with such cooperative association with respect to such product.

(15) "Producer marketing" or "marketed by producers" means any or all operations performed by any producer or cooperative association of producers in preparing for market and marketing, and shall include: (a) selling any agricultural commodity produced by such producer(s) to any handler; (b) delivering any such commodity or otherwise disposing of it for commercial purposes to or through any handler.

(16) "Commercial quantities" as applied to producers and/or production means such quantities per year (or other period of time) of an agricultural commodity as the director finds are not less than the minimum which a prudent man engaged in agricultural production would produce for the purpose of making such quantity of such commodity a substantial contribution to the economic operation of the farm on which such commodity is produced. "Commercial quantities" as applied to handlers and/or handling means such quantities per year (or other period of time) of an agricultural commodity or product thereof as the director finds are not less than the minimum which a prudent man engaged in such handling would handle for the purpose of making such quantity a substantial contribution to the handling operation in which such commodity or product thereof is so handled. In either case the director may in his discretion: (a) determine that substantial quantity is any amount above zero; and (b) apply the quantity so determined on a uniform rule applicable alike to all persons which he finds to be similarly situated.

(17) "Commodity board" means any board established pursuant to RCW 15.65.220. "Board" means any such commodity board unless a different board is expressly specified.

(18) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.

(19) "Section" means a section of this chapter unless some other statute is specifically mentioned. The present includes the past and future tenses, and the past or future the present. The masculine gender includes the feminine and neuter. The singular number includes the plural and the plural includes the singular.

(20) "Represented in a referendum" means that a written document evidencing approval or assent or disapproval or dissent is duly and timely filed with or mailed to the director by or on behalf of an affected producer and/or a volume of production of an affected commodity in a form which the director finds meets the requirements of this chapter.

(21) "Person" as used in this chapter shall mean any person, firm, association or corporation. [1993 c 80 § 2; 1986 c 203 § 15. Prior: 1985 c 457 § 13; 1985 c 261 § 1; 1975 1st ex.s. c 7 § 2; 1961 c 256 § 2.]

Severability—1986 c 203: See note following RCW 15.04.100.

Chapter 15.66
WASHINGTON AGRICULTURAL ENABLING ACT OF 1955—COMMODITY COMMISSIONS

Sections

15.66.010 Definitions. For the purposes of this chapter:

(1) "Director" means the director of agriculture of the state of Washington or any qualified person or persons designated by the director of agriculture to act for him concerning some matter under this chapter.

(2) "Department" means the department of agriculture of the state of Washington.

(3) "Marketing order" means an order issued by the director pursuant to this chapter.

(4) "Agricultural commodity" means llamas, alpacas, or any other animal or any distinctive type of agricultural, horticultural, viticultural, vegetable, and/or animal product, including, but not limited to, products qualifying as organic food products under chapter 15.86 RCW and private sector cultured aquatic products as defined in RCW 15.85.020 and other fish and fish products, within its natural or processed state, including bees and honey and Christmas trees but not including timber or timber products. The director is authorized to determine what kinds, types or subtypes should be classed together as an agricultural commodity for the purposes of this chapter.

(5) "Producer" means any person engaged in the business of producing or causing to be produced for market in commercial quantities any agricultural commodity. For the purposes of RCW 15.66.060, 15.66.090, and 15.66.120, as now or hereafter amended "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the seed and its resulting agricultural product or the agricultural product delivered for further production or increase.

(6) "Affected producer" means any producer of an affected commodity.

(7) "Affected commodity" means any agricultural commodity for which the director has established a list of producers pursuant to RCW 15.66.060.

(8) "Commodity commission" or "commission" means a commission formed to carry out the purposes of this chapter under a particular marketing order concerning an affected commodity.

(9) "Unit" means a unit of volume, quantity or other measure in which an agricultural commodity is commonly measured.

(10) "Unfair trade practice" means any practice which is unlawful or prohibited under the laws of the state of Washington including but not limited to Titles 15, 16 and 69 RCW and chapters 9.16, 19.77, 19.80, 19.84, and 19.83 RCW, or any practice, whether concerning interstate or intrastate commerce that is unlawful under the provisions of the act of Congress of the United States, September 26, 1914, chapter 311, section 5, 38 U.S. Statutes at Large 719 as amended, known as the "Federal Trade Commission Act of 1914", or the violation of or failure accurately to label as to grades and standards in accordance with any lawfully established grades or standards or labels.

(11) "Person" includes any individual, firm, corporation, trust, association, partnership, society, or any other organization of individuals.

(12) "Cooperative association" means any incorporated or unincorporated association of producers which conforms to the qualifications set out in the act of Congress of the United States, Feb. 18, 1922, chapter 57, sections 1 and 2, 42 U.S. Statutes at Large 388 as amended, known as the "Capper-Volstead Act" and which is engaged in making collective sales or in marketing any agricultural commodity or product thereof or in rendering service for or advancing the interests of the producers of such commodity on a nonprofit cooperative basis.

(13) "Member of a cooperative association" or "member" means any producer of an agricultural commodity who markets his product through such cooperative association and who is a voting stockholder of or has a vote in the control of or is under a marketing agreement with such cooperative association with respect to such product. [1993 c 80 § 3; 1986 c 203 § 16; 1985 c 457 § 14; 1983 c 288 § 6; 1982 c 35 § 180; 1975 1st ex.s. c 7 § 6; 1961 c 11 § 15.66.010. Prior: 1955 c 191 § 1.]

Severability—1986 c 203: See note following RCW 15.04.100.

Short title—Purposes—1983 c 288: See note following RCW 19.86.090.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Chapter 15.76
AGRICULTURAL FAIRS, YOUTH SHOWS, EXHIBITIONS

Sections

15.76.120 Categories of fairs—Jurisdiction and organization. For the purposes of this chapter all agricultural fairs in the state which may become eligible for state allocations shall be divided into categories, to wit:

(1) "Area fairs"—those not under the jurisdiction of boards of county commissioners; organized to serve an area larger than one county, having both open and junior participation, and having an extensive diversification of classes, displays and exhibits;

(2) "County and district fairs"—organized to serve the interests of single counties other than those in which a recognized area fair or a district fair as defined in RCW 36.37.050, is held and which are under the direct control and supervision of the county commissioners of the respective counties, which have both open and junior participation, but whose classes, displays and exhibits may be more restricted or limited than in the case of area or district fairs. There may be but one county fair in a single county: PROVIDED, HOWEVER, That the county commissioners of two or more counties may, by resolution, jointly sponsor a county fair.

(3) "Community fairs"—organized primarily to serve a smaller area than an area or county fair, which may have open or junior classes, displays, or exhibits. There may be more than one community fair in a county.

(4) "Youth shows and fairs"—approved by duly constituted agents of Washington State University or the office of the superintendent of public instruction, serving three or more counties, and having for their purpose the education and training of rural youth in matters of rural living. [1993 c 163 § 1; 1991 c 238 § 74; 1961 c 61 § 3.]

Effective dates—Severability—1991 c 238: See RCW 28B.50.917 and 28B.50.918.

Title 16
ANIMALS, ESTRAYS, BRANDS AND FENCES

Chapters

Chapter 16.36
DISEASES—QUARANTINE—GARBAGE FEEDING

Sections

16.36.120 Poultry—Ratites. (1) Poultry as defined in RCW 16.57.010 is subject to this chapter, including, but not limited to, quarantines, health certificate requirements, and rules adopted by the director.

(2) The department shall, in consultation with the ratite industry, the poultry industry, and other affected groups, review the adequacy of existing animal health regulations that pertain to ratites. The department shall adopt rules as deemed necessary to assure adequate protection to the ratite and poultry industries from a potential importation or spread of contagious diseases and parasites. [1993 c 105 § 4.]

Legislative finding and purpose—1993 c 105: See note following RCW 16.57.010.

16.36.130 Llamas and alpacas. The authority of the director of agriculture to prevent, control, and suppress in this state diseases in llamas and alpacas shall be the same as the director's authority to take such actions under this chapter with regard to any other domestic animal, including but not limited to livestock. [1993 c 80 § 1.]

Department of wildlife: RCW 77.12.031.

Chapter 16.49A
WASHINGTON MEAT INSPECTION ACT

Sections

16.49A.600 Exemptions—Adulteration and misbranding. (1) Except as provided in subsection (2) of this section, the provisions of this chapter shall not apply to operations of the types traditionally and usually conducted by a retail meat dealer at retail stores and restaurants, when conducted at any retail store or restaurant or similar type establishment for sale in normal retail quantities or service of such articles to ultimate consumers at such establishment. Normal retail quantities or service of such articles to consumers shall be as defined in rules adopted under the provisions of this chapter.

(2) The adulteration and misbranding provisions of this chapter, other than the requirement of the inspection legend, shall apply to operations that are exempted under this section. [1993 c 166 § 1; 1971 ex.s. c 108 § 3; 1969 ex.s. c 145 § 68.]

Chapter 16.57
IDENTIFICATION OF LIVESTOCK

Sections

16.57.010 Definitions. For the purpose of this chapter:

(1) "Department" means the department of agriculture of the state of Washington.

(2) "Director" means the director of the department or a 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 the plural as the case may be.

(4) "Livestock" includes, but is not limited to, horses, mules, cattle, sheep, swine, goats, poultry and rabbits.

(5) "Brand" means a permanent fire brand or any artificial mark, other than an individual identification symbol, approved by the director to be used in conjunction with a brand or by itself.

(6) "Production record brand" means a number brand which shall be used for production identification purposes only.

(7) "Brand inspection" means the examination of livestock or livestock hides for brands or any means of identifying livestock or livestock hides and/or the application of any artificial identification such as back tags or ear clips necessary to preserve the identity of the livestock or livestock hides examined.

(8) "Individual identification symbol" means a permanent mark placed on a horse for the purpose of individually identifying and registering the horse and which has been approved for use as such by the director.

(9) "Registering agency" means any person issuing an individual identification symbol for the purpose of individually identifying and registering a horse.

(10) "Poultry" means chickens, turkeys, ratites, and other domesticated fowl.

(11) "Ratite" means, but is not limited to, ostrich, emu, rhea, or other flightless bird used for human consumption, whether live or slaughtered.

(12) "Ratite farming" means breeding, raising, and rearing of an ostrich, emu, or rhea in captivity or an enclosure.

(13) "Microchipping" means the implantation of an identification microchip in the pipping muscle of a chick ratite or the implantation of a microchip in the tail muscle of an otherwise unidentified adult ratite. [1993 c 105 § 2; 1989 c 286 § 22; 1981 c 296 § 15; 1979 c 154 § 17; 1967 c 240 § 34; 1959 c 54 § 1.]

Legislative finding and purpose—1993 c 105: "The legislature finds that ratites have been raised for commercial purposes on farms in the United States for over sixty years and have been raised elsewhere for over one hundred twenty years.

In recognition that ratite farming is an agricultural pursuit, the purpose of this act is to assure that the regulatory mechanisms regarding animal health and ownership identification are in place." [1993 c 105 § 1.]

Severability—1989 c 286: See note following RCW 16.04.010.

Severability—1981 c 296: See note following RCW 15.04.020.

Severability—1979 c 154: See note following RCW 15.49.330.

16.57.015 Livestock identification advisory board—Rule review—Fee setting. (1) The director shall establish a livestock identification advisory board. The board shall be composed of six members appointed by the director. One member shall represent each of the following groups: Beef producers, public livestock market operators, horse owners, dairy farmers, cattle feeders, and meat processors. In making appointments, the director shall solicit nominations from organizations representing these groups state-wide.

(2) The purpose of the board is to provide advice to the director regarding livestock identification programs administered under this chapter and regarding brand inspection fees and related licensing fees. The director shall consult the board before adopting, amending, or repealing a rule under this chapter or altering a fee under RCW 16.58.050, 16.58.130, 16.65.030, or 16.65.090. If the director publishes in the state register a proposed rule to be adopted under the authority of this chapter or a proposed rule setting a fee under RCW 16.58.050, 16.58.130, 16.65.030, or 16.65.090 and the rule has not received the approval of the advisory board, the director shall file with the board a written statement setting forth the director's reasons for proposing the rule without the board's approval.

(3) The members of the advisory board serve three-year terms. However, the director shall by rule provide shorter initial terms for some of the members of the board to stagger the expiration of the initial terms. The members serve without compensation. The director may authorize the expenses of a member to be reimbursed if the member is selected to attend a regional or national conference or meeting regarding livestock identification. Any such reimbursement shall be in accordance with RCW 43.03.050 and 43.03.060. [1993 c 354 § 10.]

16.57.080 Schedule for renewal of registered brands. The director shall establish by rule a schedule for the renewal of registered brands. The fee for renewal of the brands shall be no less than twenty-five dollars for each two-year period of brand ownership, except that the director may, in adopting a renewal schedule, provide for the collection of renewal fees on a prorated basis and may by rule increase the registration and renewal fee for brands by no more than fifty percent subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015. At least one hundred twenty days before the expiration of a registered brand, the director shall notify by letter the owner of record of the brand that on the payment of the requisite application fee and application of renewal the director shall issue the proof of payment allowing the brand owner exclusive ownership and use of the brand for the subsequent registration period. The failure of the registered owner to pay the renewal fee by the date required by rule shall cause such owner's brand to revert to the department. The director may for a period of one year following such reversion, reissue such brand only to the prior registered owner upon payment of the registration fee and a late filing fee to be prescribed by the director by rule subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015, for renewal subsequent to the regular renewal period. The director may at the director's discretion, if such brand is not reissued within one year to the prior registered owner, issue such brand to any other applicant. [1993 c 354 § 5; 1991 c 110 § 1; 1974 ex.s. c 64 § 2; 1971 ex.s. c 135 § 2; 1965 c 66 § 3; 1961 c 148 § 1; 1959 c 54 § 8.]

16.57.090 Brand is personal property—Instruments affecting title, recording, effect—Nonliability of director for agents. A brand is the personal property of the owner of record. Any instrument affecting the title of such brand shall be acknowledged in the presence of the recorded owner

and a notary public. The director shall record such instrument upon presentation and payment of a recording fee not to exceed fifteen dollars to be prescribed by the director by rule subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015. Such recording shall be constructive notice to all the world of the existence and conditions affecting the title to such brand. A copy of all records concerning the brand, certified by the director, shall be received in evidence to all intent and purposes as the original instrument. The director shall not be personally liable for failure of the director's agents to properly record such instrument. [1993 c 354 § 6; 1974 ex.s. c 64 § 3; 1965 c 66 § 2; 1959 c 54 § 9.]

16.57.140 Certified copy of record of brand—Fee. The owner of a brand of record may procure from the director a certified copy of the record of the owner's brand upon payment of a fee not to exceed seven dollars and fifty cents to be prescribed by the director by rule subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015. [1993 c 354 § 7; 1974 ex.s. c 64 § 4; 1959 c 54 § 14.]

16.57.220 Charges for brand inspection of cattle and horses—Payable, when—Lien—Schedule of fees to be adopted. The director shall cause a charge to be made for all brand inspection of cattle and horses required under this chapter and rules adopted hereunder. Such charges shall be paid to the department by the owner or person in possession unless requested by the purchaser and then such brand inspection shall be paid by the purchaser requesting such brand inspection. Such inspection charges shall be due and payable at the time brand inspection is performed and shall be paid upon billing by the department and if not shall constitute a prior lien on the cattle or cattle hides or horses or horse hides brand inspected until such charge is paid. The director in order to best utilize the services of the department in performing brand inspection may establish schedules by days and hours when a brand inspector will be on duty to perform brand inspection at established inspection points. The fees for brand inspection shall be not less than fifty cents nor more than seventy-five cents per head for cattle and not less than two dollars nor more than three dollars per head for horses as prescribed by the director by rule subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015. Fees for brand inspection of cattle and horses performed by the director at points other than those designated by the director or not in accord with the schedules established by the director shall be based on a fee schedule not to exceed actual net cost to the department of performing the brand inspection service. Such schedule of fees shall be established subsequent to a hearing and all regulations concerning fees shall be adopted in accord with the provisions of chapter 34.05 RCW, the Administrative Procedure Act, concerning the adoption of rules as enacted or hereafter amended. [1993 c 354 § 8; 1981 c 296 § 17; 1971 ex.s. c 135 § 5; 1967 c 240 § 35; 1959 c 54 § 22.]

Severability—1981 c 296: See note following RCW 15.04.020.

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

16.57.400 Horse and cattle identification certificates—Exemption from brand inspection—Fees. The director may provide by rules and regulations adopted pursuant to chapter 34.05 RCW for the issuance of individual horse and cattle identification certificates or other means of horse and cattle identification deemed appropriate. Such certificates or other means of identification shall be valid only for the use of the horse and cattle owner in whose name it is issued.

Horses and cattle identified pursuant to the provisions of this section and the rules and regulations adopted hereunder shall not be subject to brand inspection except when sold at points provided for in RCW 16.57.380. The director shall charge a fee for the certificates or other means of identification authorized pursuant to this section and no identification shall be issued until the director has received the fee. The schedule of fees shall be established in accordance with the provisions of chapter 34.05 RCW. [1993 c 354 § 9; 1981 c 296 § 23; 1974 ex.s. c 38 § 3.]

Severability—1981 c 296: See note following RCW 15.04.020.

16.57.410 Horses—Registering agencies—Records—Identification symbol inspections—Rules. (1) No person may act as a registering agency without a permit issued by the department. The director may issue a permit to any person or organization to act as a registering agency for the purpose of issuing permanent identification symbols for horses in a manner prescribed by the director. Application for such permit, or the renewal thereof by January 1 of each year, shall be on a form prescribed by the director, and accompanied by the proof of registration to be issued, any other documents required by the director, and a fee of one hundred dollars.

(2) Each registering agency shall maintain a permanent record for each individual identification symbol. The record shall include, but need not be limited to, the name, address, and phone number of the horse owner and a general description of the horse. A copy of each permanent record shall be forwarded to the director, if requested by the director.

(3) Individual identification symbols shall be inspected as required for brands under RCW 16.57.220 and 16.57.380. Any horse presented for inspection and bearing such a symbol, but not accompanied by proof of registration and certificate of permit, shall be sold as provided under RCW 16.57.290 through 16.57.330.

(4) The director shall adopt such rules as are necessary for the effective administration of this section pursuant to chapter 34.05 RCW. [1993 c 354 § 11; 1989 c 286 § 25; 1981 c 296 § 35.]

Severability—1989 c 286: See note following RCW 16.04.010.

Severability—1981 c 296: See note following RCW 15.04.020.

16.57.420 Ratite identification. The department may, in consultation with representatives of the ratite industry, develop by rule a system that provides for the identification of individual ratites through the use of microchipping. The department may establish fees for the issuance or reissuance

of microchipping numbers sufficient to cover the expenses of the department. [1993 c 105 § 3.]

Legislative finding and purpose—1993 c 105: See note following RCW 16.57.010.

Chapter 16.58
IDENTIFICATION OF CATTLE THROUGH LICENSING OF CERTIFIED FEED LOTS

Sections

16.58.050 Certified feed lot license—Fee—Issuance or renewal. The application for an annual license to engage in the business of operating one or more certified feed lots shall be accompanied by a license fee of no less than five hundred dollars or no more than seven hundred fifty dollars. The actual license fee for a certified feed lot license shall be prescribed by the director by rule subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015. Upon approval of the application by the director and compliance with the provisions of this chapter and rules adopted hereunder, the applicant shall be issued a license or a renewal thereof. [1993 c 354 § 3; 1979 c 81 § 2; 1971 ex.s. c 181 § 5.]

16.58.130 Fee for each head of cattle handled—Failure to pay. Each licensee shall pay to the director a fee of no less than ten cents but no more than fifteen cents for each head of cattle handled through the licensee's feed lot. The fee shall be set by the director by rule after a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015. Payment of such fee shall be made by the licensee on a monthly basis. Failure to pay as required shall be grounds for suspension or revocation of a certified feed lot license. Further, the director shall not renew a certified feed lot license if a licensee has failed to make prompt and timely payments. [1993 c 354 § 4; 1991 c 109 § 14; 1979 c 81 § 4; 1971 ex.s. c 181 § 13.]

Chapter 16.65
PUBLIC LIVESTOCK MARKETS

Sections

16.65.030 Public livestock market license required—Application—Generally. (1) On and after June 10, 1959, no person shall operate a public livestock market without first having obtained a license from the director. Application for such license or renewal thereof shall be in writing on forms prescribed by the director, and shall include the following:

(a) A legal description of the property upon which the public livestock market shall be located.

(b) A complete description and blueprints or plans of the public livestock market physical plant, yards, pens, and all facilities the applicant proposes to use in the operation of such public livestock market.

(c) A detailed statement showing all the assets and liabilities of the applicant which must reflect a sufficient net worth to construct or operate a public livestock market.

(d) The schedule of rates and charges the applicant proposes to impose on the owners of livestock for services rendered in the operation of such livestock market.

(e) The weekly or monthly sales day or days on which the applicant proposes to operate his or her public livestock market sales.

(f) Projected source and quantity of livestock, by county, anticipated to be handled.

(g) Projected income and expense statements for the first year's operation.

(h) Facts upon which are based the conclusion that the trade area and the livestock industry will benefit because of the proposed market.

(i) Such other information as the director may reasonably require.

(2) The director shall, after public hearing as provided by chapter 34.05 RCW, grant or deny an application for original license for a public livestock market after considering evidence and testimony relating to all of the requirements of this section and giving reasonable consideration at the same hearing to:

(a) Benefits to the livestock industry to be derived from the establishment and operation of the public livestock market proposed in the application; and

(b) The present market services elsewhere available to the trade area proposed to be served.

(3) Such application shall be accompanied by a license fee based on the average gross sales volume per official sales day of that market:

(a) Markets with an average gross sales volume up to and including ten thousand dollars, a fee of no less than one hundred dollars or more than one hundred fifty dollars;

(b) Markets with an average gross sales volume over ten thousand dollars and up to and including fifty thousand dollars, a fee of no less than two hundred dollars or more than three hundred fifty dollars; and

(c) Markets with an average gross sales volume over fifty thousand dollars, a fee of no less than three hundred dollars or more than four hundred fifty dollars.

The fees for public livestock market licensees shall be set by the director by rule subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015.

(4) Any applicant operating more than one public livestock market shall make a separate application for a license to operate each such public livestock market, and each such application shall be accompanied by the appropriate license fee.

(5) Upon the approval of the application by the director and compliance with the provisions of this chapter, the applicant shall be issued a license or renewal thereof. Any license issued under the provisions of this chapter shall only be valid at location and for the sales day or days for which the license was issued. [1993 c 354 § 1; 1991 c 17 § 1;

1979 ex.s. c 91 § 1; 1971 ex.s. c 192 § 1; 1967 ex.s. c 120 § 5; 1961 c 182 § 2; 1959 c 107 § 3.]

16.65.090 Brand inspection—Consignor's fee—Minimum daily inspection fee. The director shall provide for brand inspection. When such brand inspection is required the licensee shall collect from the consignor and pay to the department, as provided by law, a fee for brand inspection for each animal consigned to the public livestock market or special open consignment horse sale. The director shall set by rule, adopted after a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015, a minimum daily inspection fee that shall be paid to the department by the licensee. Such a fee shall be not less than sixty dollars and not more than ninety dollars. [1993 c 354 § 2; 1983 c 298 § 8; 1971 ex.s. c 192 § 3; 1959 c 107 § 9.]

Chapter 16.67
WASHINGTON STATE BEEF COMMISSION

Sections

16.67.040 Beef commission created—Generally. There is hereby created a Washington state beef commission to be thus known and designated. The commission shall be composed of one beef producer, one dairy (beef) producer, one feeder, one livestock salesyard operator, and one meat packer. In addition there will be one ex officio member without the right to vote from the department of agriculture to be designated by the director thereof.

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

All appointed members as stated in RCW 16.67.060 shall be citizens and residents of this state, over the age of twenty-five years, each of whom is and has been actually engaged in that phase of the cattle industry he or she represents for a period of five years, and has during that period derived a substantial portion of his or her income therefrom, or have a substantial investment in cattle as an owner, lessee, partner, or a stockholder owning at least ten percent of the voting stock in a corporation engaged in the production of cattle or dressed beef, or a manager or executive officer of such corporation. Producer members of the commission shall not be directly engaged in the business of being a meat packer, or as a feeder, feeding cattle other than their own. Said qualifications must continue throughout each member's term of office. [1993 c 40 § 1; 1991 c 9 § 1; 1969 c 133 § 3.]

Effective date—1993 c 40: "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, 1993." [1993 c 40 § 5.]

16.67.050 Expired. See Supplementary Table of Disposition of Former RCW Sections, this volume.

16.67.051 Designation of positions—Terms. Commencing on July 1, 1993, the appointive positions on the commission shall be designated as follows: The beef producer shall be designated position one; the dairy (beef) producer shall be designated position two; the feeder shall be designated position three; the livestock salesyard operator shall be designated position four; and the meat packer shall be designated position five.

The initial terms of positions one and four shall terminate July 1, 1994; positions two and five shall terminate July 1, 1995; and position three shall terminate July 1, 1996. The regular term of office of subsequent appointees shall be three years from the date of appointment and until their successors are appointed. [1993 c 40 § 3.]

Effective date—1993 c 40: See note following RCW 16.67.040.

16.67.060 Director to appoint members—Recommendations by industry. The director shall appoint the members of the commission. In making such appointments, the director shall take into consideration recommendations made to him or her by organizations who represent or who are engaged in the same type of production or business as the person recommended for appointment as a member of the commission.

Commencing on June 1, 1993, and by June 1 of each subsequent year, organizations under this section shall make a recommendation as required, to the director of a person to serve on the commission. [1993 c 40 § 4; 1991 c 9 § 3; 1969 c 133 § 5.]

Effective date—1993 c 40: See note following RCW 16.67.040.

Chapter 16.74
WASHINGTON WHOLESOME POULTRY PRODUCTS ACT

Sections

16.74.570 Exemptions. (1) The director shall, by rule and under such conditions as to sanitary standards, practices, and procedures as he or she may prescribe, exempt from specific provisions of this chapter—

(a) for such period of time as the director determines that it would be impracticable to provide inspection and the exemption will aid in the effective administration of this chapter, any person engaged in the processing of poultry or poultry products for intrastate commerce and the poultry or poultry products processed by such person: PROVIDED, That no such exemption shall continue in effect on and after February 18, 1970; and

(b) persons slaughtering, processing, or otherwise handling poultry or poultry products which have been or are to be processed as required by recognized religious dietary laws, to the extent that the director determines necessary to avoid conflict with such requirements while still effectuating the purposes of this chapter.

(2)(a) The director shall, by rule and under such conditions, including sanitary standards, practices, and procedures, as he or she may prescribe, exempt from specific provisions of this chapter—

(i) the slaughtering by any person of poultry of his or her own raising, and the processing by him or her and transportation of the poultry products exclusively for use by him or her and members of his or her household and his or her nonpaying guests and employees; and

(ii) the custom slaughter by any person of poultry delivered by the owner thereof for such slaughter, and the processing by such slaughterer and transportation of the poultry products exclusively for use, in the household of such owner, by him or her and members of his or her household and his or her nonpaying guests and employees: PROVIDED, That the director may adopt such rules as are necessary to prevent the commingling of inspected and uninspected poultry and poultry products.

(b) In addition to the specific exemptions provided herein, the director shall, when he or she determines that the protection of consumers from adulterated or misbranded poultry products will not be impaired by such action, provide by rule, consistent with (c) of this subsection, for the exemption of the operations of poultry producers not exempted under (a) of this subsection, which are engaged in slaughtering and/or cutting up poultry for distribution as carcasses or parts thereof, from such provisions of this chapter as he or she deems appropriate, while still protecting the public from adulterated or misbranded products, under such conditions, including sanitary requirements, as he or she shall prescribe to effectuate the purposes of this chapter.

(c) The provisions of this chapter shall not apply to poultry producers with respect to poultry of their own raising on their own farms if—

(i) such producers slaughter not more than two hundred fifty turkeys, or not more than an equivalent number of birds of all species during the calendar year for which this exemption is being determined (four birds of other species being deemed the equivalent of one turkey);

(ii) such poultry producers do not engage in buying or selling poultry products other than those produced from poultry raised on their own farms.

(3) The director shall, by rule and under such conditions as to sanitary standards, practices, and procedures as he or she may prescribe, exempt from specific provisions of this chapter retail dealers with respect to poultry products sold directly to consumers in individual retail stores, if the only processing operation performed by such retail dealers is the cutting up or packaging, or both, of poultry products on the premises where such sales to consumers are made.

(4) The adulteration and misbranding provisions of this chapter, other than the requirement of the inspection legend, shall apply to articles and operations which are exempted under this section, except as otherwise specified under subsections (1) and (2) of this section.

(5) The director may by order suspend or terminate any exemption under this section with respect to any person whenever he or she finds that such action will aid in effectuating the purposes of this chapter. [1993 c 166 § 2; 1969 ex.s. c 146 § 65.]

Title 17
WEEDS, RODENTS AND PESTS

Chapters

Chapter 17.21
WASHINGTON PESTICIDE APPLICATION ACT

Sections

17.21.070 Commercial pesticide applicator license—Requirements. It shall be unlawful for any person to engage in the business of applying pesticides to the land of another without a commercial pesticide applicator license. Application for the license shall be accompanied by a fee of one hundred thirty-six dollars and in addition a fee of eleven dollars for each apparatus, exclusive of one, used by the applicant in the application of pesticides: PROVIDED, That the provisions of this section shall not apply to any person employed only to operate any apparatus used for the application of any pesticide, and in which such person has no financial interest or other control over such apparatus other than its day to day mechanical operation for the purpose of applying any pesticide. Commercial pesticide applicator 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. [1993 1st sp.s. c 19 § 4; 1991 c 109 § 30; 1989 c 380 § 37; 1981 c 297 § 21; 1967 c 177 § 3; 1961 c 249 § 7.]

Severability—1981 c 297: See note following RCW 15.36.110.

Surcharge: RCW 17.21.360.

17.21.110 Commercial pesticide operator license—Requirements. 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 commercial operator license shall be accompanied by a license fee of thirty-three 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. [1993 1st sp.s. c 19 § 5; 1992 c 170 § 5; 1991 c 109 § 31; 1989 c 380 § 40; 1981 c 297 § 22; 1967 c 177 § 6; 1961 c 249 § 11.]

Severability—1981 c 297: See note following RCW 15.36.110.

Surcharge: RCW 17.21.360.

17.21.122 Private-commercial applicator license—Requirements. 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 seventeen dollars before a license may be issued. Private-commercial applicator licenses issued by the director shall be 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. [1993 1st sp.s. c 19 § 6; 1992 c 170 § 6; 1991 c 109 § 32; 1989 c 380 § 41; 1979 c 92 § 6.]

Surcharge: RCW 17.21.360.

17.21.126 Private applicators—Certification requirements. 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 seventeen 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. [1993 1st sp.s. c 19 § 7; 1992 c 170 § 7; 1991 c 109 § 33; 1989 c 380 § 42; 1979 c 92 § 8.]

17.21.129 Demonstration and research applicator license—Requirements. 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 seventeen dollars shall be paid before a demonstration and research license may be issued. The demonstration and research applicator license shall be 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. [1993 1st sp.s. c 19 § 8; 1992 c 170 § 8; 1991 c 109 § 34; 1989 c 380 § 43; 1987 c 45 § 30; 1981 c 297 § 26.]

Construction—Severability—1987 c 45: See notes following RCW 15.54.270.

Severability—1981 c 297: See note following RCW 15.36.110.

Surcharge: RCW 17.21.360.

17.21.220 Application of chapter to governmental entities—Exemption—Liability. (1) All state agencies, municipal corporations, and public utilities or any other governmental agency shall be subject to the provisions of this chapter and rules adopted thereunder concerning the application of pesticides.

(2) It shall be unlawful for any employee of a state agency, municipal corporation, public utility, or any other government agency to use or to supervise the use of any pesticide restricted to use by certified applicators, or any pesticide by means of an apparatus, without having obtained a public operator license from the director. A license fee of seventeen dollars shall be paid before a public operator license may be issued. The license fee shall not apply to public operators licensed and working in the health vector field. Public 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. The public operator license shall be valid only when the operator is acting as an employee of a government agency.

(3) The jurisdictional health officer or his or her duly authorized representative is exempt from this licensing provision when applying pesticides not restricted to use by certified applicators to control pests other than weeds.

(4) Such agencies, municipal corporations and public utilities shall be subject to legal recourse by any person damaged by such application of any pesticide, and such action may be brought in the county where the damage or some part thereof occurred. [1993 1st sp.s. c 19 § 9; 1991 c 109 § 37; 1989 c 380 § 53; 1986 c 203 § 11; 1981 c 297 § 24; 1971 ex.s. c 191 § 7; 1967 c 177 § 13; 1961 c 249 § 22.]

Severability—1986 c 203: See note following RCW 15.04.100.

Severability—1981 c 297: See note following RCW 15.36.110.

Surcharge: RCW 17.21.360.

17.21.360 Registration and license fee surcharge—Agricultural local fund—Incidents and investigations. Each registration and licensing fee under this chapter is increased by a surcharge of six dollars to be deposited in the agricultural local fund, provided that an additional one-time surcharge of five dollars shall be collected on January 1, 1990. The revenue raised by the imposition of this surcharge shall be used to assist in funding the pesticide incident reporting and tracking review panel, department of social and health services' pesticide investigations, and the department of agriculture's pesticide investigations. [1993 1st sp.s. c 19 § 10; 1989 c 380 § 66.]

Pesticide incident reporting and tracking review panel: RCW 70.104.080.

Title 18
BUSINESSES AND PROFESSIONS

Chapters

Chapter 18.08
ARCHITECTS

Sections

18.08.350 Certificate of registration—Application—Qualifications. (Effective until July 29, 2001.) (1) A certificate of registration shall be granted by the director to all qualified applicants who are certified by the board as having passed the required examination and as having given satisfactory proof of completion of the required experience.

(2) Applications for examination shall be filed as the board prescribes by rule. The application and examination fees shall be determined by the director under RCW 43.24.086.

(3) An applicant for registration as an architect shall be of a good moral character, at least eighteen years of age, and shall possess any of the following qualifications:

(a) Have an accredited architectural degree and three years' practical architectural work experience approved by the board, which may include designing buildings as a principal activity. At least two years' work experience must be supervised by an architect with detailed professional knowledge of the work of the applicant;

(b) Have eight years' practical architectural work experience approved by the board. Each year spent in an accredited architectural program approved by the board shall be considered one year of practical experience. At least four years' practical work experience shall be under the direct supervision of an architect; or

(c) Be a person who has been designing buildings as a principal activity for eight years, or has an equivalent combination of education and experience, but who was not registered under chapter 323, Laws of 1959, as amended, as it existed before July 28, 1992, provided that application is made within four years after July 28, 1992. Nothing in this chapter prevents such a person from designing buildings for four years after July 28, 1992, or the five-year period allowed for completion of the examination process, after that person has applied for registration. A person who has been designing buildings and is qualified under this subsection shall, upon application to the board of registration for architects, be allowed to take the examination for architect registration on an equal basis with other applicants. [1993 c 475 § 1; 1985 c 37 § 6.]

18.08.350 Certificate of registration—Application—Qualifications. (Effective July 29, 2001.) (1) A certificate of registration shall be granted by the director to all qualified applicants who are certified by the board as having passed the required examination and as having given satisfactory proof of completion of the required experience.

(2) Applications for examination shall be filed as the board prescribes by rule. The application and examination fees shall be determined by the director under RCW 43.24.086.

(3) An applicant for registration as an architect shall be of a good moral character, at least eighteen years of age, and shall possess any of the following qualifications:

(a) Have an accredited architectural degree and three years' practical architectural work experience approved by the board, which may include designing buildings as a principal activity. At least two years' work experience must be supervised by an architect with detailed professional knowledge of the work of the applicant; or

(b) Have eight years' practical architectural work experience approved by the board. Each year spent in an accredited architectural program approved by the board shall be considered one year of practical experience. At least four years' practical work experience shall be under the direct supervision of an architect. [1993 c 475 § 2; 1993 c 475 § 1; 1985 c 37 § 6.]

Effective date—1993 c 475 § 2: "Section 2 of this act shall take effect July 29, 2001." [1993 c 475 § 3.]

Chapter 18.11
AUCTIONEERS

Sections

18.11.075 Second-hand property, when exempt. The department of licensing may exempt, by rule, second-hand property bought or received on consignment or sold at an auction conducted by a licensed auctioneer or auction company from RCW 19.60.050 or 19.60.055. [1993 c 348 § 1.]

Chapter 18.19
COUNSELORS

Sections

18.19.130 Certification of marriage and family therapists—Practice defined. (1) The department shall issue a certified marriage and family therapist certificate to any applicant meeting the following requirements:

(a) A master's or doctoral degree in marriage and family therapy, or a behavioral science master's or doctoral degree and the program equivalency as determined by rule by the department based on nationally recognized standards;

(b)(i) After receiving a master's or doctoral degree in marriage and family therapy, two years of postgraduate practice of marriage and family therapy, under the supervision of a qualified marriage and family therapy supervisor;

(ii) After receiving a master's or doctoral degree in a behavioral science, two years of postgraduate practice in marriage and family therapy under supervision of a qualified marriage and family supervisor, which may be accumulated concurrently with completion of the program equivalency as adopted by the department by rule; and

(c) A passing score on a written examination that includes a section on Washington's statutes and rules, including provisions of the uniform disciplinary act, approved by the department for certified marriage and family therapists.

(2) The practice of marriage and family therapy is that aspect of counseling that involves the rendering of professional marriage and family therapy services to individuals, couples, and families, singly or in groups, whether such services are offered directly to the general public or through organizations, either public or private, for a fee, monetary or otherwise. "Marriage and family therapy" means the diagnosis and treatment of mental and emotional disorders, whether cognitive, affective, or behavioral, within the context of marriage and family systems. Marriage and family therapy involves the professional application of family systems theories and techniques in the delivery of services to individuals, couples, and families for the purpose of treating such disorders. [1993 c 259 § 1; 1991 c 3 § 28; 1987 c 512 § 14.]

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

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

Chapter 18.22
PODIATRIC MEDICINE AND SURGERY
(Formerly: Podiatry)

Sections

18.22.040 Applicants—Fee—Eligibility. Before any person may take an examination for the issuance of a podiatric physician and surgeon license, the applicant shall submit a completed application and a fee determined by the secretary as provided in RCW 43.70.250. The applicant shall also furnish the secretary and the board with satisfactory proof that:

(1) The applicant has not engaged in unprofessional conduct as defined in chapter 18.130 RCW and is not unable to practice with reasonable skill and safety as a result of a physical or mental impairment;

(2) The applicant has satisfactorily completed a course in an approved school of podiatric medicine and surgery;

(3) The applicant has completed one year [of] postgraduate podiatric medical training in a program approved by the board, provided that applicants graduating before July 1, 1993, shall be exempt from the postgraduate training requirement. [1993 c 29 § 2; 1990 c 147 § 8; 1982 c 21 § 5; 1979 c 158 § 18; 1973 c 77 § 4; 1971 ex.s. c 292 § 19; 1955 c 149 § 2; 1935 c 48 § 3; 1921 c 120 § 3; 1917 c 38 § 6; RRS § 10079.]

Severability—1971 ex.s. c 292: See note following RCW 26.28.010.

18.22.045 Postgraduate training license. The board may grant approval to issue a license without examination to a podiatric physician and surgeon in a board-approved postgraduate training program in this state if the applicant files an application and meets all the requirements for licensure set forth in RCW 18.22.040 except for completion of one year of postgraduate training. The secretary shall issue a postgraduate podiatric medicine and surgery license that permits the physician to practice podiatric medicine and surgery only in connection with his or her duties in the postgraduate training program. The postgraduate training license does not authorize the podiatric physician to engage in any other form of practice. Each podiatric physician and surgeon in postgraduate training shall practice podiatric medicine and surgery under the supervision of a physician licensed in this state under this chapter, or chapter 18.71 or 18.57 RCW, but such supervision shall not be construed to necessarily require the personal presence of the supervising physician at the place where services are rendered.

All persons licensed under this section shall be subject to the jurisdiction of the podiatric medical board as set forth in this chapter and chapter 18.130 RCW.

Persons applying for licensure pursuant to this section shall pay an application and renewal fee determined by the secretary as provided in RCW 43.70.250. Postgraduate training licenses may be renewed annually. Any person who obtains a license pursuant to this section may apply for licensure under this chapter but shall submit a new application form and comply with all other licensing requirements of this chapter. [1993 c 29 § 1.]

Chapter 18.27
REGISTRATION OF CONTRACTORS

Sections

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

(1) "Contractor" means any person, firm or corporation who or which, in the pursuit of an independent business undertakes to, or offers to undertake, or submits a bid to, construct, alter, repair, add to, subtract from, improve, move, wreck or demolish, for another, any building, highway, road, railroad, excavation or other structure, project, development, or improvement attached to real estate or to do any part thereof including the installation of carpeting or other floor covering, the erection of scaffolding or other structures or works in connection therewith or who installs or repairs roofing or siding; or, who, to do similar work upon his own property, employs members of more than one trade upon a single job or project or under a single building permit except as otherwise provided herein.

(2) "General contractor" means a contractor whose business operations require the use of more than two unrelated building trades or crafts whose work the contractor shall superintend or do in whole or in part. "General contractor" shall not include an individual who does all work personally without employees or other "specialty contractors" as defined herein. The terms "general contractor" and "builder" are synonymous.

(3) "Specialty contractor" means a contractor whose operations as such do not fall within the foregoing definition of "general contractor".

(4) "Department" means the department of labor and industries.

(5) "Director" means the director of the department of labor and industries.

(6) "Verification" means the receipt and duplication by the city, town, or county of a contractor registration card that is current on its face. [1993 c 454 § 2; 1973 1st ex.s. c 153 § 1; 1972 ex.s. c 118 § 1; 1967 c 126 § 5; 1963 c 77 § 1.]

Finding—1993 c 454: "The legislature finds that unregistered contractors are a serious threat to the general public and are costing the state millions of dollars each year in lost revenue. To assist in solving this problem, the department of labor and industries and the department of revenue should coordinate and communicate with each other to identify unregistered contractors." [1993 c 454 § 1.]

Effective date—1963 c 77: "This act shall take effect August 1, 1963." [1963 c 77 § 12.]

18.27.020 Registration required—Prohibited acts—Criminal penalty. (1) Every contractor shall register with the department.

(2) It is a misdemeanor for any contractor to:

(a) Advertise, offer to do work, submit a bid, or perform any work as a contractor without being registered as required by this chapter;

(b) Advertise, offer to do work, submit a bid, or perform any work as a contractor when the contractor's registration is suspended;

(c) Use a false or expired registration number in purchasing or offering to purchase an advertisement for which a contractor registration number is required; or

(d) Transfer a valid registration to an unregistered contractor or allow an unregistered contractor to work under a registration issued to another contractor.

(3) All misdemeanor actions under this chapter shall be prosecuted in the county where the infraction occurs. [1993 c 454 § 6; 1987 c 362 § 1; 1986 c 197 § 1; 1983 1st ex.s. c 2 § 17; 1973 1st ex.s. c 153 § 2; 1963 c 77 § 2.]

Finding—1993 c 454: See note following RCW 18.27.010.

Effective date—1983 1st ex.s. c 2: See note following RCW 18.27.200.

Violations as infractions: RCW 18.27.200.

18.27.100 Business practices—Advertising—Penalty. (1) Except as provided in RCW 18.27.065 for partnerships and joint ventures, no person who has registered under one name as provided in this chapter shall engage in the business, or act in the capacity, of a contractor under any other name unless such name also is registered under this chapter.

(2) All advertising and all contracts, correspondence, cards, signs, posters, papers, and documents which show a contractor's name or address shall show the contractor's name or address as registered under this chapter.

(3)(a) The alphabetized listing of contractors appearing in the advertising section of telephone books or other directories and all advertising that shows the contractor's name or address shall show the contractor's current registration number: PROVIDED, That signs on motor vehicles subject to RCW 46.16.010 and on-premise signs shall not constitute advertising as provided in this section. All materials used to directly solicit business from retail customers who are not businesses shall show the contractor's current registration number. A contractor shall not use a false or expired registration number in purchasing or offering to purchase an advertisement for which a contractor registration number is required. Advertising by airwave transmission shall not be subject to this subsection if the person selling the advertisement obtains the contractor's current registration number from the contractor.

(b) A person selling advertising should not accept advertisements for which the contractor registration number is required under (a) of this subsection if the contractor fails to provide the contractor registration number.

(4) No contractor shall advertise that he or she is bonded and insured because of the bond required to be filed and sufficiency of insurance as provided in this chapter.

(5) A contractor shall not falsify a registration number and use it in connection with any solicitation or identification as a contractor. All individual contractors and all partners,

associates, agents, salesmen, solicitors, officers, and employees of contractors shall use their true names and addresses at all times while engaged in the business or capacity of a contractor or activities related thereto.

(6)(a) The finding of a violation of this section by the director at a hearing held in accordance with the Administrative Procedure Act, chapter 34.05 RCW, shall subject the person committing the violation to a penalty of not more than five thousand dollars as determined by the director.

(b) Penalties under this section shall not apply to a violation determined to be an inadvertent error. [1993 c 454 § 3; 1990 c 46 § 1; 1987 c 362 § 3; 1980 c 68 § 1; 1979 ex.s. c 116 § 1; 1963 c 77 § 10.]

Finding—1993 c 454: See note following RCW 18.27.010.

Effective date—1979 ex.s. c 116: "The provisions of this 1979 amendatory act shall become effective on January 1, 1980." [1979 ex.s. c 116 § 2.]

18.27.102 Unlawful advertising—Liability. When determining a violation of RCW 18.27.100, the director and administrative law judge shall hold responsible the person who purchased or offered to purchase the advertising. [1993 c 454 § 4; 1987 c 362 § 4.]

Finding—1993 c 454: See note following RCW 18.27.010.

18.27.110 Construction building permits—Verification of registration required for issuance—Responsibilities of issuing entity—Penalties. (1) No city, town or county shall issue a construction building permit for work which is to be done by any contractor required to be registered under this chapter without verification that such contractor is currently registered as required by law. When such verification is made, nothing contained in this section is intended to be, nor shall be construed to create, or form the basis for any liability under this chapter on the part of any city, town or county, or its officers, employees or agents. However, failure to verify the contractor registration number results in liability to the city, town, or county to a penalty to be imposed according to RCW 18.27.100(6)(a).

(2) At the time of issuing the building permit, all cities, towns, or counties are responsible for:

(a) Printing the contractor registration number on the building permit; and

(b) Providing a written notice to the building permit applicant informing them of contractor registration laws and the potential risk and monetary liability to the homeowner for using an unregistered contractor.

(3) If a building permit is obtained by an applicant or contractor who falsifies information to obtain an exemption provided under RCW 18.27.090, the building permit shall be forfeited. [1993 c 454 § 5; 1986 c 197 § 14; 1967 c 126 § 4.]

Finding—1993 c 454: See note following RCW 18.27.010.

18.27.200 Violation—Infraction. (1) It is a violation of this chapter and an infraction for any contractor to:

(a) Advertise, offer to do work, submit a bid, or perform any work as a contractor without being registered as required by this chapter;

(b) Advertise, offer to do work, submit a bid, or perform any work as a contractor when the contractor's registration is suspended; or

(c) Transfer a valid registration to an unregistered contractor or allow an unregistered contractor to work under a registration issued to another contractor.

(2) Each day that a contractor works without being registered as required by this chapter, works while the contractor's registration is suspended, or works under a registration issued to another contractor is a separate infraction. Each worksite at which a contractor works without being registered as required by this chapter, works while the contractor's registration is suspended, or works under a registration issued to another contractor is a separate infraction. [1993 c 454 § 7; 1983 1st ex.s. c 2 § 1.]

Finding—1993 c 454: See note following RCW 18.27.010.

Effective date—1983 1st ex.s. c 2: "Sections 1 through 17 of this act shall take effect January 1, 1984." [1983 1st ex.s. c 2 § 24.]

Prohibited acts—Criminal penalties: RCW 18.27.020.

18.27.210 Violations—Investigations—Evidence. (1) The director shall appoint compliance inspectors to investigate alleged or apparent violations of this chapter. The director, or authorized compliance inspector, upon presentation of appropriate credentials, may inspect and investigate job sites at which a contractor had bid or presently is working to determine whether the contractor is registered in accordance with this chapter or the rules adopted under this chapter or whether there is a violation of RCW 18.27.200. Upon request of the compliance inspector of the department, a contractor or an employee of the contractor shall provide information identifying the contractor.

(2) If the employee of an unregistered contractor is cited by a compliance inspector, that employee is cited as the agent of the employer-contractor, and issuance of the infraction to the employee is notice to the employer-contractor that the contractor is in violation of this chapter. An employee who is cited by a compliance inspector shall not be liable for any of the alleged violations contained in the citation unless the employee is also the contractor. [1993 c 454 § 8; 1987 c 419 § 2; 1986 c 197 § 2; 1983 1st ex.s. c 2 § 2.]

Finding—1993 c 454: See note following RCW 18.27.010.

Effective date—1983 1st ex.s. c 2: See note following RCW 18.27.200.

18.27.230 Notice of infraction—Service. The department may issue a notice of infraction if the department reasonably believes that the contractor required to be registered by this chapter has failed to do so or has otherwise committed a violation under RCW 18.27.200. A notice of infraction issued under this section shall be personally served on the contractor named in the notice by the department's compliance inspectors or service can be made by certified mail directed to the contractor named in the notice of infraction. If the contractor named in the notice of infraction is a firm or corporation, the notice may be personally served on any employee of the firm or corporation. If a notice of infraction is personally served upon an employee of a firm or corporation, the department shall within four days of service send a copy of the notice by

certified mail to the contractor if the department is able to obtain the contractor's address. [1993 c 454 § 9; 1986 c 197 § 3; 1983 1st ex.s. c 2 § 3.]

Finding—1993 c 454: See note following RCW 18.27.010.

Effective date—1983 1st ex.s. c 2: See note following RCW 18.27.200.

18.27.310 Infraction—Administrative hearing—Procedure—Burden of proof—Order—Appeal. (1) The administrative law judge shall conduct contractors' notice of infraction cases pursuant to chapter 34.05 RCW.

(2) The burden of proof is on the department to establish the commission of the infraction by a preponderance of the evidence. The notice of infraction shall be dismissed if the defendant establishes that, at the time the notice was issued, the defendant was registered by the department, without suspension, or was exempt from registration.

(3) After consideration of the evidence and argument, the administrative law judge shall determine whether the infraction was committed. If it has not been established that the infraction was committed, an order dismissing the notice shall be entered in the record of the proceedings. If it has been established that the infraction was committed, the administrative law judge shall issue findings of fact and conclusions of law in its decision and order determining whether the infraction was committed.

(4) An appeal from the administrative law judge's determination or order shall be to the superior court. The decision of the superior court is subject only to discretionary review pursuant to Rule 2.3 of the Rules of Appellate Procedure. [1993 c 454 § 10; 1986 c 197 § 8; 1983 1st ex.s. c 2 § 9.]

Finding—1993 c 454: See note following RCW 18.27.010.

Effective date—1983 1st ex.s. c 2: See note following RCW 18.27.200.

18.27.320 Infraction—Dismissal, when. The administrative law judge shall dismiss the notice of infraction at any time upon written notification from the department that the contractor named in the notice of infraction was registered, without suspension, at the time the notice of infraction was issued. [1993 c 454 § 11; 1986 c 197 § 9; 1983 1st ex.s. c 2 § 13.]

Finding—1993 c 454: See note following RCW 18.27.010.

Effective date—1983 1st ex.s. c 2: See note following RCW 18.27.200.

Chapter 18.29
DENTAL HYGIENIST

Sections

18.29.190 Temporary licenses. (Expires January 1, 1998.) (1) The department shall issue a temporary license without the examination required by this chapter to any applicant who, as determined by the secretary:

(a) Holds a valid license in another state that allows the scope of practice in subsection (3) (a) through (j) of this section;

(b) Is currently engaged in active practice in another state. For the purposes of this section, "active practice" means five hundred sixty hours of practice in the preceding twenty-four months;

(c) Files with the secretary documentation certifying that the applicant:

(i) Has graduated from an accredited dental hygiene school approved by the secretary;

(ii) Has successfully completed the dental hygiene national board examination; and

(iii) Is licensed to practice in another state;

(d) Provides information as the secretary deems necessary pertaining to the conditions and criteria of the uniform disciplinary act, chapter 18.130 RCW;

(e) Demonstrates to the secretary a knowledge of Washington state law pertaining to the practice of dental hygiene, including the administration of legend drugs;

(f) Pays any required fees; and

(g) Meets requirements for AIDS education.

(2) The term of the temporary license issued under this section is eighteen months and it is nonrenewable.

(3) A person practicing with a temporary license granted under this section has the authority to perform hygiene procedures that are limited to:

(a) Oral inspection and measuring of periodontal pockets;

(b) Patient education in oral hygiene;

(c) Taking intra-oral and extra-oral radiographs;

(d) Applying topical preventive or prophylactic agents;

(e) Polishing and smoothing restorations;

(f) Oral prophylaxis and removal of deposits and stains from the surface of the teeth;

(g) Recording health histories;

(h) Taking and recording blood pressure and vital signs;

(i) Performing subgingival and supragingival scaling; and

(j) Performing root planing.

(4)(a) A person practicing with a temporary license granted under this section may not perform the following dental hygiene procedures unless authorized in (b) or (c) of this subsection:

(i) Give injections of local anesthetic;

(ii) Place restorations into the cavity prepared by a licensed dentist and afterwards carve, contour, and adjust contacts and occlusion of the restoration;

(iii) Soft tissue curettage; or

(iv) Administer nitrous oxide/oxygen analgesia.

(b) A person licensed in another state who can demonstrate substantively equivalent licensing standards in the administration of local anesthetic may receive a temporary endorsement to administer local anesthesia.

(c) A person licensed in another state who can demonstrate substantively equivalent licensing standards in restorative procedures may receive a temporary endorsement for restorative procedures. [1993 c 323 § 2.]

Legislative declaration—1993 c 323: "The legislature declares that the granting of temporary licenses under this act is not intended to be a solution to the shortage of dental hygienists in the state of Washington. The legislature further declares that the long-term solution to these shortages

must be addressed by expanding dental hygiene training programs at the state's colleges and universities." [1993 c 323 § 1.]

Expiration date—1993 c 323 §§ 2, 3: "Sections 2 and 3 of this act shall expire on January 1, 1998." [1993 c 323 § 6.]

Temporary licenses—Report—Period of validity: "(1) The department of health shall report to the legislature by December 1, 1996, on the need to continue granting temporary licenses to dental hygienists. The report shall identify alternatives to granting temporary licenses that meet the same goals and objectives, including increasing the number of dental hygienists trained in the state of Washington.

(2) A temporary license granted by the department under RCW 18.29.190 through 18.29.210 is valid for the period issued." [1993 c 323 § 7.]

18.29.200 Temporary licensees—Requirements for regular examination. (Expires January 1, 1998.) A person granted a temporary license under this chapter who does not meet the requirements for substantively equivalent licensing standards in restorative or local anesthetic must submit proof of completion of approved education in these procedures before being eligible to take the dental hygiene examination. [1993 c 323 § 3.]

Legislative declaration—Expiration date—1993 c 323: See notes following RCW 18.29.190.

18.29.210 Rules. The secretary in consultation with the dental hygiene examining committee shall develop rules and definitions to implement this chapter. [1993 c 323 § 4.]

Legislative declaration—1993 c 323: See note following RCW 18.29.190.

Chapter 18.35
HEARING AIDS

Sections

18.35.010 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Department" means the department of health.

(2) "Board" means the board on fitting and dispensing of hearing aids.

(3) "Hearing aid" means any wearable prosthetic instrument or device designed for or represented as aiding, improving, compensating for, or correcting defective human hearing and any parts, attachments, or accessories of such an instrument or device, excluding batteries and cords and ear molds.

(4) "Fitting and dispensing of hearing aids" means the sale, lease, or rental or attempted sale, lease, or rental of hearing aids together with the selection and adaptation of hearing aids and the use of those tests and procedures essential to the performance of these functions. It includes the taking of impressions for ear molds for these purposes.

(5) "Secretary" means the secretary of health.

(6) "Establishment" means any facility engaged in the fitting and dispensing of hearing aids. [1993 c 313 § 1; 1991 c 3 § 80; 1983 c 39 § 1; 1979 c 158 § 38; 1973 1st ex.s. c 106 § 1.]

18.35.050 Examination—Required—When offered—Review. Except as otherwise provided in this chapter an applicant for license shall appear at a time and place and before such persons as the department may designate to be examined by written and practical tests. The department shall give an examination in May and November of each year. The examination shall be reviewed annually by the board and the department, and revised as necessary. No examination of any established association may be used as the exclusive replacement for the examination unless approved by the board. [1993 c 313 § 2; 1989 c 198 § 3; 1983 c 39 § 5; 1973 1st ex.s. c 106 § 5.]

18.35.060 Trainee license—Generally. (1) The department shall issue a trainee license to any applicant who has shown to the satisfaction of the department that:

(a) The applicant is at least eighteen years of age;

(b) If issued a trainee license, would be employed and directly supervised in the fitting and dispensing of hearing aids by a person licensed in good standing as a fitter-dispenser for at least one year unless otherwise approved by the board; and

(c) Has paid an application fee determined by the secretary as provided in RCW 43.70.250, to the department.

The provisions of RCW 18.35.030, 18.35.110, and 18.35.120 shall apply to any person issued a trainee license. Pursuant to the provisions of this section, a person issued a trainee license may engage in the fitting and dispensing of hearing aids without having first passed the examination provided under this chapter.

(2) The trainee license shall contain the name of the person licensed under this chapter who is employing and supervising the trainee and that person shall execute an acknowledgment of responsibility for all acts of the trainee in connection with the fitting and dispensing of hearing aids.

(3) A trainee may fit and dispense hearing aids, but only if the trainee is under the direct supervision of a person licensed under this chapter in a capacity other than as a trainee. Direct supervision by a licensed fitter-dispenser shall be required whenever the trainee is engaged in the fitting or dispensing of hearing aids during the trainee's first three months of full-time employment. The board shall develop and adopt guidelines on any additional supervision or training it deems necessary.

(4) The trainee license shall expire one year from the date of its issuance except that on recommendation of the board the license may be reissued for one additional year only.

(5) No person licensed under this chapter may assume the responsibility for more than two trainees at any one time, except that the department may approve one additional trainee if none of the trainees is within the initial ninety-day period of direct supervision and the licensee demonstrates to

the department's satisfaction that adequate supervision will be provided for all trainees. [1993 c 313 § 3; 1991 c 3 § 82; 1985 c 7 § 31; 1983 c 39 § 6; 1975 1st ex.s. c 30 § 37; 1973 1st ex.s. c 106 § 6.]

18.35.095 Licensees—Inactive status. (1) A person licensed under this chapter and not actively fitting and dispensing hearing aids may be placed on inactive status by the department at the written request of the licensee. The board shall define by rule the conditions for inactive status licensure. In addition to the requirements of RCW 43.24.086, the licensing fee for a licensee on inactive status shall be directly related to the costs of administering an inactive license by the department. A person on inactive status may be voluntarily placed on active status by notifying the department in writing, paying the remainder of the licensing fee for the licensing year, and complying with subsection (2) of this section.

(2) Inactive licensees applying for active licensure shall comply with the following: A licensee who has not fitted or dispensed hearing aids for more than five years from the expiration of the licensee's full fee license shall retake the practical examinations required under this chapter and shall have completed continuing education requirements within the previous twelve-month period. Persons who have been on inactive status from two to five years must have within the previous twelve months completed continuing education requirements. Persons who have been on inactive status for one year or less shall upon application be reinstated as active licensees. Persons who have inactive status in this state but who are actively licensed and in good standing in any other state shall not be required to meet continuing education requirements or to take the practical examinations, but must submit an affidavit attesting to their knowledge of the current Washington Administrative Code rules and Revised Code of Washington statutes pertaining to the fitting and dispensing of hearing aids. [1993 c 313 § 12.]

18.35.110 Disciplinary action—Grounds. In addition to causes specified under RCW 18.130.170 and 18.130.180, any person licensed under this chapter may be subject to disciplinary action by the board for any of the following causes:

(1) For unethical conduct in dealing in hearing aids. Unethical conduct shall include, but not be limited to:

(a) Using or causing or promoting the use of, in any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or any other representation, however disseminated or published, which is false, misleading or deceptive;

(b) Failing or refusing to honor or to perform as represented any representation, promise, agreement, or warranty in connection with the promotion, sale, dispensing, or fitting of the hearing aid;

(c) Advertising a particular model, type, or kind of hearing aid for sale which purchasers or prospective purchasers responding to the advertisement cannot purchase or are dissuaded from purchasing and where it is established that the purpose of the advertisement is to obtain prospects for the sale of a different model, type, or kind than that advertised;

(d) Falsifying hearing test or evaluation results;

(e)(i) Whenever any of the following conditions are found or should have been found to exist either from observations by the licensee or on the basis of information furnished by the prospective hearing aid user prior to fitting and dispensing a hearing aid to any such prospective hearing aid user, failing to advise that prospective hearing aid user in writing that the user should first consult a licensed physician specializing in diseases of the ear or if no such licensed physician is available in the community then to any duly licensed physician:

(A) Visible congenital or traumatic deformity of the ear, including perforation of the eardrum;

(B) History of, or active drainage from the ear within the previous ninety days;

(C) History of sudden or rapidly progressive hearing loss within the previous ninety days;

(D) Acute or chronic dizziness;

(E) Any unilateral hearing loss;

(F) Significant air-bone gap when generally acceptable standards have been established as defined by the food and drug administration;

(G) Visible evidence of significant cerumen accumulation or a foreign body in the ear canal;

(H) Pain or discomfort in the ear; or

(I) Any other conditions that the board may by rule establish. It is a violation of this subsection for any licensee or that licensee's employees and putative agents upon making such required referral for medical opinion to in any manner whatsoever disparage or discourage a prospective hearing aid user from seeking such medical opinion prior to the fitting and dispensing of a hearing aid. No such referral for medical opinion need be made by any licensee in the instance of replacement only of a hearing aid which has been lost or damaged beyond repair within six months of the date of purchase. The licensee or the licensee's employees or putative agents shall obtain a signed statement from the hearing aid user documenting the waiver of medical clearance and the waiver shall inform the prospective user that signing the waiver is not in the user's best health interest: PROVIDED, That the licensee shall maintain a copy of either the physician's statement showing that the prospective hearing aid user has had a medical evaluation or the statement waiving medical evaluation, for a period of three years after the purchaser's receipt of a hearing aid. Nothing in this section required to be performed by a licensee shall mean that the licensee is engaged in the diagnosis of illness or the practice of medicine or any other activity prohibited under the laws of this state;

(ii) Fitting and dispensing a hearing aid to any person under eighteen years of age who has not been examined and cleared for hearing aid use within the previous six months by a physician specializing in otolaryngology except in the case of replacement instruments or except in the case of the parents or guardian of such person refusing, for good cause, to seek medical opinion: PROVIDED, That should the parents or guardian of such person refuse, for good cause, to seek medical opinion, the licensee shall obtain from such parents or guardian a certificate to that effect in a form as prescribed by the department;

(iii) Fitting and dispensing a hearing aid to any person under eighteen years of age who has not been examined by an audiologist who holds at least a master's degree in audiology for recommendations during the previous six months, without first advising such person or his or her parents or guardian in writing that he or she should first consult an audiologist who holds at least a master's degree in audiology, except in cases of hearing aids replaced within six months of their purchase;

(f) Representing that the services or advice of a person licensed to practice medicine and surgery under chapter 18.71 RCW or osteopathy and surgery under chapter 18.57 RCW or of a clinical audiologist will be used or made available in the selection, fitting, adjustment, maintenance, or repair of hearing aids when that is not true, or using the word "doctor," "clinic," or other like words, abbreviations, or symbols which tend to connote a medical or osteopathic profession when such use is not accurate;

(g) Permitting another to use his or her license;

(h) Stating or implying that the use of any hearing aid will restore normal hearing, preserve hearing, prevent or retard progression of a hearing impairment, or any other false, misleading, or medically or audiologically unsupportable claim regarding the efficiency of a hearing aid;

(i) Representing or implying that a hearing aid is or will be "custom-made," "made to order," "prescription made," or in any other sense specially fabricated for an individual when that is not the case; or

(j) Directly or indirectly offering, giving, permitting, or causing to be given, money or anything of value to any person who advised another in a professional capacity as an inducement to influence that person, or to have that person influence others to purchase or contract to purchase any product sold or offered for sale by the licensee, or to influence any person to refrain from dealing in the products of competitors.

(2) Engaging in any unfair or deceptive practice or unfair method of competition in trade within the meaning of RCW 19.86.020.

(3) Aiding or abetting any violation of the rebating laws as stated in chapter 19.68 RCW. [1993 c 313 § 4; 1987 c 150 § 22; 1983 c 39 § 9; 1973 1st ex.s. c 106 § 11.]

Severability—1987 c 150: See RCW 18.122.901.

Violation of chapter 69.50 RCW, the Uniform Controlled Substances Act—Suspension of license: RCW 69.50.413.

18.35.140 Powers and duties of department. The powers and duties of the department, in addition to the powers and duties provided under other sections of this chapter, are as follows:

(1) To provide facilities necessary to carry out the examination of applicants for license.

(2) To authorize all disbursements necessary to carry out the provisions of this chapter.

(3) To require the periodic examination of the audiometric testing equipment and to carry out the periodic inspection of facilities of persons who deal in hearing aids, as reasonably required within the discretion of the department. [1993 c 313 § 5; 1983 c 39 § 11; 1973 1st ex.s. c 106 § 14.]

18.35.150 Board on fitting and dispensing of hearing aids—Created—Membership—Qualifications—Terms—Vacancies—Meetings—Compensation—Travel expenses. (1) There is created hereby the board on fitting and dispensing of hearing aids. The board shall consist of seven members to be appointed by the governor.

(2) Members of the board shall be residents of this state. Two members shall represent the public. Two members shall be persons experienced in the fitting of hearing aids who shall hold valid licenses under this chapter and who do not have a masters level college degree in audiology. One advisory nonvoting member shall be a medical or osteopathic physician specializing in diseases of the ear. Two members must be experienced in the fitting of hearing aids, must be licensed under this chapter, and shall have received at a minimum a masters level college degree in audiology.

(3) The term of office of a member is three years. No member shall be appointed to serve more than two consecutive terms. A member shall continue to serve until a successor has been appointed. The governor shall either reappoint the member or appoint a successor to assume the member's duties at the expiration of his or her predecessor's term. A vacancy in the office of a member shall be filled by appointment for the unexpired term.

(4) The chair of the board shall be elected from the membership of the board at the beginning of each year. In event of a tie, the issue shall be brought to a second vote and the chair shall refrain from voting.

(5) The board shall meet at least once each year, at a place, day and hour determined by the board, unless otherwise directed by a majority of board members. The board shall also meet at such other times and places as are requested by the department or by three members of the board.

(6) Members of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for their travel expenses in accordance with RCW 43.03.050 and 43.03.060. [1993 c 313 § 6; 1989 c 198 § 7; 1984 c 287 § 33; 1983 c 39 § 12; 1975-'76 2nd ex.s. c 34 § 35; 1973 1st ex.s. c 106 § 15.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

Secretary of health or designee as ex officio member of health professional licensure and disciplinary boards: RCW 43.70.300.

18.35.161 Board—Powers and duties. The board shall have the following powers and duties:

(1) To establish by rule such minimum standards and procedures in the fitting and dispensing of hearing aids as deemed appropriate and in the public interest;

(2) To develop guidelines on the training and supervision of trainees;

(3) To adopt any other rules necessary to implement this chapter and which are not inconsistent with it;

(4) To develop, approve, and administer all licensing examinations required by this chapter; and

(5) To require a licensee to make restitution to any individual injured by a violation of this chapter or chapter 18.130 RCW, the uniform disciplinary act. The authority to require restitution does not limit the board's authority to take other action deemed appropriate and provided for in this

chapter or chapter 18.130 RCW. [1993 c 313 § 7; 1987 c 150 § 23; 1983 c 39 § 13.]

Severability—1987 c 150: See RCW 18.122.901.

18.35.170 Board—Restriction upon member taking examination. A member of the board on fitting and dispensing of hearing aids shall not be permitted to take the examination provided under this chapter unless he or she has first satisfied the department that adequate precautions have been taken to assure that he or she does not and will not have any knowledge, not available to the members of the public at large, as to the contents of the examination. [1993 c 313 § 8; 1973 1st ex.s. c 106 § 17.]

18.35.185 Rescission of transaction—Requirements—Notice. (1) In addition to any other rights and remedies a purchaser may have, the purchaser of a hearing aid shall have the right to rescind the transaction for other than the licensee's breach if:

(a) The purchaser, for reasonable cause, returns the hearing aid or holds it at the licensee's disposal, if the hearing aid is in its original condition less normal wear and tear. "Reasonable cause" shall be defined by the board but shall not include a mere change of mind on the part of the purchaser or a change of mind related to cosmetic concerns of the purchaser about wearing a hearing aid; and

(b) The purchaser sends notice of the cancellation by certified mail, return receipt requested, to the establishment employing the licensee at the time the hearing aid was originally purchased, and the notice is posted not later than thirty days following the date of delivery, but the purchaser and the licensee may extend the deadline for posting of the notice of rescission by mutual, written agreement. In the event the hearing aid is in the possession of the licensee or the licensee's representative during the thirty days following the date of delivery, the deadline for posting the notice of rescission shall be extended by an equal number of days that the aid is in the possession of the licensee or the licensee's representative. Where the hearing aid is returned to the licensee for any inspection for modification or repair, and the licensee has notified the purchaser that the hearing aid is available for redelivery, and where the purchaser has not responded by either taking possession of the hearing aid or instructing the licensee to forward it to the purchaser, then the deadline for giving notice of the recision shall begin seven working days after this notice.

(2) If the transaction is rescinded under this section or as otherwise provided by law and the hearing aid is returned to the licensee, the licensee shall refund to the purchaser any payments or deposits for that hearing aid. However, the licensee may retain, for each hearing aid, fifteen percent of the total purchase price or one hundred dollars, whichever is less. The licensee shall also return any goods traded in contemplation of the sale, less any costs incurred by the licensee in making those goods ready for resale. The refund shall be made within ten days after the rescission. The buyer shall incur no additional liability for such rescission.

(3) For the purposes of this section, the purchaser shall have recourse against the bond held by the establishment entering into a purchase agreement with the buyer, as provided by RCW 18.35.240. [1993 c 313 § 9; 1989 c 198 § 12.]

18.35.220 Violations—Cease and desist orders—Notice—Injunctions. (1) If the board determines following notice and hearing, or following notice if no hearing was timely requested, that a person has:

(a) Violated any provisions of this chapter or chapter 18.130 RCW; or

(b) Violated any lawful order, or rule of the board

an order may be issued by the board requiring the person to cease and desist from the unlawful practice. The board shall then take affirmative action as is necessary to carry out the purposes of this chapter.

(2) If the board makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order, a temporary cease and desist order may be issued. Prior to issuing a temporary cease and desist order, the board, whenever possible, shall give notice by telephone or otherwise of the proposal to issue a temporary cease and desist order to the person to whom the order would be directed. Every temporary cease and desist order shall include in its terms a provision that upon request a hearing will be held to determine whether the order becomes permanent.

(3) The department, with or without prior administrative proceedings, may bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this chapter, or rule or order under this chapter. Upon proper showing, injunctive relief or temporary restraining orders shall be granted and a receiver or conservator may be appointed. The department shall not be required to post a bond in any court proceedings. [1993 c 313 § 10; 1987 c 150 § 25; 1983 c 39 § 17.]

Severability—1987 c 150: See RCW 18.122.901.

18.35.240 Violations—Surety bond or security in lieu of surety bonds. (1) Every establishment engaged in the fitting and dispensing of hearing aids shall file with the department a surety bond in the sum of ten thousand dollars, running to the state of Washington, for the benefit of any person injured or damaged as a result of any violation by the establishment's employees or agents of any of the provisions of this chapter or rules adopted by the secretary.

(2) In lieu of the surety bond required by this section, the establishment may file with the department a cash deposit or other negotiable security acceptable to the department. All obligations and remedies relating to surety bonds shall apply to deposits and security filed in lieu of surety bonds.

(3) If a cash deposit is filed, the department shall deposit the funds with the state treasurer. The cash or other negotiable security deposited with the department shall be returned to the depositor one year after the establishment has discontinued the fitting and dispensing of hearing aids if no legal action has been instituted against the establishment, its agents or employees, or the cash deposit or other security. The establishment owners shall notify the department if the establishment is sold or has discontinued the fitting and dispensing of hearing aids in order that the cash deposit or

other security may be released at the end of one year from that date.

(4) A surety may file with the department notice of withdrawal of the bond of the establishment. Upon filing a new bond, or upon the expiration of sixty days after the filing of notice of withdrawal by the surety, the liability of the former surety for all future acts of the establishment terminates.

(5) Upon the filing with the department notice by a surety of withdrawal of the surety on the bond of an establishment or upon the cancellation by the department of the bond of a surety under this section, the department shall immediately give notice to the establishment by certified or registered mail with return receipt requested addressed to the establishment's last place of business as filed with the department.

(6) The department shall immediately cancel the bond given by a surety company upon being advised that the surety company's license to transact business in this state has been revoked.

(7) Each invoice for the purchase of a hearing aid provided to a customer must clearly display on the first page the bond number of the establishment or the licensee selling the hearing aid. [1993 c 313 § 11; 1991 c 3 § 85; 1989 c 198 § 10; 1983 c 39 § 18.]

Chapter 18.36A
NATUROPATHY

Sections

18.36A.910 Repealed.
18.36A.911 Repealed.

18.36A.910 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

18.36A.911 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 18.39
EMBALMERS—FUNERAL DIRECTORS

Sections

18.39.290 Prearrangement contracts—Registration—Renewal—Fees—Disposition.
18.39.800 Funeral directors and embalmers account.

18.39.290 Prearrangement contracts—Registration—Renewal—Fees—Disposition. All certificates of registration issued pursuant to this chapter shall continue in force until the expiration date unless suspended or revoked. A certificate shall be subject to renewal annually ninety days after the end of its fiscal year, as stated on the original application, by the funeral establishment and payment of the required fees.

The director shall determine and collect fees related to certificate of registration licensure.

All fees so collected shall be remitted by the director to the state treasurer not later than the first business day following receipt of such funds and the funds shall be credited to the funeral directors and embalmers account. [1993 c 43 § 1; 1986 c 259 § 69; 1982 c 66 § 8.]

Effective date of 1993 c 43—1993 1st sp.s. c 24: "Chapter 43, Laws of 1993 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, 1993." [1993 1st sp.s. c 24 § 931.]

Severability—1986 c 259: See note following RCW 18.130.010.

Effective dates—Transfer of records, files, and pending business—Savings—1982 c 66: See notes following RCW 18.39.240.

18.39.800 Funeral directors and embalmers account. The funeral directors and embalmers account is created in the custody of the state treasurer. All fees received by the department for licenses, registrations, renewals, examinations, and audits shall be forwarded to the state treasurer who shall credit the money to the account. All fines and civil penalties ordered by the superior court or fines ordered pursuant to RCW 18.130.160(8) against holders of licenses or registrations issued under the provisions of this chapter shall be paid to the account. All expenses incurred in carrying out the licensing and registration activities of the department and the state funeral directors and embalmers board under this chapter shall be paid from the account as authorized by legislative appropriation. Any residue in the account shall be accumulated and shall not revert to the general fund at the end of the biennium. All earnings of investments of balances in the account shall be credited to the general fund. Any fund balance remaining in the health professions account attributable to the funeral director and embalmer professions as of July 1, 1993, shall be transferred to the funeral directors and embalmers account. [1993 c 43 § 2.]

Effective date of 1993 c 43—1993 1st sp.s. c 24: See note following RCW 18.39.290.

Chapter 18.51
NURSING HOMES

Sections

18.51.540 Cost disclosure to attending physicians.

18.51.540 Cost disclosure to attending physicians. (1) The legislature finds that the spiraling costs of nursing home care continue to surmount efforts to contain them, increasing at approximately twice the inflationary rate. The causes of this phenomenon are complex. By making nursing home facilities and care providers more aware of the cost consequences of care services for consumers, these providers may be inclined to exercise more restraint in providing only the most relevant and cost-beneficial services and care, with a potential for reducing the utilization of those services. The requirement of the nursing home to inform physicians, consumers, and other care providers of the charges of the services that they order may have a positive effect on containing health costs.

(2) All nursing home administrators in facilities licensed under this chapter shall be required to develop and maintain a written procedure for disclosing patient charges to attending physicians with admitting privileges. The nursing home administrator shall have the capability to provide an itemized list of the charges for all health care services that may be

ordered by a physician. The information shall be made available on request of consumers, or the physicians or other appropriate health care providers responsible for prescribing care. [1993 c 492 § 268.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Chapter 18.57A
OSTEOPATHIC PHYSICIANS' ASSISTANTS

Sections

18.57A.020 Rules fixing qualifications and restricting practice—Applications—Discipline. (1) The board shall adopt rules fixing the qualifications and the educational and training requirements for licensure as an osteopathic physician assistant or for those 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, providing such examination tests subjects substantially equivalent to the curriculum of an accredited physician assistant training program.

(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 training course.

(b) Such rules shall provide:

(i) That the practice of an osteopathic physician assistant shall be limited to the performance of those services for which he or she is trained; and

(ii) That each osteopathic physician assistant shall practice osteopathic 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 physicians 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.

(3) Applicants for licensure shall file an application with the board on a form prepared by the secretary with the approval of the board, detailing the education, training, and experience of the physician assistant and such other information as the board may require. The application shall be accompanied by a fee determined by the secretary as provided in RCW 43.70.250. Each applicant shall furnish proof satisfactory to the board of the following:

(a) That the applicant has completed an accredited physician assistant program approved by the board and is eligible to take the examination approved by the board;

(b) That the applicant is of good moral character; and

(c) That the applicant is physically and mentally capable of practicing osteopathic medicine as an osteopathic physician assistant with reasonable skill and safety. The board may require any applicant to submit to such examination or examinations as it deems necessary to determine an applicant's physical and/or mental capability to safely practice as an osteopathic physician assistant.

(4) The board may approve, deny, or take other disciplinary action upon the application for a license as provided in the uniform disciplinary act, chapter 18.130 RCW. The license shall be renewed on a periodic basis as determined by the secretary under RCW 43.70.280, upon payment of a fee determined by the secretary as provided in RCW 43.70.250 and submission of a completed renewal application, in addition to any late renewal penalty fees as determined by the secretary as provided in RCW 43.70.250. [1993 c 28 § 1; 1992 c 28 § 1; 1971 ex.s. c 30 § 8.]

Severability—1971 ex.s. c 30: See note following RCW 18.71A.010.

18.57A.030 Limitations on practice. An osteopathic physician assistant as defined in this chapter may practice osteopathic medicine in this state only with the approval of the practice arrangement plan by the board and only to the extent permitted by the board. An osteopathic physician assistant who has received a license but who has not received board approval of the practice arrangement plan under RCW 18.57A.040 may not practice. An osteopathic physician assistant shall be subject to discipline by the board under the provisions of chapter 18.130 RCW. [1993 c 28 § 2; 1986 c 259 § 95; 1971 ex.s. c 30 § 9.]

Severability—1986 c 259: See note following RCW 18.130.010.

Severability—1971 ex.s. c 30: See note following RCW 18.71A.010.

18.57A.040 Practice arrangements. (1) No osteopathic physician assistant practicing in this state shall be employed or supervised by an osteopathic physician or physician group without the approval of the board.

(2) Prior to commencing practice, an osteopathic physician assistant licensed in this state shall apply to the board for permission to be employed or supervised by an osteopathic physician or physician group. The practice arrangement plan shall be jointly submitted by the osteopathic physician or physician group and osteopathic physician assistant. The secretary may charge a fee as provided in RCW 43.70.250 to recover the cost for the plan review. The practice arrangement plan shall delineate the manner and extent to which the physician assistant would practice and be supervised. Whenever an osteopathic physician assistant is practicing in a manner inconsistent with the approved practice arrangement plan, the board may take disciplinary action under chapter 18.130 RCW. [1993 c 28 § 3; 1991 c 3 § 152. Prior: 1986 c 259 § 96; 1985 c 7 § 57; 1975 1st ex.s. c 30 § 60; 1971 ex.s. c 30 § 10.]

Severability—1986 c 259: See note following RCW 18.130.010.

Severability—1971 ex.s. c 30: See note following RCW 18.71A.010.

18.57A.050 Osteopathic physician's liability, responsibility. No osteopathic physician who supervises a licensed osteopathic physician assistant in accordance with and within the terms of any permission granted by the board shall be considered as aiding and abetting an unlicensed person to practice osteopathic medicine within the meaning of RCW 18.57.001: PROVIDED, HOWEVER, That the

supervising osteopathic physician and the osteopathic physician assistant shall retain professional and personal responsibility for any act which constitutes the practice of osteopathic medicine as defined in RCW 18.57.001 when performed by the physician assistant. [1993 c 28 § 4; 1986 c 259 § 97; 1971 ex.s. c 30 § 11.]

Severability—1986 c 259: See note following RCW 18.130.010.

Severability—1971 ex.s. c 30: See note following RCW 18.71A.010.

Chapter 18.64
PHARMACISTS

Sections

18.64.160 Disciplinary action against pharmacist's and intern's licenses—Grounds. In addition to the grounds under RCW 18.130.170 and 18.130.180, the board of pharmacy may take disciplinary action against the license of any pharmacist or intern upon proof that:

(1) His or her license was procured through fraud, misrepresentation, or deceit;

(2) In the event that a pharmacist is determined by a court of competent jurisdiction to be mentally incompetent, the pharmacist shall automatically have his or her license suspended by the board upon the entry of the judgment, regardless of the pendency of an appeal;

(3) He or she has knowingly violated or permitted the violation of any provision of any state or federal law, rule, or regulation governing the possession, use, distribution, or dispensing of drugs, including, but not limited to, the violation of any provision of this chapter, Title 69 RCW, or rule or regulation of the board;

(4) He or she has knowingly allowed any unlicensed person to take charge of a pharmacy or engage in the practice of pharmacy, except a pharmacy intern or pharmacy assistant acting as authorized in this chapter or chapter 18.64A RCW in the presence of and under the immediate supervision of a licensed pharmacist;

(5) He or she has compounded, dispensed, or caused the compounding or dispensing of any drug or device which contains more or less than the equivalent quantity of ingredient or ingredients specified by the person who prescribed such drug or device: PROVIDED, HOWEVER, That nothing herein shall be construed to prevent the pharmacist from exercising professional judgment in the preparation or providing of such drugs or devices. [1993 c 367 § 13; 1985 c 7 § 60; 1984 c 153 § 12; 1979 c 90 § 13; 1963 c 38 § 10; 1909 c 213 § 10; RRS § 10143. Formerly RCW 18.64.160 through 18.64.190.]

18.64.163 Uniform Disciplinary Act. The Uniform Disciplinary Act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses of pharmacists and pharmacy interns, and the discipline of licensed pharmacists and pharmacy interns under this chapter. [1993 c 367 § 14.]

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

18.64.430 Cost disclosure to health care providers. The registered or licensed pharmacist of [under] this chapter shall establish and maintain a procedure for disclosing to physicians and other health care providers with prescriptive authority information detailed by prescriber, of the cost and dispensation of all prescriptive medications prescribed by him or her for his or her patients on request. These charges should be made available on at least a quarterly basis for all requested patients and should include medication, dosage, number dispensed, and the cost of the prescription. Pharmacies may provide this information in a summary form for each prescribing physician for all patients rather than as individually itemized reports. All efforts should be made to utilize the existing computerized records and software to provide this information in the least costly format. [1993 c 492 § 267.]

Cost containment—1993 c 492: "The legislature finds that the spiraling costs of health care continue to surmount efforts to contain them, increasing at approximately twice the inflationary rate. One of the fastest growing segments of the health care expenditure involves prescription medications. By making physicians and other health care providers with prescriptive authority more aware of the cost consequences of health care treatments for consumers, these providers may be inclined to exercise more restraint in providing only the most relevant and cost-beneficial drug and medication treatments. The requirement of the pharmacy to inform physicians and other health care providers of the charges of prescription drugs and medications that they order may have a positive effect on containing health costs. Further, the option of the physician or other health care provider to inform the patient of these charges may strengthen the necessary dialogue in the provider-patient relationship that tends to be diminished by intervening third-party payers." [1993 c 492 § 266.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Chapter 18.64A
PHARMACY ASSISTANTS

Sections

18.64A.050 Disciplinary action against pharmacy assistant's certificate—Grounds. In addition to the grounds under RCW 18.130.170 and 18.130.180, the board of pharmacy may take disciplinary action against the certificate of any pharmacy assistant upon proof that:

(1) His or her certificate was procured through fraud, misrepresentation or deceit;

(2) He or she has been found guilty of any offense in violation of the laws of this state relating to drugs, poisons, cosmetics or drug sundries by any court of competent jurisdiction. Nothing herein shall be construed to affect or alter the provisions of RCW 9.96A.020;

(3) He or she has exhibited gross incompetency in the performance of his or her duties;

(4) He or she has willfully or repeatedly violated any of the rules and regulations of the board of pharmacy or of the department;

(5) He or she has willfully or repeatedly performed duties beyond the scope of his or her certificate in violation of the provisions of this chapter; or

(6) He or she has impersonated a licensed pharmacist. [1993 c 367 § 15; 1989 1st ex.s. c 9 § 424; 1977 ex.s. c 101 § 5.]

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Violation of chapter 69.50 RCW, the Uniform Controlled Substances Act—Suspension of license: RCW 69.50.413.

18.64A.055 Uniform Disciplinary Act. The Uniform Disciplinary Act, chapter 18.130 RCW, governs the issuance and denial of certificates and the discipline of certificants under this chapter. [1993 c 367 § 16.]

Chapter 18.71A
PHYSICIAN ASSISTANTS

Sections

18.71A.020 Rules fixing qualifications and restricting practice—Applications—Discipline. (1) The board shall adopt rules fixing the qualifications and the educational and training requirements for licensure as a physician assistant or for those 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 as of 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 or physicians at the place where services are rendered.

(3) Applicants for licensure shall file an application with the board on a form prepared by the secretary with the approval of the board, detailing the education, training, and experience of the physician assistant and such other information as the board may require. The application shall be accompanied by a fee determined by the secretary as provided in RCW 43.70.250. Each applicant shall furnish proof satisfactory to the board of the following:

(a) That the applicant has completed an accredited physician assistant program approved by the board and is eligible to take the examination approved by the board;

(b) That the applicant is of good moral character; and

(c) That the applicant is physically and mentally capable of practicing medicine as a physician assistant with reasonable skill and safety. The board may require an applicant to submit to such examination or examinations as it deems necessary to determine an applicant's physical or mental capability, or both, to safely practice as a physician assistant.

(4) The board may approve, deny, or take other disciplinary action upon the application for license as provided in the Uniform Disciplinary Act, chapter 18.130 RCW. The license shall be renewed on a periodic basis as determined by the secretary under RCW 43.70.280, upon payment of a fee determined by the secretary as provided in RCW 43.70.250, and submission of a completed renewal application, in addition to any late renewal penalty fees as determined by the secretary as provided in RCW 43.70.250. The board may authorize the use of alternative supervisors who are licensed either under chapter 18.57 or 18.71 RCW. [1993 c 28 § 5; 1992 c 28 § 2; 1990 c 196 § 2; 1971 ex.s. c 30 § 2.]

18.71A.030 Limitations on practice. A physician assistant as defined in this chapter may practice medicine in this state only with the approval of the practice arrangement plan by the board and only to the extent permitted by the board. A physician assistant who has received a license but who has not received board approval of the practice arrangement plan under RCW 18.71A.040 may not practice. A physician assistant shall be subject to discipline under chapter 18.130 RCW. [1993 c 28 § 6; 1990 c 196 § 3; 1971 ex.s. c 30 § 3.]

18.71A.040 Board approval required—Application—Fee—Discipline. (1) No physician assistant practicing in this state shall be employed or supervised by a physician or physician group without the approval of the board.

(2) Prior to commencing practice, a physician assistant licensed in this state shall apply to the board for permission to be employed or supervised by a physician or physician group. The practice arrangement plan shall be jointly submitted by the physician or physician group and physician assistant. The secretary may charge a fee as provided in RCW 43.70.250 to recover the cost for the plan review. The practice arrangement plan shall delineate the manner and extent to which the physician assistant would practice and be supervised. Whenever a physician assistant is practicing in a manner inconsistent with the approved practice arrangement plan, the medical disciplinary board may take disciplinary action under chapter 18.130 RCW. [1993 c 28 § 7; 1990 c 196 § 4. Prior: 1986 c 259 § 113; 1985 c 7 § 61; 1975 1st ex.s. c 30 § 64; 1975 1st ex.s. c 190 § 2; 1971 ex.s. c 30 § 4.]

Severability—1986 c 259: See note following RCW 18.130.010.

18.71A.050 Physician's liability, responsibility. No physician who supervises a licensed physician assistant in accordance with and within the terms of any permission granted by the medical examining board shall be considered as aiding and abetting an unlicensed person to practice medicine. The supervising physician and physician assistant shall retain professional and personal responsibility for any act which constitutes the practice of medicine as defined in RCW 18.71.011 when performed by the physician assistant. [1993 c 28 § 8; 1990 c 196 § 5; 1986 c 259 § 114; 1971 ex.s. c 30 § 5.]

Severability—1986 c 259: See note following RCW 18.130.010.

18.71A.070 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 18.72
MEDICAL DISCIPLINARY BOARD

Sections

18.72.340 Duty of professional liability insurers to report malpractice settlements and awards. (1) Every institution or organization providing professional liability insurance to physicians shall send a complete report to the medical disciplinary board of all malpractice settlements, awards, or payments in excess of twenty thousand dollars as a result of a claim or action for damages alleged to have been caused by an insured physician's incompetency or negligence in the practice of medicine. Such institution or organization shall also report the award, settlement, or payment of three or more claims during a five-year time period as the result of the alleged physician's incompetence or negligence in the practice of medicine regardless of the dollar amount of the award or payment.

(2) Reports required by this section shall be made within sixty days of the date of the settlement or verdict. Failure to comply with this section is punishable by a civil penalty not to exceed two hundred fifty dollars. [1993 c 367 § 17; 1986 c 300 § 6.]

Legislative findings—Severability—1986 c 300: See notes following RCW 18.57.174.

18.72.380 Medical disciplinary assessment fee. There is hereby levied to be collected by the department of health from every physician and surgeon licensed pursuant to chapter 18.71 RCW and every physician assistant licensed pursuant to chapter 18.71A RCW an annual medical disciplinary assessment equal to the license renewal fee established under RCW 43.70.250. The assessment levied pursuant to this section is in addition to any license renewal fee established under RCW 43.70.250. [1993 c 367 § 18; 1991 c 3 § 170; 1985 c 7 § 62; 1983 c 71 § 1.]

Chapter 18.73
EMERGENCY MEDICAL CARE AND TRANSPORTATION SERVICES

Sections

18.73.081 Duties of secretary—Minimum requirements to be prescribed. In addition to other duties prescribed by law, the secretary shall:

(1) Prescribe minimum requirements for:

(a) Ambulance, air ambulance, and aid vehicles and equipment;

(b) Ambulance and aid services; and

(c) Minimum emergency communication equipment;

(2) Adopt procedures for services that fail to perform in accordance with minimum requirements;

(3) Prescribe minimum standards for first responder and emergency medical technician training including:

(a) Adoption of curriculum and period of certification;

(b) Procedures for certification, recertification, decertification, or modification of certificates;

(c) Adoption of requirements for ongoing training and evaluation, as approved by the county medical program director, to include appropriate evaluation for individual knowledge and skills. The first responder, emergency medical technician, or emergency medical services provider agency may elect a program of continuing education and a written and practical examination instead of meeting the ongoing training and evaluation requirements;

(d) Procedures for reciprocity with other states or national certifying agencies;

(e) Review and approval or disapproval of training programs; and

(f) Adoption of standards for numbers and qualifications of instructional personnel required for first responder and emergency medical technician training programs;

(4) Prescribe minimum requirements for liability insurance to be carried by licensed services except that this requirement shall not apply to public bodies; and

(5) Certify emergency medical program directors. [1993 c 254 § 1; 1990 c 269 § 24; 1988 c 111 § 1; 1987 c 214 § 7.]

Severability—1990 c 269: See RCW 70.168.901.

Chapter 18.74
PHYSICAL THERAPY

Sections

18.74.029 Application of Uniform Disciplinary Act. The Uniform Disciplinary Act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses and interim permits, and the discipline of licensees and holders of interim permits under this chapter. [1993 c 133 § 2; 1987 c 150 § 47; 1986 c 259 § 123.]

Severability—1987 c 150: See RCW 18.122.901.

Severability—1986 c 259: See note following RCW 18.130.010.

18.74.075 Interim permits. (1) The department, upon approval by the board, shall issue an interim permit authorizing an applicant for licensure who meets the minimum qualifications stated in RCW 18.74.030 to practice physical therapy under graduate supervision pending notification of the results of the first licensure examination for which the applicant is eligible, but not to exceed six months.

(2) For purposes of this section, "graduate supervision" means supervision of a holder of an interim permit by a licensed physical therapist who is on the premises at all times. Graduate supervision shall include consultation regarding evaluation, treatment plan, treatment program, and progress of each assigned patient at appropriate intervals and be documented by cosignature of notes by the licensed physical therapist. RCW 18.74.012 is not applicable for holders of interim permits.

(3) If the holder of the interim permit fails the examination, the permit expires upon notification and is not renewable. [1993 c 133 § 1.]

Chapter 18.76
POISON INFORMATION CENTERS

Sections

18.76.010 Purpose. The legislature finds that accidental and purposeful exposure to drugs, poisons, and toxic substances continues to be a severe health problem in the state of Washington. It further finds that a significant reduction in the consequences of such accidental exposures has occurred as a result of the services provided by poison information centers.

The purpose of this chapter is to reduce morbidity and mortality associated with overdose and poisoning incidents by providing emergency telephone assistance and treatment referral to victims of such incidents, by providing immediate treatment information to health care professionals, and public education and prevention programs. Further, the purpose is to improve utilization of drugs by providing information to health professionals relating to appropriate therapeutic drug use.

The legislature recognizes that enhanced cooperation between the emergency medical system and poison control centers will aid in responding to emergencies resulting from exposure to drugs, poisons, and toxic substances, and that, by providing telephone assistance to individuals with possible exposure to these substances, the need for emergency room and professional office visits will be reduced. As a result the cost of health care to those who may have exposures to drugs, poisons, and toxic substances will be avoided and appropriate treatment will be assured. [1993 c 343 § 1; 1987 c 214 § 16; 1980 c 178 § 1. Formerly RCW 18.73.210.]

18.76.030 Poison information center—State-wide program. The department shall, in a manner consistent with this chapter, provide support for the state-wide program of poison and drug information services. These services shall, no later than June 30, 1993, be centralized in and coordinated by a single nonprofit center to be located in a place determined by the secretary. The services of this center shall be:

(1) Twenty-four hour emergency telephone management and treatment referral of victims of poisoning and overdose incidents, to include determining whether treatment can be accomplished at the scene of the incident or transport to an emergency treatment or other facility is required, and carrying out telephone follow-up to assure that adequate care is provided;

(2) Providing information to health professionals involved in management of poisoning and overdose victims;

(3) Coordination and development of community education programs designed to inform the public and members of the health professions of poison prevention and treatment methods and to improve awareness of poisoning and overdose problems, occupational risks, and environmental exposures; and

(4) Coordination of outreach units whose primary functions shall be to inform the public about poison problems and prevention methods, how to utilize the poison center, and other toxicology issues. [1993 c 343 § 2; 1987 c 214 § 17; 1980 c 178 § 2. Formerly RCW 18.73.220.]

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

18.76.041 Consulting with other poison programs. The department shall establish a system for consulting with other state and local agency programs concerned with poisons and poisonings, incidents involving exposures to potentially poisonous substances, and other toxicological matters to develop the most coordinated and consistent response to such situations as is reasonably possible. [1993 c 343 § 3.]

18.76.060 Poison center medical director—Poison information specialist—Certification required. (1) A person may not act as a poison center medical director or perform the duties of poison information specialists of a poison information center without being certified by the secretary under this chapter.

(2) Notwithstanding subsection (1) of this section, if a poison center medical director terminates certification or is decertified, that poison center medical director's authority may be delegated by the department to any other person licensed to practice medicine and surgery under chapter 18.71 RCW or osteopathy and surgery under chapter 18.57 RCW for a period of thirty days, or until a new poison center medical director is certified, whichever comes first. [1993 c 343 § 4; 1987 c 214 § 21.]

18.76.090 Use of gifts and grants. The center may receive gifts, grants, and endowments from public or private sources that may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the

center and spend gifts, grants, or endowments or any income from the public or private sources according to their terms. [1993 c 343 § 5.]

Chapter 18.85
REAL ESTATE BROKERS AND SALESPERSONS

Sections

18.85.220 License fees—Real estate commission account. 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 be deposited in the real estate education account created by RCW 18.85.317. [1993 c 50 § 1; 1991 c 277 § 1; 1987 c 332 § 8; 1967 c 22 § 1; 1953 c 235 § 11; 1941 c 252 § 7; Rem. Supp. 1941 § 8340-30.]

Effective date—1993 c 50: "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, 1993." [1993 c 50 § 5.]

Effective date—1991 c 277: "This act shall take effect July 1, 1993." [1991 c 277 § 3.]

18.85.310 Broker's records—Separate accounts—Interest-bearing trust accounts—Disposition of interest. (1) Every licensed real estate broker shall keep adequate records of all real estate transactions handled by or through him. The records shall include, but are not limited to, a copy of the earnest money receipt, and an itemization of the broker's receipts and disbursements with each transaction. These records and all other records hereinafter specified shall be open to inspection by the director or his authorized representatives.

(2) Every real estate broker shall also deliver or cause to be delivered to all parties signing the same, at the time of signing, conformed copies of all earnest money receipts, listing agreements and all other like or similar instruments signed by the parties, including the closing statement.

(3) Every real estate broker shall also keep separate real estate fund accounts in a recognized Washington state depositary authorized to receive funds in which shall be kept separate and apart and physically segregated from licensee broker's own funds, all funds or moneys of clients which are being held by such licensee broker pending the closing of a real estate sale or transaction, or which have been collected for said client and are being held for disbursement for or to said client and such funds shall be deposited not later than the first banking day following receipt thereof.

(4) Separate accounts comprised of clients' funds required to be maintained under this section, with the exception of property management trust accounts, shall be interest-bearing accounts from which withdrawals or transfers can be made without delay, subject only to the notice period which the depository institution is required to reserve by law or regulation.

(5) Every real estate broker shall maintain a pooled interest-bearing escrow account for deposit of client funds, with the exception of property management trust accounts, which are nominal. As used in this section, a "nominal" deposit is a deposit of not more than five thousand dollars.

The interest accruing on this account, net of any reasonable and appropriate financial institution service charges or fees, shall be paid to the state treasurer for deposit in the Washington housing trust fund created in RCW 43.185.030 and the real estate education account created in RCW 18.85.317. Appropriate service charges or fees are those charges made by financial institutions on other demand deposit or "now" accounts. An agent may, but shall not be required to, notify the client of the intended use of such funds.

(6) All client funds not required to be deposited in the account specified in subsection (5) of this section shall be deposited in:

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

(b) The pooled interest-bearing trust account specified in subsection (5) of this section if the parties to the transaction agree.

The department of licensing shall promulgate regulations which will serve as guidelines in the choice of an account specified in subsection (5) of this section or an account specified in this subsection.

(7) For an account created under subsection (5) of this section, an agent shall direct the depository institution to:

(a) Remit interest or dividends, net of any reasonable and appropriate service charges or fees, on the average monthly balance in the account, or as otherwise computed in accordance with an institution's standard accounting practice, at least quarterly, to the state treasurer for deposit in the housing trust fund created by RCW 43.185.030 and the real estate education account created in RCW 18.85.317; and

(b) Transmit to the director of community development a statement showing the name of the person or entity for whom the remittance is spent, the rate of interest applied, and the amount of service charges deducted, if any, and the account balance(s) of the period in which the report is made, with a copy of such statement to be transmitted to the depositing person or firm.

(8) The director shall forward a copy of the reports required by subsection (7) of this section to the department of licensing to aid in the enforcement of the requirements of this section consistent with the normal enforcement and auditing practices of the department of licensing.

(9) This section does not relieve any real estate broker from any obligation with respect to the safekeeping of clients' funds.

(10) Any violation by a real estate broker of any of the provisions of this section, or RCW 18.85.230, shall be grounds for revocation of the licenses issued to the broker. [1993 c 50 § 2; 1988 c 286 § 2; 1987 c 513 § 1; 1957 c 52 § 44; 1953 c 235 § 13; 1951 c 222 § 19. Prior: 1947 c 203 § 4, part; 1945 c 111 § 7, part; 1943 c 118 § 4, part; 1941 c 252 § 18, part; Rem. Supp. 1947 § 8340-41, part; prior: 1925 ex.s. c 129 § 12, part.]

Effective date—1993 c 50: See note following RCW 18.85.220.

Effective date—1987 c 513: "This act shall take effect January 1, 1988." [1987 c 513 § 15.]

Severability—1987 c 513: "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." [1987 c 513 § 13.]

18.85.315 Distribution of interest from brokers' trust accounts. 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 education account created by RCW 18.85.317, which shall receive twenty-five percent. [1993 c 50 § 3; 1987 c 513 § 9.]

Effective date—1993 c 50: See note following RCW 18.85.220.

Effective date—Severability—1987 c 513: See notes following RCW 18.85.310.

18.85.317 Real estate education account. 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. Any fund balance remaining in the real estate commission account attributable to moneys received under RCW 18.85.315 and moneys derived from fines imposed under this chapter as of July 1, 1993, shall be transferred to the real estate education account. Expenditures from the account may be made only upon the authorization of the director or a duly authorized representative of the director, and may be used only 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 RCW 18.85.040(4). All expenses and costs relating to the 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 account is subject to appropriation under chapter 43.88 RCW. [1993 c 50 § 4.]

Effective date—1993 c 50: See note following RCW 18.85.220.

Chapter 18.88
REGISTERED NURSES

Sections

18.88.280 Excepted activities—Limitation of practice. This chapter shall not be construed as (1) prohibiting the incidental care of the sick by domestic servants or persons primarily employed as housekeepers, so long as they do not practice professional nursing within the meaning of this chapter, (2) or preventing any person from the domestic administration of family remedies or the furnishing of nursing assistance in case of emergency; (3) nor shall it be construed as prohibiting such practice of nursing by students enrolled in approved schools as may be incidental to their course of study nor shall it prohibit such students working as nursing aides; (4) nor shall it be construed as prohibiting auxiliary services provided by persons carrying out duties necessary for the support of nursing service including those duties which involve minor nursing services for persons performed in hospitals, nursing homes or elsewhere under the direction of licensed physicians or the supervision of licensed, registered nurses; (5) nor shall it be construed as prohibiting or preventing the practice of nursing in this state by any legally qualified nurse of another state or territory whose engagement requires him or her to accompany and care for a patient temporarily residing in this state during the period of one such engagement, not to exceed six months in length, if such person does not represent or hold himself or herself out as a nurse licensed to practice in this state; (6) nor shall it be construed as prohibiting nursing or care of the sick, with or without compensation, when done in connection with the practice of the religious tenets of any church by adherents thereof so long as they do not engage in the practice of nursing as defined in this chapter; (7) nor shall it be construed as prohibiting the practice of any legally qualified nurse of another state who is employed by the United States government or any bureau, division or agency thereof, while in the discharge of his or her official duties; (8) permitting the measurement of the powers or range of human vision, or the determination of the accommodation and refractive state of the human eye or the scope of its functions in general, or the fitting or adaptation of lenses or frames for the aid thereof; (9) permitting the prescribing or directing the use of, or using, any optical device in connection with ocular exercises, visual training, vision training or orthoptics; (10) permitting the prescribing of contact lenses for, or the fitting or adaptation of contact lenses to, the human eye; (11) prohibiting the performance of routine visual screening; (12) permitting the practice of dentistry or dental hygiene as defined in chapters 18.32 and 18.29 RCW respectively; (13) permitting the practice of chiropractic as defined in chapter 18.25 RCW including the adjustment or manipulation of the articulations of the spine; (14) permitting the practice of podiatric medicine and surgery as defined in chapter 18.22 RCW; (15) permitting the performance of major surgery, except such minor surgery as the board may have specifically authorized by rule or regulation duly adopted in accordance with the provisions of chapter 34.05 RCW; (16) permitting the prescribing of controlled substances as defined in schedules I through IV of the Uniform Controlled Substances Act, chapter 69.50 RCW, except as provided in subsection (18) of this section; (17) prohibiting the determination and pronouncement of death; (18) prohibiting advanced registered nurse practitioners, approved by the board as certified registered nurse anesthetists from selecting, ordering, or administering controlled substances as defined in schedules II through IV of the Uniform Controlled Substances Act, chapter 69.50 RCW, consistent with their board-recognized scope of practice; subject to facility-specific protocols, and subject to a request for certified registered nurse anesthetist anesthesia services issued by a physician licensed under chapter 18.71 RCW, an osteopathic physician and surgeon licensed under chapter 18.57 RCW, a dentist licensed under chapter 18.32 RCW, or a podiatric physician and surgeon licensed under chapter 18.22 RCW; the authority to select, order, or administer schedule II through IV controlled substances being limited to those drugs which are to be directly administered to patients who require anesthesia for diagnostic, operative, obstetrical, or

therapeutic procedures in a hospital, clinic, ambulatory surgical facility, or the office of a practitioner licensed under chapter 18.71, 18.57, 18.32, or 18.22 RCW; "select" meaning the decision-making process of choosing a drug, dosage, route, and time of administration; and "order" meaning the process of directing licensed individuals pursuant to their statutory authority to directly administer a drug or to dispense, deliver, or distribute a drug for the purpose of direct administration to a patient, pursuant to instructions of the certified registered nurse anesthetist. "Protocol" means a statement regarding practice and documentation concerning such items as categories of patients, categories of medications, or categories of procedures rather than detailed case-specific formulas for the practice of nurse anesthesia. [1993 c 225 § 1; 1989 c 114 § 7; 1988 c 37 § 1; 1973 c 133 § 27; 1961 c 288 § 13; 1949 c 202 § 28; Rem. Supp. 1949 § 10173-26.]

Effective date—1993 c 225: "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 [May 6, 1993]." [1993 c 225 § 2.]

Severability—1973 c 133: See note following RCW 18.88.010.

Exceptions from chapter: RCW 18.88.030.

Chapter 18.92
VETERINARY MEDICINE, SURGERY, AND DENTISTRY

Sections

18.92.013 Dispensing of drugs by registered personnel. (1) A veterinarian legally prescribing drugs may delegate to a registered veterinary medication clerk or a registered animal technician, while under the veterinarian's direct supervision, certain nondiscretionary functions defined by the board and used in the dispensing of legend and nonlegend drugs (except controlled substances as defined in or under chapter 69.50 RCW) associated with the practice of veterinary medicine. Upon final approval of the packaged prescription following a direct physical inspection of the packaged prescription for proper formulation, packaging, and labeling by the veterinarian, the veterinarian may delegate the delivery of the prescription to a registered veterinary medication clerk or registered animal technician, while under the veterinarian's indirect supervision. Dispensing of drugs by veterinarians, registered animal technicians, and registered veterinary medication clerks shall meet the applicable requirements of chapters 18.64, 69.40, 69.41, and 69.50 RCW and is subject to inspection by the board of pharmacy investigators.

(2) For the purposes of this section:

(a) "Direct supervision" means the veterinarian is on the premises and is quickly and easily available; and

(b) "Indirect supervision" means the veterinarian is not on the premises but has given written or oral instructions for the delegated task. [1993 c 78 § 2.]

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

"Animal technician" means a person who has successfully completed an examination administered by the board and who has either successfully completed a post high school course approved by the board in the care and treatment of animals or had five years' practical experience, acceptable to the board, with a licensed veterinarian.

"Board" means the Washington state veterinary board of governors.

"Department" means the department of health.

"Secretary" means the secretary of the department of health.

"Veterinary medication clerk" means a person who has satisfactorily completed a board-approved training program developed in consultation with the board of pharmacy and designed to prepare persons to perform certain nondiscretionary functions defined by the board and used in the dispensing of legend and nonlegend drugs (except controlled substances as defined in or under chapter 69.50 RCW) associated with the practice of veterinary medicine. [1993 c 78 § 1; 1991 c 332 § 40; 1991 c 3 § 238; 1983 c 102 § 1; 1979 c 158 § 71; 1974 ex.s. c 44 § 1; 1967 ex.s. c 50 § 1; 1959 c 92 § 2; 1941 c 71 § 21; Rem. Supp. 1941 § 10040-21. Formerly RCW 18.92.010, part.]

Captions not law—1991 c 332: See note following RCW 18.130.010.

18.92.030 General duties of board. The board shall prepare examination questions, conduct examinations, and grade the answers of applicants. The board, under chapter 34.05 RCW, may adopt rules necessary to carry out the purposes of this chapter, including the performance of the duties and responsibilities of animal technicians and veterinary medication clerks. The rules shall be adopted in the interest of good veterinary health care delivery to the consuming public and shall not prevent animal technicians from inoculating an animal. The board also has the power to adopt by rule standards prescribing requirements for veterinary medical facilities and fixing minimum standards of continuing veterinary medical education.

The department is the official office of record. [1993 c 78 § 3; 1986 c 259 § 140; 1983 c 102 § 2; 1982 c 134 § 2; 1981 c 67 § 23; 1974 ex.s. c 44 § 2; 1967 ex.s. c 50 § 3; 1961 c 157 § 2; 1959 c 92 § 4; 1941 c 71 § 4; Rem. Supp. 1941 § 10040-4. FORMER PART OF SECTION: 1941 c 71 § 9; Rem. Supp. 1941 § 10040-9 now codified as RCW 18.92.035.]

Severability—1986 c 259: See note following RCW 18.130.010.

Effective dates—Severability—1981 c 67: See notes following RCW 34.12.010.

18.92.060 Licensing exemptions. Nothing in this chapter applies to:

(1) Commissioned veterinarians in the United States military services or veterinarians employed by Washington state and federal agencies while performing official duties;

(2) A person practicing veterinary medicine upon his or her own animal;

(3) A person advising with respect to or performing the castrating and dehorning of cattle, castrating and docking of sheep, castrating of swine, caponizing of poultry, or artificial insemination of animals;

(4)(a) A person who is a regularly enrolled student in a veterinary school or training course approved under RCW 18.92.015 and performing duties or actions assigned by his or her instructors or working under the direct supervision of a licensed veterinarian during a school vacation period or (b) a person performing assigned duties under the supervision of a veterinarian within the established framework of an internship program recognized by the board;

(5) A veterinarian regularly licensed in another state consulting with a licensed veterinarian in this state;

(6) An animal technician or veterinary medication clerk acting under the supervision and control of a licensed veterinarian. The practice of an animal technician or veterinary medication clerk is limited to the performance of services which are authorized by the board;

(7) An owner being assisted in practice by his or her employees when employed in the conduct of the owner's business;

(8) An owner being assisted in practice by some other person gratuitously. [1993 c 78 § 4; 1974 ex.s. c 44 § 4; 1967 ex.s. c 50 § 5; 1959 c 92 § 13; 1941 c 71 § 20; Rem. Supp. 1941 § 10040-20. Prior: 1907 c 124 § 15.]

18.92.125 Animal technicians or veterinary medication clerks. No veterinarian who uses the services of an animal technician or veterinary medication clerk shall be considered as aiding and abetting any unlicensed person to practice veterinary medicine. A veterinarian retains professional and personal responsibility for any act which constitutes the practice of veterinary medicine as defined in this chapter when performed by an animal technician or veterinary medication clerk in his or her employ. [1993 c 78 § 5; 1986 c 259 § 143; 1983 c 102 § 5; 1974 ex.s. c 44 § 6.]

Severability—1986 c 259: See note following RCW 18.130.010.

18.92.140 License—Renewal. Each person now qualified to practice veterinary medicine, surgery, and dentistry, registered as an animal technician, or registered as a veterinary medication clerk in this state or who becomes licensed or registered to engage in practice shall register with the secretary of health annually or on the date prescribed by the secretary and pay the renewal registration fee set by the secretary as provided in RCW 43.70.250. A person who fails to renew a license or certificate before its expiration is subject to a late renewal fee equal to one-third of the regular renewal fee set by the secretary. [1993 c 78 § 6; 1991 c 3 § 247; 1985 c 7 § 72; 1983 c 102 § 6; 1941 c 71 § 16; Rem. Supp. 1941 § 10040-16. FORMER PARTS OF SECTION: (i) 1941 c 71 § 17; Rem. Supp. 1941 § 10040-17, now codified as RCW 18.92.142. (ii) 1941 c 71 § 19, part; Rem. Supp. 1941 § 10040-19, part, now codified as RCW 18.92.145.]

18.92.145 License, certificates of registration, permit, examination, and renewal fees. The secretary shall determine the fees, as provided in RCW 43.70.250, for the issuance, renewal, or administration of the following licenses, certificates of registration, permits, duplicate licenses, renewals, or examination:

(1) For a license to practice veterinary medicine, surgery, and dentistry issued upon an examination given by the examining board;

(2) For a license to practice veterinary medicine, surgery, and dentistry issued upon the basis of a license issued in another state;

(3) For a certificate of registration as an animal technician;

(4) For a certificate of registration as a veterinary medication clerk;

(5) For a temporary permit to practice veterinary medicine, surgery, and dentistry. The temporary permit fee shall be accompanied by the full amount of the examination fee; and

(6) For a license to practice specialized veterinary medicine. [1993 c 78 § 7; 1991 c 332 § 42; 1991 c 3 § 248; 1985 c 7 § 73; 1983 c 102 § 7; 1975 1st ex.s. c 30 § 84; 1971 ex.s. c 266 § 20; 1967 ex.s. c 50 § 9; 1959 c 92 § 12; 1941 c 71 § 19; Rem. Supp. 1941 § 10040-19. Prior: 1907 c 124 §§ 9, 10. Formerly RCW 18.92.090 and 18.92.140.]

Captions not law—1991 c 332: See note following RCW 18.130.010.

Chapter 18.96
LANDSCAPE ARCHITECTS

Sections

18.96.040 Board of registration for landscape architects—Created—Members—Qualifications. There is created a state board of registration for landscape architects. The board shall consist of four landscape architects and one member of the general public. Members of the board shall be appointed by the governor and must be residents of this state having the qualifications required by this chapter.

No public member of the board may be a past or present member of any other licensing board under this title. No public member may make his or her own livelihood from, nor have a parent, spouse, or child make their respective livelihood from providing landscape architect services, or from enterprises dealing in landscape architecture.

The landscape architect members of the board must, while serving on the board, be actively engaged in their profession or trade and, immediately preceding appointment, have had at least five years experience in responsible charge of work or teaching within their profession or trade. [1993 c 35 § 1; 1985 c 18 § 1; 1969 ex.s. c 158 § 4.]

Effective date—1985 c 18: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect on June 30, 1985." [1985 c 18 § 6.]

18.96.080 Applications—Contents—Fees. Application for registration shall be filed with the director prior to the date set for examination and shall contain statements made under oath showing the applicant's education and a detailed summary of practical experience, and shall contain not less than three references who are landscape architects having personal knowledge of the applicant's landscape architectural experience.

The application fee for initial examination shall be determined by the director as provided in RCW 43.24.086. The application and fee must be submitted to the agency prior to the application deadline established by the director.

Fees for initial examination and reexamination shall be determined by the director as provided in RCW 43.24.086, and must be filed with the agency prior to the application deadline established by the director. [1993 c 35 § 2; 1985 c 7 § 74; 1975 1st ex.s. c 30 § 85; 1969 ex.s. c 158 § 8.]

18.96.090 Examinations. Examinations of applicants for certificates of registration shall be held at least annually or at such times and places as the board may determine. The board shall determine from the examination and the material submitted with the applications whether or not the applicants possess sufficient knowledge, ability and moral fitness to safely and properly practice landscape architecture and to hold themselves out to the public as persons qualified for that practice.

The scope of the examination and methods of examination procedure shall be prescribed by the board with special reference to landscape construction materials and methods, grading and drainage, plant materials suited for use in the northwest, specifications and supervisory practice, history and theory of landscape architecture relative to landscape architectural design, site planning and land design, subdivision, urban design, and a practical knowledge of botany, horticulture and similar subjects related to the practice of landscape architecture. The board may adopt an appropriate national examination and grading procedure.

Applicants who fail to pass sections of the examination shall be permitted to retake the examination in the sections failed. A passing grade in a section shall exempt the applicant from examination in that subject for five years. The board may determine the standard for passing grades computed on a scale of one hundred percent. A certificate of registration shall be granted by the director to all qualified applicants who shall be certified by the board as having passed the required examination and as having given satisfactory proof of completion of the required experience. [1993 c 35 § 3; 1985 c 18 § 2; 1969 ex.s. c 158 § 9.]

Effective date—1985 c 18: See note following RCW 18.96.040.

18.96.100 Reciprocity. The director may, upon payment of a reciprocity application fee and the current registration fee in an amount as determined by the director as provided in RCW 43.24.086, grant a certificate of registration, upon recommendation by the board, to any applicant who is a registered landscape architect in any other state or country whose requirements for registration are at least substantially equivalent to the requirements of this state for registration by examination, and which extends the same privileges of reciprocity to landscape architects registered in this state. [1993 c 35 § 4; 1985 c 7 § 75; 1975 1st ex.s. c 30 § 86; 1969 ex.s. c 158 § 10.]

18.96.110 Renewals. The renewal dates for certificates of registration shall be set by the director. The director shall set the fee for renewal which shall be determined as provided in RCW 43.24.086.

If a registrant fails to pay the renewal fee within thirty days after the renewal date, the renewal shall be delinquent. The renewal fee for a delinquent renewal and the penalty fee for a delinquent renewal shall be established by the director. Any registrant in good standing, upon fully retiring from landscape architectural practice, may withdraw from practice by giving written notice to the director, and may thereafter resume practice at any time upon payment of the then current renewal fee. Any registrant, other than a properly withdrawn licensee, who fails to renew his or her registration for a period of more than five years may be reinstated under the circumstances as the board determines. [1993 c 35 § 5. Prior: 1985 c 18 § 3; 1985 c 7 § 76; 1975 1st ex.s. c 30 § 87; 1969 ex.s. c 158 § 11.]

Effective date—1985 c 18: See note following RCW 18.96.040.

18.96.150 Certificates of registration—Issuance—Contents—Seal. The director shall issue a certificate of registration upon payment of the registration fee as provided in this chapter to any applicant who has satisfactorily met all requirements for registration. All certificates of registration shall show the full name of the registrant, shall have a serial number and shall be signed by the chairman and the executive secretary of the board, and by the director.

Each registrant shall obtain a seal of a design authorized by the board, bearing the registrant's name and the legend, "registered landscape architect". All sheets of drawings and title pages of specifications prepared by the registrant shall be stamped with said seal. [1993 c 35 § 6; 1969 ex.s. c 158 § 15.]

Chapter 18.100
PROFESSIONAL SERVICE CORPORATIONS

Sections

18.100.120 Name—Listing of shareholders. Corporations organized pursuant to this chapter shall render professional service and exercise its authorized powers under a name permitted by law and the professional ethics of the profession in which the corporation is so engaged. The corporate name of a professional service corporation must contain either the words "professional service" or "professional corporation" or the abbreviation "P.S." or "P.C." The corporate name may also contain either the words "corporation," "incorporated," "company," or "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd." With the filing of its first annual report and any filings thereafter, professional service corporation shall list its then shareholders:

PROVIDED, That notwithstanding the foregoing provisions of this section, the corporate name of a corporation organized to render dental services shall contain the full names or surnames of all shareholders and no other word than "chartered" or the words "professional services" or the abbreviation "P.S." or "P.C." [1993 c 290 § 1; 1982 c 35 § 169; 1969 c 122 § 12.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Chapter 18.104
WATER WELL CONSTRUCTION

Sections

18.104.010 Purpose. The legislature declares that the drilling, making or constructing of wells within the state is a business and activity of vital interest to the public. In order to protect the public health, welfare, and safety of the people it is necessary that provision be made for the regulation and licensing of well contractors and operators and for the regulation of well design and construction. [1993 c 387 § 1; 1971 ex.s. c 212 § 1.]

18.104.020 Definitions. The definitions set forth in this section apply throughout this chapter, unless a different meaning is plainly required by the context.

(1) "Abandoned well" means a well that is unused, unmaintained, and is in such disrepair as to be unusable.

(2) "Constructing a well" or "construct a well" means:

(a) Boring, digging, drilling, or excavating a well;

(b) Installing casing, sheeting, lining, or well screens, in a well; or

(c) Drilling a geotechnical soil boring.

"Constructing a well" or "construct a well" includes the alteration of an existing well.

(3) "Decommission" means to fill or plug a well so that it will not produce water, serve as a channel for movement of water or pollution, or allow the entry of pollutants into the well or aquifers.

(4) "Department" means the department of ecology.

(5) "Dewatering well" means a cased or lined excavation or boring that is intended to withdraw or divert ground water for the purpose of facilitating construction, stabilizing a landslide, or protecting an aquifer.

(6) "Director" means the director of the department of ecology.

(7) "Geotechnical soil boring" or "boring" means an uncased well drilled for purpose of obtaining soil samples to ascertain structural properties of the subsurface. Geotechnical soil boring includes auger borings, rotary borings, cone penetrometer probes and vane shear probes, or any other uncased ground penetration for geotechnical information.

(8) "Ground water" means and includes ground waters as defined in RCW 90.44.035.

(9) "Instrumentation well" means a well in which pneumatic or electric geotechnical or hydrological instrumentation is permanently or periodically installed to measure or monitor subsurface strength and movement. Instrumentation well includes borehole extensometers, slope indicators, pneumatic or electric pore pressure transducers, and load cells.

(10) "Monitoring well" means a well designed to obtain a representative ground water sample or designed to measure the water level elevation in either clean or contaminated water or soil.

(11) "Observation well" means a well designed to measure the depth to the water level elevation in either clean or contaminated water or soil.

(12) "Operator" means a person who (a) is employed by a well contractor; (b) is licensed under this chapter; or (c) who controls, supervises, or oversees the construction of a well or who operates well construction equipment.

(13) "Owner" or "well owner" means the person, firm, partnership, copartnership, corporation[,] association, or other entity who owns the property on which the well is or will be constructed.

(14) "Pollution" and "contamination" have the meanings provided in RCW 90.48.020.

(15) "Resource protection well" means a cased boring used to determine the existence or migration of pollutants within an underground formation. Resource protection wells include monitoring wells, observation wells, piezometers, spill response wells, vapor extraction wells, and instrumentation wells.

(16) "Resource protection well contractor" means any person, firm, partnership, copartnership, corporation, association, or other entity, licensed and bonded under chapter 18.27 RCW, engaged in the business of constructing resource protection wells or geotechnical soil borings.

(17) "Water well" means any excavation that is constructed when the intended use of the well is for the location, diversion, artificial recharge, observation, monitoring, dewatering, or withdrawal of ground water.

(18) "Water well contractor" means any person, firm, partnership, copartnership, corporation, association, or other

entity, licensed and bonded under chapter 18.27 RCW, engaged in the business of constructing water wells.

(19) "Well" means water wells, resource protection wells, instrumentation wells, dewatering wells, and geotechnical soil borings. Well does not mean an excavation made for the purpose of obtaining or prospecting for oil, natural gas, geothermal resources, minerals, or products of mining, or quarrying, or for inserting media to repressure oil or natural gas bearing formations, or for storing petroleum, natural gas, or other products.

(20) "Well contractor" means a resource protection well contractor and a water well contractor. [1993 c 387 § 2; 1983 1st ex.s. c 27 § 14; 1971 ex.s. c 212 § 2.]

18.104.030 Compliance enjoined. It is unlawful:

(1) For any person to supervise, construct, alter, or decommission a well without complying with the provisions of this chapter and the rules for well construction adopted pursuant to this chapter;

(2) For any person to cause a well to be constructed in violation of the standards for well construction established by this chapter and rules adopted by the department pursuant to this chapter;

(3) For a prospective water well owner to have a water well constructed without first obtaining a water right permit, if a permit is required;

(4) For any person to construct, alter, or decommission a well unless the fees required by RCW 18.104.055 have been paid;

(5) For a person to tamper with or remove a well identification tag except during well alteration; and

(6) Except as provided in RCW 18.104.180, for any person to contract to engage in the construction of a well or to act as a well operator without first obtaining a license pursuant to this chapter. [1993 c 387 § 3; 1971 ex.s. c 212 § 3.]

18.104.040 Powers of department. The department shall have the power:

(1) To issue, deny, suspend or revoke licenses pursuant to the provisions of this chapter;

(2) At all reasonable times, to enter upon lands for the purpose of inspecting, taking measurements from, or tagging any well, constructed or being constructed;

(3) To call upon or receive professional or technical advice from the department of health, the technical advisory group created in RCW 18.104.190, or any other public agency or person;

(4) To adopt rules, in consultation with the department of health and the technical advisory group created in RCW 18.104.190, governing licensing and well construction as may be appropriate to carry out the purposes of this chapter. The rules adopted by the department may include, but are not limited to:

(a) Standards for the construction and maintenance of wells and their casings;

(b) Methods of capping, sealing, and decommissioning wells to prevent contamination of ground water resources and to protect public health and safety;

(c) Methods of artificial recharge of ground water bodies and of construction of wells which insure separation of individual water bearing formations;

(d) The manner of conducting and the content of examinations required to be taken by applicants for license hereunder;

(e) Requirements for the filing of notices of intent, well reports, and the payment of fees;

(f) Reporting requirements of well contractors;

(g) Limitations on well construction in areas identified by the department as requiring intensive control of withdrawals in the interests of sound management of the ground water resource;

(5) To require the operator in the construction of a well and the property owner in the maintenance of a well to guard against waste and contamination of the ground water resources;

(6) To require the operator to place a well identification tag on a new well and on an existing well on which work is performed after the effective date of rules requiring well identification tags and to place or require the owner to place a well identification tag on an existing well;

(7) To require the well owner to repair or decommission any well:

(a) That is abandoned, unusable, or not intended for future use; or

(b) That is an environmental, safety, or public health hazard. [1993 c 387 § 4; 1991 c 3 § 249; 1971 ex.s. c 212 § 4.]

18.104.043 Well sealing and decommissioning—Delegation of authority. (Expires June 30, 1996.) (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 tagging, 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 well 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 agree-

ment, 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 43.21B.110.

(8) The department shall not delegate the authority to license well contractors, renew licenses, receive notices of intent to commence constructing a well, receive well reports, or collect state fees provided for in this chapter. [1993 c 387 § 5; 1992 c 67 § 2.]

Expiration date—1993 c 387 § 5: "Section 5 of this act expires on June 30, 1996." [1993 c 387 § 28.]

Legislative findings—1992 c 67: "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." [1992 c 67 § 1.]

Expiration date—1992 c 67: "Sections 1 and 2 of this act shall expire June 30, 1996." [1992 c 67 § 3.]

18.104.048 Prior notice of well construction, reconstruction, or decommissioning. A property owner or the owner's agent shall notify the department of his or her intent to begin well construction, reconstruction, or decommissioning procedures at least seventy-two hours in advance of commencing work. The notice shall be submitted on forms provided by the department and shall be accompanied by the fees required by RCW 18.104.055. The notice shall contain the name of the owner of the well, location of the well, proposed use, approximate start date, well contractor's or operator's name and license number, company's name, and other pertinent information as prescribed by rule of the department. Rules of the department shall also provide for prior telephonic notification by well contractors or operators in exceptional situations. The department shall issue a receipt indicating that the notice required by this section has been filed and the fees required by RCW 18.104.055 have been paid not later than three business days after the department has received the notice and fees. [1993 c 387 § 6; 1987 c 394 § 3.]

18.104.049 Modification of construction standards. The department by rule shall adopt procedures to permit a well operator to modify construction standards to meet unforeseen circumstances encountered during the construction of a well. The procedures shall be developed in consultation with the technical advisory group established in RCW 18.104.190. [1993 c 387 § 7.]

18.104.050 Reports of well construction or alteration. (1) A well contractor shall furnish a well report to the director within thirty days after the completion of the construction or alteration of a well by the contractor. The director, by rule, shall prescribe the form of the report and the information to be contained therein.

(2) In the case of a dewatering well project:

(a) A single well construction report may be submitted for all similar dewatering wells constructed with no significant change in geologic formation; and

(b) A single well decommissioning report may be submitted for all similar dewatering wells decommissioned that have no significant change in geologic formation. [1993 c 387 § 8; 1971 ex.s. c 212 § 5.]

18.104.055 Fees. (1) A fee is hereby imposed on each well constructed in this state on or after July 1, 1993.

(2)(a) The fee for one new water well, other than a dewatering well, with a minimum top casing diameter of less than twelve inches is one hundred dollars.

(b) The fee for one new water well, other than a dewatering well, with a minimum top casing diameter of twelve inches or greater is two hundred dollars.

(c) The fee for a new resource protection, observation, and monitoring well is forty dollars for each well.

(d) The combined fee for construction and decommissioning of a dewatering well system shall be forty dollars for each two hundred horizontal lineal feet, or portion thereof, of the dewatering well system.

(3) The fees imposed by this section shall be paid at the time the notice of well construction is submitted to the department as provided by RCW 18.104.048. The department by rule may adopt procedures to permit the fees required for resource protection wells to be paid after the number of wells actually constructed has been determined. The department shall refund the amount of any fees collected for any wells on which construction is not started. [1993 c 387 § 9.]

18.104.060 Violations—Cease and desist orders. Notwithstanding and in addition to any other powers granted to the department, whenever it appears to the director, or to an assistant authorized by the director to issue regulatory orders under this section, that a person is violating or is about to violate any of the provisions of this chapter, the director, or the director's authorized assistant, may cause a written regulatory order to be served upon said person either personally, or by registered or certified mail delivered to the addressee only with return receipt requested and acknowledged by him or her. The order shall specify the provision of this chapter, and if applicable, the rule adopted pursuant to this chapter alleged to be or about to be violated, and the facts upon which the conclusion of violating or potential violation is based, and shall order the act constituting the violation or the potential violation to cease and desist or, in appropriate cases, shall order necessary corrective action to be taken with regard to such acts within a specific and reasonable time. An order issued under this chapter shall become effective immediately upon receipt by the person to whom the order is directed, and shall become final unless

review thereof is requested as provided in this chapter. [1993 c 387 § 10; 1971 ex.s. c 212 § 6.]

18.104.065 Remedies for noncomplying wells. (1) The department may order a well contractor or well operator to repair, alter, or decommission a well if the department demonstrates that the construction of the well did not meet the standards for well construction in effect at the time construction of the well was completed.

(2) The department may not issue an order pursuant to this section:

(a) For wells for which construction has been substantially completed before July 1, 1993, more than six years after construction has been substantially completed; or

(b) For wells for which construction has been substantially completed on or after July 1, 1993, more than three years after construction has been substantially completed.

For purposes of this subsection, "construction has been substantially completed" has the same meaning as "substantial completion of construction" in RCW 4.16.310.

(3) Subsection (2) of this section shall only apply to a well for which the notice of construction required by RCW 18.104.048 and the report required by RCW 18.104.050 have been filed with the department. [1993 c 387 § 11.]

18.104.070 Water well operator's license. A person shall be qualified to receive a water well operator's license if the person:

(1) Has submitted a completed application to the department on forms provided by the department and has paid to the department the application fee determined by rule adopted pursuant to this chapter; and

(2) Has the field experience and educational training required by rule adopted by the department pursuant to this chapter; and

(3) Has passed a written examination as provided for in RCW 18.104.080; and

(4) Has passed an on-site examination by the department if the person's qualifying field experience under subsection (2) of this section is from another state. The department may waive the on-site examination. [1993 c 387 § 12; 1987 c 394 § 2; 1971 ex.s. c 212 § 7.]

18.104.080 Examinations—Subjects—Times and places. The examination for a license issued pursuant to this chapter shall be prepared to test knowledge and understanding of at least the following subjects:

(1) Washington ground water laws as they relate to well construction;

(2) Sanitary standards for well drilling and construction of wells;

(3) Types of well construction;

(4) Drilling tools and equipment;

(5) Underground geology as it relates to well construction; and

(6) Rules of the department and the department of health relating to well construction.

Examinations shall be held at such times and places as may be determined by the department but not later than thirty days after an applicant has filed a completed application with the department. The department shall make a determination of the applicant's qualifications for a license within ten days after the examination. [1993 c 387 § 16; 1991 c 3 § 250; 1971 ex.s. c 212 § 8.]

18.104.093 Water well construction operator's training license. The department may issue a water well construction operator's training license if the person:

(1) Has submitted a completed application to the department on forms provided by the department and has paid to the department the application fee required by rules adopted pursuant to this chapter;

(2) Has acquired field experience and educational training required by rules adopted pursuant to this chapter;

(3) Has passed a written examination as provided for in RCW 18.104.080;

(4) Has passed an on-site examination by the department; and

(5) Presents a statement by a person licensed under this chapter, other than a trainee, signed under penalty of perjury as provided in RCW 9A.72.085, verifying that the applicant has the field experience required by rules adopted pursuant to this chapter and assuming liability for any and all well construction activities of the person seeking the training license.

A person with a water well construction operator's training license may operate a drilling rig without the direct supervision of a licensed operator if a licensed operator is available by radio, telephone, or other means of communication. [1993 c 387 § 13.]

18.104.095 Resource protection well operator's license. A person shall be qualified to receive a resource protection well operator's license if the person:

(1) Has submitted a completed application to the department on forms provided by the department and has paid to the department the application fee required by rules adopted pursuant to this chapter;

(2) Has acquired field experience and educational training required by rules adopted pursuant to this chapter;

(3) Has passed a written examination as provided for in RCW 18.104.080. This requirement shall not apply to a person who passed the written examination to obtain a resource protection well construction operator's training license; and

(4) Has passed an on-site examination by the department if the person's qualifying field experience is from another state. The department may waive the on-site examination.

A person with a license issued pursuant to this chapter before July 1, 1993, may obtain a resource protection well construction operator's license by paying the application fee determined by rule adopted by the department pursuant to this chapter and submitting evidence required by the department to demonstrate that the person has the required experience to construct resource protection wells. [1993 c 387 § 14.]

18.104.097 Resource protection well operator's training license. The department may issue a resource protection well operator's training license if the person:

(1) Has submitted a completed application to the department on forms provided by the department and has

paid to the department the application fee required by rules adopted pursuant to this chapter;

(2) Has acquired field experience and educational training required by rules adopted pursuant to this chapter;

(3) Has passed a written examination as provided for in RCW 18.104.080;

(4) Has passed an on-site examination by the department; and

(5) Presents a statement by a person licensed under this chapter, other than a trainee, signed under penalty of perjury as provided in RCW 9A.72.085, verifying that the applicant has the field experience required by rules adopted pursuant to this chapter and assuming liability for any and all well construction activities of the person seeking the training license.

A person with a resource protection well construction operator's training license may operate a drilling rig without direct supervision of a licensed operator if a licensed operator is accessible by radio, telephone, or other means of communication. [1993 c 387 § 15.]

18.104.100 Licenses—Duration—Renewal—Failure to renew, procedure—Conditional licenses. (1) Licenses issued pursuant to this chapter shall be renewed every two years. A license shall be renewed upon payment of a renewal fee and completion of continuing education required by rule adopted by the department. If a licensee fails to submit an application for renewal, the renewal fee, and proof of completion of the required continuing education, the license shall expire at the end of its effective term.

(2) A person whose license has expired must apply for a new license as provided in this chapter. The department may waive the requirement for a written examination and on-site testing for a person whose license has expired.

(3) The department may refuse to renew a license if the licensee has not complied with an order issued by the department or has not paid a penalty imposed in accordance with this chapter, unless the order or penalty is under appeal.

(4) The department may issue a conditional license to enable a former licensee to comply with an order to correct problems with a well. [1993 c 387 § 17; 1971 ex.s. c 212 § 10.]

18.104.110 Suspension or revocation of licenses—Grounds—Duration. In cases other than those relating to the failure of a licensee to renew a license, the director may suspend or revoke a license issued pursuant to this chapter for any of the following reasons:

(1) For fraud or deception in obtaining the license;

(2) For fraud or deception in reporting under RCW 18.104.050;

(3) For violating the provisions of this chapter, or of any lawful rule or regulation of the department or the department of health.

No license shall be suspended for more than six months. No person whose license is revoked shall be eligible to apply for a license for one year from the effective date of the final order of revocation. [1993 c 387 § 18; 1991 c 3 § 251; 1971 ex.s. c 212 § 11.]

18.104.120 Complaints against contractors or operators—Department's response—Review. Any person with an economic or noneconomic interest may make a complaint against any well contractor or operator for violating this chapter or any regulations under it to the department of ecology. The complaint shall be in writing, signed by the complainant, and specify the grievances against the licensee. The department shall respond to the complaint by issuance of an order it deems appropriate. Review of the order shall be subject to the hearings procedures set forth in RCW 18.104.130. [1993 c 387 § 19; 1983 c 93 § 1; 1971 ex.s. c 212 § 12.]

18.104.150 Disposition of fees—Grants to local governments. (1) All fees paid under this chapter shall be credited by the state treasurer to the reclamation account established by chapter 89.16 RCW. Subject to legislative appropriation, the fees collected under this chapter shall be allocated and expended by the director for the administration of the well construction, well operators' licensing, and education programs.

(2) The department shall provide grants to local governing entities that have been delegated portions of the well construction program pursuant to RCW 18.104.043 to assist in supporting well inspectors hired by the local governing body. Grants provided to a local governing body shall not exceed the revenues generated from fees for the portion of the program delegated and from the area in which authority is delegated to the local governing body. [1993 c 387 § 20; 1971 ex.s. c 212 § 15.]

18.104.155 Civil penalties—Amount and disposition. (1) The department of ecology may assess a civil penalty for a violation of this chapter or rules or orders of the department adopted or issued pursuant to it.

(2) There shall be three categories of violations: Minor, serious, and major.

(a) A minor violation is a violation that does not seriously threaten public health, safety, and the environment. Minor violations include, but are not limited to:

(i) Failure to submit completed start cards and well reports within the required time;

(ii) Failure to submit variance requests before construction;

(iii) Failure to submit well construction fees;

(iv) Failure to place a well identification tag on a new well; and

(v) Minor or reparable construction problems.

(b) A serious violation is a violation that poses a critical or serious threat to public health, safety, and the environment. Serious violations include, but are not limited to:

(i) Improper well construction;

(ii) Intentional and improper location or siting of a well;

(iii) Construction of a well without a required permit;

(iv) Violation of decommissioning requirements;

(v) Repeated minor violations; or

(vi) Construction of a well by a person whose license has expired or has been suspended for not more than ninety days.

(c) A major violation is the construction of a well by a person:

(i) Without a license; or

(ii) After the person's license has been suspended for more than ninety days or revoked.

(3)(a) The penalty for a minor violation shall be not less than one hundred dollars and not more than five hundred dollars. Before the imposition of a penalty for a minor violation, the department may issue an order of noncompliance to provide an opportunity for mitigation or compliance.

(b) The penalty for a serious violation shall be not less than five hundred dollars and not more than five thousand dollars.

(c) The penalty for a major violation shall be not less than five thousand dollars and not more than ten thousand dollars.

(4) In determining the appropriate penalty under subsection (3) of this section the department shall consider whether the person:

(a) Has demonstrated a general disregard for public health and safety through the number and magnitude of the violations;

(b) Has demonstrated a disregard for the well construction laws or rules in repeated or continuous violations; or

(c) Knew or reasonably should have known of circumstances that resulted in the violation.

(5) Penalties provided for in this section shall be imposed pursuant to RCW 43.21B.300. The department shall provide thirty days written notice of a violation as provided in RCW 43.21B.300(3).

(6) For informational purposes, a copy of the notice of violation, resulting from the improper construction of a well, that is sent to a water well contractor or water well construction operator, shall also be sent by the department to the well owner.

(7) Penalties collected by the department pursuant to this section shall be deposited in the reclamation account established by chapter 89.16 RCW. Subject to legislative appropriation, the penalties may be spent only for purposes related to the restoration and enhancement of ground water resources in the state. [1993 c 387 § 21; 1987 c 394 § 1.]

18.104.180 Exemptions. No license under this chapter shall be required of:

(1) Any individual who personally constructs a well on land which is owned or leased by the individual or in which the individual has a beneficial interest as a contract purchaser and is used by the individual for farm or single-family residential use only. An individual who constructs a well without a license pursuant to this subsection shall comply with all other requirements of this chapter and rules adopted by the department, including but not limited to, well construction standards, payment of well construction fees, and notification of well construction required by RCW 18.104.048. An individual without a license may construct not more than one well every two years pursuant to the provisions of this subsection.

(2) An individual who performs labor or services for a well contractor in connection with the construction of a well at the direction and under the supervision and control of a licensed operator who is present at the construction site.

(3) A person licensed under the provisions of chapter 18.08 or 18.43 RCW if in the performance of duties covered by those licenses. [1993 c 387 § 24; 1971 ex.s. c 212 § 18.]

18.104.190 Technical advisory group. (1) For the purpose of carrying out the provisions of this chapter, the director shall appoint a technical advisory group, chaired by the department. The technical advisory group shall have twelve members: Two members shall represent the department of ecology, six members shall represent resource protection well contractors or water well contractors, one member shall represent the department of health, one member shall represent local health departments, one member shall represent licensed professional engineers, and one member shall be a scientist knowledgeable in the design and construction of wells.

(2) The technical advisory group shall assist the department in the development and revision of rules; the preparation and revision of licensing examinations; the development of training criteria for inspectors, well contractors, and well operators; and the review of proposed changes to the minimum standards for construction and maintenance of wells by local governments for the purpose of achieving continuity with technology and state rules.

(3) The group shall meet at least twice each year to review rules and suggest any necessary changes.

(4) Each member of the group shall be compensated in accordance with RCW 43.03.240 and reimbursed for travel expenses while engaged in the business of the group as prescribed in RCW 43.03.050 and 43.03.060. [1993 c 387 § 25.]

18.104.900 Short title. This chapter shall be known and may be cited as the "Washington well construction act." [1993 c 387 § 26; 1971 ex.s. c 212 § 19.]

18.104.930 Effective date—1993 c 387. 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, 1993. [1993 c 387 § 29.]

Chapter 18.130

REGULATION OF HEALTH PROFESSIONS—UNIFORM DISCIPLINARY ACT

Sections

18.130.040 Application of chapter to certain professions—Authority of secretary—Authority to grant or deny licenses. (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 18.88A RCW;

(xiii) Health care assistants certified under chapter 18.135 RCW;

(xiv) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xv) Sex offender treatment providers certified under chapter 18.155 RCW; and

(xvi) 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 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 board of pharmacy as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(x) The medical disciplinary board as established in chapter 18.72 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(xi) The board of physical therapy as established in chapter 18.74 RCW;

(xii) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xiii) The board of practical nursing as established in chapter 18.78 RCW;

(xiv) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW;

(xv) The board of nursing as established in chapter 18.88 RCW; and

(xvi) 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. [1993 c 367 § 4; 1992 c 128 § 6; 1990 c 3 § 810. Prior: 1988 c 277 § 13; 1988 c 267 § 22; 1988 c 243 § 7; prior: 1987 c 512 § 22; 1987 c 447 § 18; 1987 c 415 § 17; 1987 c 412 § 15; 1987 c 150 § 1; prior: 1986 c 259 § 3; 1985 c 326 § 29; 1984 c 279 § 4.]

Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.

Severability—1987 c 512: See RCW 18.19.901.

Severability—1987 c 447: See RCW 18.36A.901.

Severability—1987 c 415: See RCW 18.89.901.

Effective date—Severability—1987 c 412: See RCW 18.84.901 and 18.84.902.

Severability—1987 c 150: See RCW 18.122.901.

Severability—1986 c 259: See note following RCW 18.130.010.

18.130.050 Authority of disciplining authority. The disciplining authority has the following authority:

(1) To adopt, amend, and rescind such rules as are deemed necessary to carry out this chapter;

(2) To investigate all complaints or reports of unprofessional conduct as defined in this chapter and to hold hearings as provided in this chapter;

(3) To issue subpoenas and administer oaths in connection with any investigation, hearing, or proceeding held under this chapter;

(4) To take or cause depositions to be taken and use other discovery procedures as needed in any investigation, hearing, or proceeding held under this chapter;

(5) To compel attendance of witnesses at hearings;

(6) In the course of investigating a complaint or report of unprofessional conduct, to conduct practice reviews;

(7) To take emergency action ordering summary suspension of a license, or restriction or limitation of the licensee's practice pending proceedings by the disciplining authority;

(8) To use the office of administrative hearings as authorized in chapter 34.12 RCW to conduct hearings. However, the disciplining authority shall make the final decision regarding disposition of the license;

(9) To use individual members of the boards to direct investigations. However, the member of the board shall not subsequently participate in the hearing of the case;

(10) To enter into contracts for professional services determined to be necessary for adequate enforcement of this chapter;

(11) To contract with licensees or other persons or organizations to provide services necessary for the monitoring and supervision of licensees who are placed on probation, whose professional activities are restricted, or who are for any authorized purpose subject to monitoring by the disciplining authority;

(12) To adopt standards of professional conduct or practice;

(13) To grant or deny license applications, and in the event of a finding of unprofessional conduct by an applicant or license holder, to impose any sanction against a license applicant or license holder provided by this chapter;

(14) To designate individuals authorized to sign subpoenas and statements of charges;

(15) To establish panels consisting of three or more members of the board to perform any duty or authority within the board's jurisdiction under this chapter;

(16) To review and audit the records of licensed health facilities' or services' quality assurance committee decisions in which a licensee's practice privilege or employment is terminated or restricted. Each health facility or service shall produce and make accessible to the disciplining authority the appropriate records and otherwise facilitate the review and audit. Information so gained shall not be subject to discovery or introduction into evidence in any civil action pursuant to RCW 70.41.200(3). [1993 c 367 § 21; 1993 c 367 § 5; 1987 c 150 § 2; 1984 c 279 § 5.]

Reviser's note: This section was amended by 1993 c 367 § 5 and by 1993 c 367 § 21, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—1987 c 150: See RCW 18.122.901.

18.130.085 Communication with complainant. If the department communicates in writing to a complainant, or his or her representative, regarding his or her complaint, such communication shall not include the address or telephone number of the health care provider against whom he or she has complained. The department shall inform all applicants for a health care provider license of the provisions of this section and RCW 42.17.310 regarding the release of address and telephone information. [1993 c 360 § 1.]

Effective date—1993 c 360: "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 [May 15, 1993]." [1993 c 360 § 3.]

18.130.090 Statement of charge—Request for hearing. (1) If the disciplining authority determines, upon investigation, that there is reason to believe a violation of RCW 18.130.180 has occurred, a statement of charge or charges shall be prepared and served upon the license holder or applicant at the earliest practical time. The statement of charge or charges shall be accompanied by a notice that the license holder or applicant may request a hearing to contest the charge or charges. The license holder or applicant must file a request for hearing with the disciplining authority within twenty days after being served the statement of charges. If the twenty-day limit results in a hardship upon the license holder or applicant, he or she may request for good cause an extension not to exceed sixty additional days. If the disciplining authority finds that there is good cause, it shall grant the extension. The failure to request a hearing constitutes a default, whereupon the disciplining authority may enter a decision on the basis of the facts available to it.

(2) If a hearing is requested, the time of the hearing shall be fixed by the disciplining authority as soon as convenient, but the hearing shall not be held earlier than thirty days after service of the charges upon the license holder or applicant. [1993 c 367 § 1; 1986 c 259 § 6; 1984 c 279 § 9.]

Severability—1986 c 259: See note following RCW 18.130.010.

18.130.095 Uniform procedural rules. (1) The secretary shall develop uniform procedural rules to respond to public inquiries concerning complaints and their disposition, active investigations, statement of charges, findings of fact, and final orders involving a licensee, applicant, or unlicensed person. The uniform procedural rules adopted under this subsection apply to all adjudicative proceedings conducted under this chapter and shall include provisions for the establishing time lines for discovery, settlement, and scheduling hearings.

(2) The uniform procedures for conducting investigations shall provide that prior to taking a written statement:

(a) For violation of this chapter, the investigator shall inform such person, in writing of: (i) The nature of the complaint; (ii) that the person may consult with legal counsel at his or her expense prior to making a statement; and (iii) that any statement that the person makes may be used in an adjudicative proceeding conducted under this chapter; and

(b) From a witness or potential witness in an investigation under this chapter, the investigator shall inform the person, in writing, that the statement may be released to the licensee, applicant, or unlicensed person under investigation if a statement of charges is issued.

(3) Only upon the authorization of a disciplinary authority identified in RCW 18.130.040(2)(b), the secretary, or his or her designee, may serve as the presiding officer for any disciplinary proceedings of the disciplinary authority authorized under this chapter. The presiding officer shall not vote on any final decision. All functions performed by the presiding officer shall be subject to chapter 34.05 RCW. The secretary, in consultation with the disciplinary authori-

ties, shall adopt procedures for implementing this subsection. This subsection shall not apply to the board of funeral directors and embalmers. [1993 c 367 § 2.]

18.130.160 Finding of unprofessional conduct—Orders—Sanctions—Stay—Costs—Stipulations. Upon a finding, after hearing, that a license holder or applicant has committed unprofessional conduct or is unable to practice with reasonable skill and safety due to a physical or mental condition, the disciplining authority may issue an order providing for one or any combination of the following:

(1) Revocation of the license;

(2) Suspension of the license for a fixed or indefinite term;

(3) Restriction or limitation of the practice;

(4) Requiring the satisfactory completion of a specific program of remedial education or treatment;

(5) The monitoring of the practice by a supervisor approved by the disciplining authority;

(6) Censure or reprimand;

(7) Compliance with conditions of probation for a designated period of time;

(8) Payment of a fine for each violation of this chapter, not to exceed five thousand dollars per violation. Funds received shall be placed in the health professions account;

(9) Denial of the license request;

(10) Corrective action;

(11) Refund of fees billed to and collected from the consumer.

Any of the actions under this section may be totally or partly stayed by the disciplining authority. In determining what action is appropriate, the disciplining authority must first consider what sanctions are necessary to protect or compensate the public. Only after such provisions have been made may the disciplining authority consider and include in the order requirements designed to rehabilitate the license holder or applicant. All costs associated with compliance with orders issued under this section are the obligation of the license holder or applicant.

The licensee or applicant may enter into a stipulated disposition of charges that includes one or more of the sanctions of this section, but only after a statement of charges has been issued and the licensee has been afforded the opportunity for a hearing and has elected on the record to forego such a hearing. The stipulation shall either contain one or more specific findings of unprofessional conduct or inability to practice, or a statement by the licensee acknowledging that evidence is sufficient to justify one or more specified findings of unprofessional conduct or inability to practice. The stipulation entered into pursuant to this subsection shall be considered formal disciplinary action for all purposes. [1993 c 367 § 6; 1986 c 259 § 8; 1984 c 279 § 16.]

Severability—1986 c 259: See note following RCW 18.130.010.

18.130.165 Enforcement of fine. Where an order for payment of a fine is made as a result of a hearing under RCW 18.130.100 or 18.130.190 and timely payment is not made as directed in the final order, the disciplining authority may enforce the order for payment in the superior court in the county in which the hearing was held. This right of enforcement shall be in addition to any other rights the disciplining authority may have as to any licensee ordered to pay a fine but shall not be construed to limit a licensee's ability to seek judicial review under RCW 18.130.140.

In any action for enforcement of an order of payment of a fine, the disciplining authority's order is conclusive proof of the validity of the order of payment of a fine and the terms of payment. [1993 c 367 § 20; 1987 c 150 § 4.]

Severability—1987 c 150: See RCW 18.122.901.

18.130.172 Evidence summary and stipulations. (1) Prior to serving a statement of charges under RCW 18.130.090 or 18.130.170, the disciplinary authority may furnish a statement of allegations to the licensee or applicant along with a detailed summary of the evidence relied upon to establish the allegations and a proposed stipulation for informal resolution of the allegations. These documents shall be exempt from public disclosure until such time as the allegations are resolved either by stipulation or otherwise.

(2) The disciplinary authority and the applicant or licensee may stipulate that the allegations may be disposed of informally in accordance with this subsection. The stipulation shall contain a statement of the facts leading to the filing of the complaint; the act or acts of unprofessional conducted [conduct] alleged to have been committed or the alleged basis for determining that the applicant or licensee is unable to practice with reasonable skill and safety; a statement that the stipulation is not to be construed as a finding of either unprofessional conduct or inability to practice; an acknowledgement that a finding of unprofessional conduct or inability to practice, if proven, constitutes grounds for discipline under this chapter; and an agreement on the part of the licensee or applicant that the sanctions set forth in RCW 18.130.160, except RCW 18.130.160 (1), (2), (6), and (8), may be imposed as part of the stipulation, except that no fine may be imposed but the licensee or applicant may agree to reimburse the disciplinary authority the costs of investigation and processing the complaint up to an amount not exceeding one thousand dollars per allegation; and an agreement on the part of the disciplinary authority to forego further disciplinary proceedings concerning the allegations. A stipulation entered into pursuant to this subsection shall not be considered formal disciplinary action.

(3) If the licensee or applicant declines to agree to disposition of the charges by means of a stipulation pursuant to subsection (2) of this section, the disciplinary authority may proceed to formal disciplinary action pursuant to RCW 18.130.090 or 18.130.170.

(4) Upon execution of a stipulation under subsection (2) of this section by both the licensee or applicant and the disciplinary authority, the complaint is deemed disposed of and shall become subject to public disclosure on the same basis and to the same extent as other records of the disciplinary authority. Should the licensee or applicant fail to pay any agreed reimbursement within thirty days of the date specified in the stipulation for payment, the disciplinary authority may seek collection of the amount agreed to be paid in the same manner as enforcement of a fine under RCW 18.130.165. [1993 c 367 § 7.]

18.130.175 Voluntary substance abuse monitoring programs. (1) In lieu of disciplinary action under RCW 18.130.160 and if the disciplining authority determines that the unprofessional conduct may be the result of substance abuse, the disciplining authority may refer the license holder to a voluntary substance abuse monitoring program approved by the disciplining authority.

The cost of the treatment shall be the responsibility of the license holder, but the responsibility does not preclude payment by an employer, existing insurance coverage, or other sources. Primary alcoholism or drug treatment shall be provided by approved treatment programs under RCW 70.96A.020: PROVIDED, That nothing shall prohibit the disciplining authority from approving additional services and programs as an adjunct to primary alcoholism or drug treatment. The disciplining authority may also approve the use of out-of-state programs. Referral of the license holder to the program shall be done only with the consent of the license holder. Referral to the program may also include probationary conditions for a designated period of time. If the license holder does not consent to be referred to the program or does not successfully complete the program, the disciplining authority may take appropriate action under RCW 18.130.160. The secretary shall adopt uniform rules for the evaluation by the disciplinary authority of a relapse or program violation on the part of a license holder in the substance abuse monitoring program. The evaluation shall encourage program participation with additional conditions, in lieu of disciplinary action, when the disciplinary authority determines that the license holder is able to continue to practice with reasonable skill and safety.

(2) In addition to approving substance abuse monitoring programs that may receive referrals from the disciplining authority, the disciplining authority may establish by rule requirements for participation of license holders who are not being investigated or monitored by the disciplining authority for substance abuse. License holders voluntarily participating in the approved programs without being referred by the disciplining authority shall not be subject to disciplinary action under RCW 18.130.160 for their substance abuse, and shall not have their participation made known to the disciplining authority, if they meet the requirements of this section and the program in which they are participating.

(3) The license holder shall sign a waiver allowing the program to release information to the disciplining authority if the licensee does not comply with the requirements of this section or is unable to practice with reasonable skill or safety. The substance abuse program shall report to the disciplining authority any license holder who fails to comply with the requirements of this section or the program or who, in the opinion of the program, is unable to practice with reasonable skill or safety. License holders shall report to the disciplining authority if they fail to comply with this section or do not complete the program's requirements. License holders may, upon the agreement of the program and disciplining authority, reenter the program if they have previously failed to comply with this section.

(4) The treatment and pretreatment records of license holders referred to or voluntarily participating in approved programs shall be confidential, shall be exempt from RCW 42.17.250 through 42.17.450, and shall not be subject to discovery by subpoena or admissible as evidence except for monitoring records reported to the disciplining authority for cause as defined in subsection (3) of this section. Monitoring records relating to license holders referred to the program by the disciplining authority or relating to license holders reported to the disciplining authority by the program for cause, shall be released to the disciplining authority at the request of the disciplining authority. Records held by the disciplining authority under this section shall be exempt from RCW 42.17.250 through 42.17.450 and shall not be subject to discovery by subpoena except by the license holder.

(5) "Substance abuse," as used in this section, means the impairment, as determined by the disciplining authority, of a license holder's professional services by an addiction to, a dependency on, or the use of alcohol, legend drugs, or controlled substances.

(6) This section does not affect an employer's right or ability to make employment-related decisions regarding a license holder. This section does not restrict the authority of the disciplining authority to take disciplinary action for any other unprofessional conduct.

(7) A person who, in good faith, reports information or takes action in connection with this section is immune from civil liability for reporting information or taking the action.

(a) The immunity from civil liability provided by this section shall be liberally construed to accomplish the purposes of this section and the persons entitled to immunity shall include:

(i) An approved monitoring treatment program;

(ii) The professional association operating the program;

(iii) Members, employees, or agents of the program or association;

(iv) Persons reporting a license holder as being impaired or providing information about the license holder's impairment; and

(v) Professionals supervising or monitoring the course of the impaired license holder's treatment or rehabilitation.

(b) The immunity provided in this section is in addition to any other immunity provided by law. [1993 c 367 § 3; 1991 c 3 § 270; 1988 c 247 § 2.]

Legislative intent—1988 c 247: "Existing law does not provide for a program for rehabilitation of health professionals whose competency may be impaired due to the abuse of alcohol and other drugs.

It is the intent of the legislature that the disciplining authorities seek ways to identify and support the rehabilitation of health professionals whose practice or competency may be impaired due to the abuse of drugs or alcohol. The legislature intends that such health professionals be treated so that they can return to or continue to practice their profession in a way which safeguards the public. The legislature specifically intends that the disciplining authorities establish an alternative program to the traditional administrative proceedings against such health professionals." [1988 c 247 § 1.]

18.130.180 Unprofessional conduct. The following conduct, acts, or conditions constitute unprofessional conduct for any license holder or applicant under the jurisdiction of this chapter:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary

hearing of the guilt of the license holder or applicant of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(2) Misrepresentation or concealment of a material fact in obtaining a license or in reinstatement thereof;

(3) All advertising which is false, fraudulent, or misleading;

(4) Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed. The use of a nontraditional treatment by itself shall not constitute unprofessional conduct, provided that it does not result in injury to a patient or create an unreasonable risk that a patient may be harmed;

(5) Suspension, revocation, or restriction of the individual's license to practice the profession by competent authority in any state, federal, or foreign jurisdiction, a certified copy of the order, stipulation, or agreement being conclusive evidence of the revocation, suspension, or restriction;

(6) The possession, use, prescription for use, or distribution of controlled substances or legend drugs in any way other than for legitimate or therapeutic purposes, diversion of controlled substances or legend drugs, the violation of any drug law, or prescribing controlled substances for oneself;

(7) Violation of any state or federal statute or administrative rule regulating the profession in question, including any statute or rule defining or establishing standards of patient care or professional conduct or practice;

(8) Failure to cooperate with the disciplining authority by:

(a) Not furnishing any papers or documents;

(b) Not furnishing in writing a full and complete explanation covering the matter contained in the complaint filed with the disciplining authority; or

(c) Not responding to subpoenas issued by the disciplining authority, whether or not the recipient of the subpoena is the accused in the proceeding;

(9) Failure to comply with an order issued by the disciplinary authority or a stipulation for informal disposition entered into with the disciplinary authority;

(10) Aiding or abetting an unlicensed person to practice when a license is required;

(11) Violations of rules established by any health agency;

(12) Practice beyond the scope of practice as defined by law or rule;

(13) Misrepresentation or fraud in any aspect of the conduct of the business or profession;

(14) Failure to adequately supervise auxiliary staff to the extent that the consumer's health or safety is at risk;

(15) Engaging in a profession involving contact with the public while suffering from a contagious or infectious disease involving serious risk to public health;

(16) Promotion for personal gain of any unnecessary or inefficacious drug, device, treatment, procedure, or service;

(17) Conviction of any gross misdemeanor or felony relating to the practice of the person's profession. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(18) The procuring, or aiding or abetting in procuring, a criminal abortion;

(19) The offering, undertaking, or agreeing to cure or treat disease by a secret method, procedure, treatment, or medicine, or the treating, operating, or prescribing for any health condition by a method, means, or procedure which the licensee refuses to divulge upon demand of the disciplining authority;

(20) The willful betrayal of a practitioner-patient privilege as recognized by law;

(21) Violation of chapter 19.68 RCW;

(22) Interference with an investigation or disciplinary proceeding by willful misrepresentation of facts before the disciplining authority or its authorized representative, or by the use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action;

(23) Current misuse of:

(a) Alcohol;

(b) Controlled substances; or

(c) Legend drugs;

(24) Abuse of a client or patient or sexual contact with a client or patient;

(25) Acceptance of more than a nominal gratuity, hospitality, or subsidy offered by a representative or vendor of medical or health-related products or services intended for patients, in contemplation of a sale or for use in research publishable in professional journals, where a conflict of interest is presented, as defined by rules of the disciplining authority, in consultation with the department, based on recognized professional ethical standards. [1993 c 367 § 22. Prior: 1991 c 332 § 34; 1991 c 215 § 3; 1989 c 270 § 33; 1986 c 259 § 10; 1984 c 279 § 18.]

Application to scope of practice—Captions not law—1991 c 332: See notes following RCW 18.130.010.

Severability—1986 c 259: See note following RCW 18.130.010.

18.130.185 Injunctive relief for violations of RCW 18.130.170 or 18.130.180. If a person or business regulated by this chapter violates RCW 18.130.170 or 18.130.180, the attorney general, any prosecuting attorney, the secretary, the board, or any other person may maintain an action in the name of the state of Washington to enjoin the person from committing the violations. The injunction shall not relieve the offender from criminal prosecution, but the remedy by injunction shall be in addition to the liability of the offender to criminal prosecution and disciplinary action. [1993 c 367 § 8; 1987 c 150 § 8; 1986 c 259 § 15.]

Severability—1987 c 150: See RCW 18.122.901.

Severability—1986 c 259: See note following RCW 18.130.010.

18.130.186 Voluntary substance abuse monitoring program—Content—License surcharge. (1) To implement a substance abuse monitoring program for license holders

specified under RCW 18.130.040, who are impaired by substance abuse, the disciplinary authority may enter into a contract with a voluntary substance abuse program under RCW 18.130.175. The program may include any or all of the following:

(a) Contracting with providers of treatment programs;

(b) Receiving and evaluating reports of suspected impairment from any source;

(c) Intervening in cases of verified impairment;

(d) Referring impaired license holders to treatment programs;

(e) Monitoring the treatment and rehabilitation of impaired license holders including those ordered by the disciplinary authority;

(f) Providing education, prevention of impairment, posttreatment monitoring, and support of rehabilitated impaired license holders; and

(g) Performing other activities as agreed upon by the disciplinary authority.

(2) A contract entered into under subsection (1) of this section may be financed by a surcharge on each license issuance or renewal to be collected by the department of health from the license holders of the same regulated health profession. These moneys shall be placed in the health professions account to be used solely for the implementation of the program. [1993 c 367 § 9; 1989 c 125 § 3.]

18.130.190 Practice without license—Investigation of complaints—Cease and desist orders—Injunctions—Penalties. (1) The secretary shall investigate complaints concerning practice by unlicensed persons of a profession or business for which a license is required by the chapters specified in RCW 18.130.040. In the investigation of the complaints, the secretary shall have the same authority as provided the secretary under RCW 18.130.050.

(2) The secretary may issue a notice of intention to issue a cease and desist order to any person whom the secretary has reason to believe is engaged in the unlicensed practice of a profession or business for which a license is required by the chapters specified in RCW 18.130.040. The person to whom such notice is issued may request an adjudicative proceeding to contest the charges. The request for hearing must be filed within twenty days after service of the notice of intention to issue a cease and desist order. The failure to request a hearing constitutes a default, whereupon the secretary may enter a permanent cease and desist order, which may include a civil fine. All proceedings shall be conducted in accordance with chapter 34.05 RCW.

(3) If the secretary makes a final determination that a person has engaged or is engaging in unlicensed practice, the secretary may issue a cease and desist order. In addition, the secretary may impose a civil fine in an amount not exceeding one thousand dollars for each day upon which the person engaged in unlicensed practice of a business or profession for which a license is required by one or more of the chapters specified in RCW 18.130.040. The proceeds of such fines shall be deposited to the health professions account.

(4) If the secretary makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order, the secretary may issue a temporary cease and desist order. The person receiving a temporary cease and desist order shall be provided an opportunity for a prompt hearing. The temporary cease and desist order shall remain in effect until further order of the secretary. The failure to request a prompt or regularly scheduled hearing constitutes a default, whereupon the secretary may enter a permanent cease and desist order, which may include a civil fine.

(5) Neither the issuance of a cease and desist order nor payment of a civil fine shall relieve the person so practicing or operating a business without a license from criminal prosecution therefor, but the remedy of a cease and desist order or civil fine shall be in addition to any criminal liability. The cease and desist order is conclusive proof of unlicensed practice and may be enforced under RCW 7.21.060. This method of enforcement of the cease and desist order or civil fine may be used in addition to, or as an alternative to, any provisions for enforcement of agency orders set out in chapter 34.05 RCW.

(6) The attorney general, a county prosecuting attorney, the secretary, a board, or any person may in accordance with the laws of this state governing injunctions, maintain an action in the name of this state to enjoin any person practicing a profession or business for which a license is required by the chapters specified in RCW 18.130.040 without a license from engaging in such practice or operating such business until the required license is secured. However, the injunction shall not relieve the person so practicing or operating a business without a license from criminal prosecution therefor, but the remedy by injunction shall be in addition to any criminal liability.

(7) Unlicensed practice of a profession or operating a business for which a license is required by the chapters specified in RCW 18.130.040, unless otherwise exempted by law, constitutes a gross misdemeanor. All fees, fines, forfeitures, and penalties collected or assessed by a court because of a violation of this section shall be remitted to the health professions account. [1993 c 367 § 19; 1991 c 3 § 271. Prior: 1989 c 373 § 20; 1989 c 175 § 71; 1987 c 150 § 7; 1986 c 259 § 11; 1984 c 279 § 19.]

Severability—1989 c 373: See RCW 7.21.900.

Effective date—1989 c 175: See note following RCW 34.05.010.

Severability—1987 c 150: See RCW 18.122.901.

Severability—1986 c 259: See note following RCW 18.130.010.

18.130.300 Persons immune from liability. The secretary, members of the boards, or individuals acting on their behalf are immune from suit in any action, civil or criminal, based on any disciplinary proceedings or other official acts performed in the course of their duties. [1993 c 367 § 10; 1984 c 279 § 21.]

18.130.320 Provider investments and referrals—Conflict of interest standards. The Washington health services commission established by RCW 43.72.020, in consultation with the secretary of health, and the health care disciplinary authorities under RCW 18.130.040(2)(b), shall establish standards and monetary penalties in rule prohibiting provider investments and referrals that present a conflict of interest resulting from inappropriate financial gain for the provider or his or her immediate family. These standards

are not intended to inhibit the efficient operation of managed health care systems or certified health plans. The commission shall report to the health policy committees of the senate and house of representatives by December 1, 1994, on the development of the standards and any recommended statutory changes necessary to implement the standards. [1993 c 492 § 408.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

18.130.330 Malpractice insurance coverage mandate. Except to the extent that liability insurance is not available, every licensed health care practitioner whose services are included in the uniform benefits package, as determined by RCW 43.72.130, and whose scope of practice includes independent practice, shall, as a condition of licensure and relicensure, be required to provide evidence of a minimum level of malpractice insurance coverage issued by a company authorized to do business in this state. On or before January 1, 1994, the department shall designate by rule:

(1) Those health professions whose scope of practice includes independent practice;

(2) For each health profession whose scope of practice includes independent practice, whether malpractice insurance is available; and

(3) If such insurance is available, the appropriate minimum level of mandated coverage. [1993 c 492 § 412.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Chapter 18.135
HEALTH CARE ASSISTANTS

Sections

18.135.060 Conditions under which authorized functions may be performed—Renal dialysis. (1) Except as provided in subsection (2) of this section:

(a) Any health care assistant certified pursuant to this chapter shall perform the functions authorized in this chapter only by delegation of authority from the health care practitioner and under the supervision of a health care practitioner acting within the scope of his or her license. In the case of subcutaneous, intradermal and intramuscular and intravenous injections, a health care assistant may perform such functions only under the supervision of a health care practitioner having authority, within the scope of his or her license, to order such procedures.

(b) The health care practitioner who ordered the procedure or a health care practitioner who could order the procedure under his or her license shall be physically present in the immediate area of a hospital or nursing home where the injection is administered. Sensitivity agents being administered intradermally or by the scratch method are excluded from this requirement.

(2) A health care assistant trained by a federally approved end-stage renal disease facility may perform venipuncture for blood withdrawal, administration of oxygen as necessary by cannula or mask, venipuncture for placement of fistula needles, intravenous administration of heparin and sodium chloride solutions as an integral part of dialysis treatment, and intradermal, subcutaneous, or topical administration of local anesthetics in conjunction with placement of fistula needles, and intraperitoneal administration of sterile electrolyte solutions and heparin for peritoneal dialysis: (a) In the center or health care facility if a registered nurse licensed under chapter 18.88 RCW is physically present and immediately available in such center or health care facility; or (b) in the patient's home if a physician and a registered nurse are available for consultation during the dialysis. [1993 c 13 § 1. Prior: 1986 c 216 § 3; 1986 c 115 § 1; 1984 c 281 § 6.]

18.135.070 Complaints—Violations—Investigations—Disciplinary action. The licensing authority of health care facilities or the disciplining authority of the delegating or supervising health care practitioner shall investigate all complaints or allegations of violations of proper certification of a health care assistant or violations of delegation of authority or supervision. A substantiated violation shall constitute sufficient cause for disciplinary action by the licensing authority of a health care facility or the disciplining authority of the health care practitioner. [1993 c 367 § 11; 1984 c 281 § 7.]

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

18.135.100 Uniform Disciplinary Act. The Uniform Disciplinary Act, chapter 18.130 RCW, governs uncertified practice, the issuance and denial of certificates, and the discipline of certificate holders under this chapter. The secretary shall be the disciplining authority under this chapter. [1993 c 367 § 12.]

Chapter 18.140
CERTIFIED REAL ESTATE APPRAISER ACT

Sections

18.140.005 Intent. It is the intent of the legislature that only individuals who meet and maintain minimum standards of competence and conduct may provide certified or licensed appraisal services to the public. [1993 c 30 § 1; 1989 c 414 § 1.]

18.140.010 Definitions. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Appraisal" or "real estate appraisal" means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real estate, for or in expectation of compensation. An appraisal may be classified by subject matter into either a valuation or an analysis. A "valuation" is an estimate of the value of real estate or real property. An "analysis" is a study of real estate or real property other than estimating value.

(2) "Appraisal report" means any communication, written or oral, of an appraisal, except that all appraisal reports in federally related transactions are required to be written reports.

(3) "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real estate. The term "appraisal assignment" may apply to valuation work and analysis work.

(4) "Certified appraisal" means an appraisal prepared or signed by a state-certified real estate appraiser. A certified appraisal represents to the public that it meets the appraisal standards defined in this chapter.

(5) "Committee" means the real estate appraiser advisory committee of the state of Washington.

(6) "Department" means the department of licensing.

(7) "Director" means the director of the department of licensing.

(8) "Licensed appraisal" means an appraisal prepared or signed by a state-licensed real estate appraiser. A licensed appraisal represents to the public that it meets the appraisal standards defined in this chapter.

(9) "Real estate" means an identified parcel or tract of land, including improvements, if any.

(10) "Real property" means one or more defined interests, benefits, or rights inherent in the ownership of real estate.

(11) "Specialized appraisal services" means all appraisal services which do not fall within the definition of appraisal assignment. The term "specialized appraisal service" may apply to valuation work and to analysis work. Regardless of the intention of the client or employer, if the appraiser would be perceived by third parties or the public as acting as a disinterested third party in rendering an unbiased analysis, opinion, or conclusion, the work is classified as an appraisal assignment and not a specialized appraisal service.

(12) "State-certified general real estate appraiser" means a person certified by the director to develop and communicate real estate appraisals of all types of property. A state-certified general real estate appraiser may designate or identify an appraisal rendered by him or her as a "certified appraisal."

(13) "State-certified residential real estate appraiser" means a person certified by the director to develop and communicate real estate appraisals of all types of residential property of one to four units without regard to transaction value or complexity and nonresidential property having a transaction value as specified in rules adopted by the director. A state certified residential real estate appraiser may designate or identify an appraisal rendered by him or her as a "certified appraisal."

(14) "State-licensed real estate appraiser" means a person licensed by the director to develop and communicate real estate appraisals of noncomplex one to four residential units and complex one to four residential units and nonresidential property having transaction values as specified in rules adopted by the director. [1993 c 30 § 2; 1989 c 414 § 3.]

18.140.020 Use of title by unauthorized person. (1) No person, other than a state-certified or state-licensed real estate appraiser, may assume or use that title or any title, designation, or abbreviation likely to create the impression of certification or licensure as a real estate appraiser by this state. A person who is not certified or licensed under this chapter shall not describe or refer to any appraisal of real estate located in this state by the term "certified" or "licensed."

(2) This section does not preclude a person who is not certified or licensed as a state-certified or state-licensed real estate appraiser from appraising real estate in this state for compensation, except in federally related transactions requiring licensure or certification to perform appraisal services.[1993 c 30 § 3; 1989 c 414 § 4.]

18.140.030 Powers and duties of director. The director shall have the following powers and duties:

(1) To adopt rules in accordance with chapter 34.05 RCW necessary to implement this chapter;

(2) To receive and approve or deny applications for certification or licensure as a state-certified or state-licensed real estate appraiser under this chapter; to establish appropriate administrative procedures for the processing of such applications; to issue certificates or licenses to qualified applicants pursuant to the provisions of this chapter; and to maintain a register of the names and addresses of individuals who are currently certified or licensed under this chapter;

(3) To establish, provide administrative assistance, and appoint the members for the real estate appraiser advisory

committee to enable the committee to act in an advisory capacity to the director;

(4) To solicit bids and enter into contracts with educational testing services or organizations for the preparation of questions and answers for certification or licensure examinations;

(5) To administer or contract for administration of certification or licensure examinations at locations and times as may be required to carry out the responsibilities under this chapter;

(6) To enter into contracts for professional services determined to be necessary for adequate enforcement of this chapter;

(7) To consider recommendations by the real estate appraiser advisory committee relating to the experience, education, and examination requirements for each classification of state-certified appraiser and for licensure;

(8) To impose continuing education requirements as a prerequisite to renewal of certification or licensure;

(9) To consider recommendations by the real estate appraiser advisory committee relating to standards of professional appraisal practice in the enforcement of this chapter;

(10) To investigate all complaints or reports of unprofessional conduct as defined in this chapter and to hold hearings as provided in this chapter;

(11) To establish appropriate administrative procedures for disciplinary proceedings conducted pursuant to the provisions of this chapter;

(12) To compel the attendance of witnesses and production of books, documents, records, and other papers; to administer oaths; and to take testimony and receive evidence concerning all matters within their jurisdiction. These powers may be exercised directly by the director or the director's authorized representatives acting by authority of law;

(13) To take emergency action ordering summary suspension of a license or certification pending proceedings by the director;

(14) To employ such professional, clerical, and technical assistance as may be necessary to properly administer the work of the director;

(15) To establish forms necessary to administer this chapter;

(16) To adopt standards of professional conduct or practice; and

(17) To do all other things necessary to carry out the provisions of this chapter and minimally meet the requirements of federal guidelines regarding state certification or licensure of appraisers that the director determines are appropriate for state-certified and state-licensed appraisers in this state. [1993 c 30 § 4; 1989 c 414 § 7.]

18.140.040 Immunity. The director or individuals acting on behalf of the director are immune from suit in any action, civil or criminal, based on any acts performed in the course of their duties except for their intentional or willful misconduct. [1993 c 30 § 5; 1989 c 414 § 8.]

18.140.060 Applications—Original and renewal certification and licensure. (1) Applications for examinations, original certification or licensure, and renewal certification or licensure shall be made in writing to the department on forms approved by the director. Applications for original and renewal certification or licensure shall include a statement confirming that the applicant shall comply with applicable rules and regulations and that the applicant understands the penalties for misconduct.

(2) The appropriate fees shall accompany all applications for examination, reexamination, original certification or licensure, and renewal certification or licensure. [1993 c 30 § 6; 1989 c 414 § 10.]

18.140.070 Categories of state-certified or licensed real estate appraisers. There shall be one category of state-licensed real estate appraisers and two categories of state-certified real estate appraisers as follows:

(1) The state-licensed real estate appraiser;

(2) The state-certified residential real estate appraiser;

(3) The state-certified general real estate appraiser. [1993 c 30 § 7; 1989 c 414 § 11.]

18.140.080 Education requirements. As a prerequisite to taking an examination for certification or licensure, an applicant shall present evidence satisfactory to the director that he or she has successfully completed the education requirements adopted by the director. [1993 c 30 § 8; 1989 c 414 § 12.]

18.140.085 Conversion to appraiser's license. The department shall identify and notify all holders of state-certified residential appraiser certificates that their certificates will be converted to the designation of state-licensed real estate appraiser if they have not met the educational requirements for state-certified residential appraiser as prescribed by the director and the Appraiser Qualifications Board of the Appraisal Foundation. The department shall issue licenses with the new designation which reflects the person's qualifications as prescribed by the director. [1993 c 30 § 23.]

18.140.090 Experience requirements. As a prerequisite to taking an examination for certification or licensure, an applicant must meet the experience requirements adopted by the director. [1993 c 30 § 9; 1989 c 414 § 13.]

18.140.100 Examination requirements. An original license or certificate shall be issued to persons who have satisfactorily passed the written examination as endorsed by the Appraiser Qualifications Board of the Appraisal Foundation and as adopted by the director. [1993 c 30 § 10; 1989 c 414 § 14.]

18.140.110 Nonresident applicants—Consent for service of process. Every applicant for licensing or certification who is not a resident of this state shall submit, with the application for licensing or certification, an irrevocable consent that service of process upon him or her may be made by service on the director if, in an action against the applicant in a court of this state arising out of the applicant's activities as a state-licensed or state-certified real estate appraiser, the plaintiff cannot, in the exercise of due dili-

gence, obtain personal service upon the applicant. [1993 c 30 § 11; 1989 c 414 § 15.]

18.140.120 Reciprocity. An applicant for licensure or certification who is currently licensed or certified and in good standing under the laws of another state may obtain a license or certificate as a Washington state-licensed or state-certified real estate appraiser without being required to satisfy the examination requirements of this chapter if: The director determines that the licensure or certification requirements are substantially similar to those found in Washington state; and that the other state has a written reciprocal agreement to provide similar treatment to holders of Washington state licenses and/or certificates. [1993 c 30 § 12; 1989 c 414 § 16.]

18.140.130 Expiration of license or certificate—Renewal—Failure to renew in timely manner. (1) Each original and renewal license or certificate issued under this chapter shall expire on the applicant's second birthday following issuance of the license or certificate.

(2) To be renewed as a state-licensed or state-certified real estate appraiser, the holder of a valid license or certificate shall apply and pay the prescribed fee to the director no earlier than one hundred twenty days prior to the expiration date of the license or certificate and shall demonstrate satisfaction of any continuing education requirements.

(3) If a person fails to renew a license or certificate prior to its expiration and no more than two years have passed since the person last held a valid license or certificate, the person may obtain a renewal license or certificate by satisfying all of the requirements for renewal and paying late renewal fees.

The director shall cancel the license or certificate of any person whose renewal fee is not received within two years from the date of expiration. A person may obtain a new license or certificate by satisfying the procedures and qualifications for initial licensure or certification, including the successful completion of any applicable examinations. [1993 c 30 § 13; 1989 c 414 § 17.]

18.140.140 Licenses and certificates—Required use of number. (1) A license or certificate issued under this chapter shall bear the signature or facsimile signature of the director and a license or certificate number assigned by the director.

(2) Each state-licensed or state-certified real estate appraiser shall place his or her certificate number adjacent to or immediately below the title "state-licensed real estate appraiser," "state-certified residential real estate appraiser," or "state-certified general real estate appraiser" when used in an appraisal report or in a contract or other instrument used by the licensee or certificate holder in conducting real property appraisal activities. [1993 c 30 § 14; 1989 c 414 § 18.]

18.140.150 Use of term restricted—Group licenses or certificates prohibited. (1) The term "state-licensed" or "state-certified real estate appraiser" may only be used to refer to individuals who hold the license or certificate and may not be used following or immediately in connection with the name or signature of a firm, partnership, corporation, or group, or in such manner that it might be interpreted as referring to a firm, partnership, corporation, group, or anyone other than an individual holder of the license or certificate.

(2) No license or certificate may be issued under this chapter to a corporation, partnership, firm, or group. This shall not be construed to prevent a state-licensed or state-certified appraiser from signing an appraisal report on behalf of a corporation, partnership, firm, or group practice. [1993 c 30 § 15; 1989 c 414 § 19.]

18.140.155 Temporary licensing or certification. (1) A real estate appraiser from another state who is licensed or certified by another state may apply for registration to receive temporary licensing or certification in Washington by paying a fee and filing a notarized application with the department on a form provided by the department.

(2) Licensing and certification privileges granted under the provisions of this section shall expire ninety days from issuance. Licensing or certification shall not be renewed, nor shall an applicant receive more than two registrations within any twelve-month period.

(3) Persons granted temporary licensing or certification privileges under this section shall not advertise or otherwise hold themselves out as being licensed or certified by the state of Washington.

(4) Persons granted temporary licensure or certification are subject to all provisions under this chapter. [1993 c 30 § 16.]

18.140.160 Sanctions against license or certificate—Grounds. An application for licensure or certification may be denied. The director may impose any one or more of the following sanctions against state-licensed or state-certified appraisers: Suspend, revoke, or levy a fine not to exceed one thousand dollars for each offense and/or otherwise discipline in accordance with the provisions of this chapter, for any of the following acts or omissions:

(1) Failing to meet the minimum qualifications for state licensure or certification established by or pursuant to this chapter;

(2) Procuring or attempting to procure state licensure or certification under this chapter by knowingly making a false statement, knowingly submitting false information, or knowingly making a material misrepresentation on any application filed with the director;

(3) Paying money other than the fees provided for by this chapter to any employee of the director or the committee to procure state licensure or certification under this chapter;

(4) Obtaining a license or certification through the mistake or inadvertence of the director;

(5) Conviction of any gross misdemeanor or felony or the commission of any act involving moral turpitude, dishonesty, or corruption whether or not the act constitutes a crime. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license or certificate holder or applicant of the crime described in the indictment or infor-

mation, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(6) Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;

(7) Negligence or incompetence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;

(8) Continuing to act as a state-licensed or state-certified real estate appraiser when his or her license or certificate is on an expired status;

(9) Failing, upon demand, to disclose any information within his or her knowledge to, or to produce any document, book, or record in his or her possession for inspection of the director or the director's authorized representatives acting by authority of law;

(10) Violating any provision of this chapter or any lawful rule or regulation made by the director pursuant thereto;

(11) Advertising in a false, fraudulent, or misleading manner;

(12) Suspension, revocation, or restriction of the individual's license or certification to practice the profession by competent authority in any state, federal, or foreign jurisdiction, with a certified copy of the order, stipulation, or agreement being conclusive evidence of the revocation, suspension, or restriction;

(13) Failing to comply with an order issued by the director;

(14) Committing any act of fraudulent or dishonest dealing or a crime involving moral turpitude, with a certified copy of the final holding of any court of competent jurisdiction in such matter being conclusive evidence in any hearing under this chapter; and

(15) Issuing an appraisal report on any real property in which the appraiser has an interest unless his or her interest is clearly stated in the appraisal report. [1993 c 30 § 17; 1989 c 414 § 20.]

18.140.170 Violations—Investigations—Charges—Hearings. The director may investigate the actions of a state-licensed or state-certified real estate appraiser or an applicant for licensure or certification or relicensure or recertification. Upon receipt of information indicating that a state-licensed or state-certified real estate appraiser under this chapter may have violated this chapter, the director shall cause one or more of the staff investigators to make an investigation of the facts to determine whether or not there is admissible evidence of any such violation. If technical assistance is required, a staff investigator may consult with one or more of the members of the committee.

In any investigation made by the director's investigative staff, the director shall have the power to compel the attendance of witnesses and the production of books, documents, records, and other papers, to administer oaths, and to take testimony and receive evidence concerning all matters within the director's jurisdiction.

If the director determines, upon investigation, that a state-licensed or state-certified real estate appraiser under this chapter has violated this chapter, a statement of charges shall be prepared and served upon the state-licensed or state-certified real estate appraiser. This statement of charges shall require the accused party to file an answer to the statement of charges within twenty days of the date of service.

In responding to a statement of charges, the accused party may admit to the allegations, deny the allegations, or otherwise plead. Failure to make a timely response shall be deemed an admission of the allegations contained in the statement of charges and will result in a default whereupon the director may enter an order under RCW 34.05.440. If a hearing is requested, the time of the hearing shall be scheduled but the hearing shall not be held earlier than thirty days after service of the charges upon the accused. A notice of hearing shall be issued at least twenty days prior to the hearing, specifying the time, date, and place of hearing. [1993 c 30 § 18; 1989 c 414 § 21.]

18.140.175 Cease and desist orders. (1) The director may issue a cease and desist order to a person after notice and hearing and upon a determination that the person has violated a provision of this chapter or a lawful order or rule of the director.

(2) If the director makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order, the director may issue a temporary cease and desist order. Before issuing the temporary cease and desist order, whenever possible, the director shall give notice by telephone or otherwise of the proposal to issue a temporary cease and desist order to the person. Every temporary cease and desist order shall include a provision that a hearing will be held upon request to determine whether the order will become permanent.

At the time the temporary cease and desist order is served, the person shall be notified that he or she is entitled to request a hearing for the sole purpose of determining whether the public interest requires that the temporary cease and desist order be continued or modified pending the outcome of the hearing to determine whether the order will become permanent. The hearing shall be held within thirty days after the department receives the request for hearing, unless the person requests a later hearing. A person may secure review of any decision rendered at a temporary cease and desist order review hearing in the same manner as an adjudicative proceeding. [1993 c 30 § 19.]

18.140.180 Hearings—Orders—Judicial review. The administrative hearing on the allegations in the statement of charges may be heard by an administrative law judge appointed under chapter 34.12 RCW at the time and place prescribed by the director and in accordance with the provisions of the Administrative Procedure Act, chapter 34.05 RCW. If the administrative law judge determines that a state-licensed or state-certified real estate appraiser is guilty of a violation of any of the provisions of this chapter, a formal decision shall be prepared that contains findings of

fact and recommendations to the director concerning the appropriate disciplinary action to be taken.

In such event the director shall enter an order to that effect and shall file the same in his or her office and immediately mail a copy thereof to the affected party at the addresses of record with the department. Such order shall not be operative for a period of ten days from the date thereof. Any party aggrieved by a final decision by the director in an adjudicative proceeding whether such decision is affirmative or negative in form, is entitled to a judicial review in the superior court under the provisions of the Administrative Procedure Act, chapter 34.05 RCW. [1993 c 30 § 20; 1989 c 414 § 22.]

18.140.190 Duties of attorney general. The attorney general shall render to the director opinions upon all questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof that may be submitted by the director, and shall act as attorney for the director in all actions and proceedings brought by or against the director under or pursuant to any provisions of this chapter. [1993 c 30 § 21; 1989 c 414 § 23.]

18.140.900 Short title. This chapter may be known and cited as the real estate appraiser act. [1993 c 30 § 22; 1989 c 414 § 2.]

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

Chapter 18.185
BAIL BOND AGENTS

Sections

18.185.005 Declaration, intent, construction. The legislature declares that the licensing of bail bond agents should be uniform throughout the state. Therefore, it is the intent of the legislature to preempt any local regulation of bail bond agents, including licensing fees, but not including local business license fees. Nothing in this chapter limits the discretion of the courts of this state to accept or reject a particular surety or recognizance bond in a particular case. [1993 c 260 § 1.]

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

(1) "Department" means the department of licensing.

(2) "Director" means the director of licensing.

(3) "Collateral or security" means property of any kind given as security to obtain a bail bond.

(4) "Bail bond agency" means a business that sells and issues corporate surety bail bonds or that provides security in the form of personal or real property to insure the appearance of a criminal defendant before the courts of this state or the United States.

(5) "Qualified agent" means an owner, sole proprietor, partner, manager, officer, or chief operating officer of a corporation who meets the requirements set forth in this chapter for obtaining a bail bond agency license.

(6) "Bail bond agent" means a person who is employed by a bail bond agency and engages in the sale or issuance of bail bonds, but does not mean a clerical, secretarial, or other support person who does not participate in the sale or issuance of bail bonds.

(7) "Licensee" means a bail bond agency or a bail bond agent or both. [1993 c 260 § 2.]

18.185.020 Agent license requirements. An applicant must meet the following minimum requirements to obtain a bail bond agent license:

(1) Be at least eighteen years of age;

(2) Be a citizen or resident alien of the United States;

(3) Not have been convicted of a crime in any jurisdiction in the preceding ten years, if the director determines that the applicant's particular crime directly relates to a capacity to perform the duties of a bail bond agent and the director determines that the license should be withheld to protect the citizens of Washington state. If the director shall make a determination to withhold a license because of previous convictions, the determination shall be consistent with the restoration of employment rights act, chapter 9.96A RCW;

(4) Be employed by a bail bond agency or be licensed as a bail bond agency; and

(5) Pay the required fee. [1993 c 260 § 3.]

18.185.030 Agency license requirements. (1) In addition to meeting the minimum requirements to obtain a license as a bail bond agent, a qualified agent must meet the following additional requirements to obtain a bail bond agency license:

(a) Pass an examination determined by the director to measure the person's knowledge and competence in the bail bond agency business; or

(b) Have had at least three years' experience as a manager, supervisor, or administrator in the bail bond business or a related field as determined by the director. A year's experience means not less than two thousand hours of actual compensated work performed before the filing of an application. An applicant shall substantiate the experience

by written certifications from previous employers. If the applicant is unable to supply written certifications from previous employers, applicants may offer written certifications from persons other than employers who, based on personal knowledge, can substantiate the employment; and

(c) Pay any additional fees as established by the director.

(2) An agency license issued under this section may not be assigned or transferred without prior written approval of the director. [1993 c 260 § 4.]

18.185.040 License applications. (1) Applications for licenses required under this chapter shall be filed with the director on a form provided by the director. The director may require any information and documentation that reasonably relates to the need to determine whether the applicant meets the criteria, which may include fingerprints.

(2) After receipt of an application for a license, the director may conduct an investigation to determine whether the facts set forth in the application are true. [1993 c 260 § 5.]

18.185.050 License cards, certificates—Advertising—Notice of changes. (1) The director shall issue a bail bond agent license card to each licensed bail bond agent. A bail bond agent shall carry the license card whenever he or she is performing the duties of a bail bond agent and shall exhibit the card upon request.

(2) The director shall issue a license certificate to each licensed bail bond agency.

(a) Within seventy-two hours after receipt of the license certificate, the licensee shall post and display the certificate in a conspicuous place in the principal office of the licensee within the state.

(b) It is unlawful for any person holding a license certificate to knowingly and willfully post the license certificate upon premises other than those described in the license certificate or to materially alter a license certificate.

(c) Every advertisement by a licensee that solicits or advertises business shall contain the name of the licensee, the address of record, and the license number as they appear in the records of the director.

(d) The licensee shall notify the director within thirty days of any change in the licensee's officers or directors or any material change in the information furnished or required to be furnished to the director. [1993 c 260 § 6.]

18.185.060 Prelicensing training requirements. (1) The director shall adopt rules establishing prelicense training and testing requirements, which shall include a minimum of four hours of classes. The director may establish, by rule, continuing education requirements for bail bond agents.

(2) The director shall consult with the bail bond industry before adopting or amending the prelicensing training or continuing education requirements of this section.

(3) The director may appoint an advisory committee consisting of representatives from the bail bond industry and a consumer to assist in the development of rules to implement this chapter.

(4) A bail bond agent need not fulfill the prelicensing training requirements of this chapter if he or she, within sixty days prior to July 1, 1994, provides proof to the director that he or she previously has met the training requirements of this chapter or has been employed as a bail bond agent for at least eighteen consecutive months immediately prior to the date of application. [1993 c 260 § 7.]

18.185.070 Bond. (1) No bail bond agency license may be issued under the provisions of this chapter unless the qualified agent files with the director a bond, executed by a surety company authorized to do business in this state, in the sum of ten thousand dollars conditioned to recover against the agency and its servants, officers, agents, and employees by reason of its violation of the provisions of RCW 18.185.100. The bond shall be made payable to the state of Washington, and anyone so injured by the agency or its servants, officers, agents, or employees may bring suit upon the bond in any county in which jurisdiction over the licensee may be obtained. The suit must be brought not later than two years after the failure to return property in accordance with RCW 18.185.100. If valid claims against the bond exceed the amount of the bond or deposit, each claimant shall be entitled only to a pro rata amount, based on the amount of the claim as it is valid against the bond, without regard to the date of filing of any claim or action.

(2) Every licensed bail bond agency must at all times maintain on file with the director the bond required by this section in full force and effect. Upon failure by a licensee to do so, the director shall suspend the licensee's license and shall not reinstate the license until this requirement is met.

(3) In lieu of posting a bond, a qualified agent may deposit in an interest-bearing account, ten thousand dollars.

(4) The director may waive the bond requirements of this section, in his or her discretion, pursuant to adopted rules. [1993 c 260 § 8.]

18.185.080 Relation of this chapter to local regulation, taxation. (1) The provisions of this chapter relating to the licensing for regulatory purposes of bail bond agents and bail bond agencies are exclusive. No governmental subdivision of this state may enact any laws or rules licensing for regulatory purposes such persons, except as provided in subsections (2) and (3) of this section.

(2) This section shall not be construed to prevent a political subdivision of this state from levying a business fee, business and occupation tax, or other tax upon bail bond agencies if such fees or taxes are levied by the political subdivision on other types of businesses within its boundaries.

(3) This section shall not be construed to prevent this state or a political subdivision of this state from licensing for regulatory purposes bail bond agencies with respect to activities that are not regulated under this chapter. [1993 c 260 § 9.]

18.185.090 Notice concerning agent's status. (1) A bail bond agency shall notify the director within thirty days after the death or termination of employment of any employee who is a licensed bail bond agent.

(2) A bail bond agency shall notify the director within seventy-two hours upon receipt of information affecting a licensed bail bond agent's continuing eligibility to hold a

license under the provisions of this chapter. [1993 c 260 § 10.]

18.185.100 Records—Finances—Disposition of security. (1) Every qualified agent shall keep adequate records for three years of all collateral and security received, all trust accounts required by this section, and all bail bond transactions handled by the bail bond agency, as specified by rule. The records shall be open to inspection without notice by the director or authorized representatives of the director.

(2) Every qualified agent who receives collateral or security is a fiduciary of the property and shall keep adequate records for three years of the receipt, safekeeping, and disposition of the collateral or security. Every qualified agent shall maintain a trust account in a federally insured financial institution located in this state. All moneys, including cash, checks, money orders, wire transfers, and credit card sales drafts, received as collateral or security or otherwise held for a bail bond agency's client shall be deposited in the trust account not later than the third banking day following receipt of the funds or money. A qualified agent shall not in any way encumber the corpus of the trust account or commingle any other moneys with moneys properly maintained in the trust account. Each qualified agent required to maintain a trust account shall report annually under oath to the director the account number and balance of the trust account, and the name and address of the institution that holds the trust account, and shall report to the director within ten business days whenever the trust account is changed or relocated or a new trust account is opened.

(3) Whenever a bail bond is exonerated by the court, the bail bond agency shall, within five business days after written notification of exoneration and upon demand, return all collateral or security to the person entitled thereto. [1993 c 260 § 11.]

18.185.110 Prohibited acts. The following acts are prohibited and constitute grounds for disciplinary action or denial, suspension, or revocation of any license under this chapter, as deemed appropriate by the director:

(1) Knowingly violating any of the provisions of this chapter or the rules adopted under this chapter;

(2) Knowingly making a material misstatement or omission in the application for or renewal of a license;

(3) Failing to meet the qualifications set forth in RCW 18.185.020 and 18.185.030;

(4) Conviction of a gross misdemeanor or felony or the commission of any act involving moral turpitude, dishonesty, or corruption whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder or applicant of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(5) Advertising that is false, fraudulent, or misleading;

(6) Incompetence or negligence that results in injury to a person or that creates an unreasonable risk that a person may be harmed;

(7) Suspension, revocation, or restriction of the individual's license to practice the profession by competent authority in any state, federal, or foreign jurisdiction, a certified copy of the order, stipulation, or agreement being conclusive evidence of the revocation, suspension, or restriction;

(8) Failure to cooperate with the director by not:

(a) Furnishing any necessary papers or documents requested by the director for purposes of conducting an investigation for disciplinary action, denial, suspension, or revocation of a license under this chapter;

(b) Furnishing in writing a full and complete explanation covering the matter contained in a complaint filed with the department; or

(c) Responding to subpoenas issued by the director, whether or not the recipient of the subpoena is the accused in the proceeding;

(9) Failure to comply with an order issued by the director or an assurance of discontinuance entered into with the director;

(10) Aiding or abetting an unlicensed person to practice if a license is required;

(11) Knowingly committing, or being a party to, any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme, or device whereby any other person lawfully relies upon the word, representation, or conduct of the licensee;

(12) Failure to adequately supervise employees to the extent that the client funds are at risk;

(13) Interference with an investigation or disciplinary proceeding by willful misrepresentation of facts before the director or the director's authorized representative, or by the use of threats or harassment against any client or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action;

(14) Assigning or transferring any license issued pursuant to the provisions of this chapter, except as provided in RCW 18.185.030;

(15) Conversion of any money or contract, deed, note, mortgage, or other evidence of title, to his or her own use or to the use of his or her principal or of any other person, when delivered to him or her in trust or on condition, in violation of the trust or before the happening of the condition; and failure to return any money or contract, deed, note, mortgage, or other evidence of title within thirty days after the owner is entitled to possession, and makes demand for possession, shall be prima facie evidence of conversion;

(16) Failing to keep records, maintain a trust account, or return collateral or security, as required by RCW 18.185.100;

(17) Any conduct in a bail bond transaction which demonstrates bad faith, dishonesty, or untrustworthiness; or

(18) Violation of an order to cease and desist that is issued by the director under this chapter. [1993 c 260 § 12.]

18.185.120 Director's powers. The director has the following authority in administering this chapter:

(1) To adopt, amend, and rescind rules as deemed necessary to carry out this chapter;

(2) To issue an order providing for one or any combination of the following upon violation or violations of this chapter: Denying, suspending, or revoking a license; assessing monetary penalties; restricting or limiting practice; complying with conditions of probation for a designated period of time; making restitution to the person harmed by the licensee; or other corrective action;

(3) To issue subpoenas and administer oaths in connection with an investigation, hearing, or proceeding held under this chapter;

(4) To take or cause depositions to be taken and use other discovery procedures as needed in an investigation, hearing, or proceeding held under this chapter;

(5) To compel attendance of witnesses at hearings;

(6) To establish fees by rule under RCW 43.24.086 and chapter 34.05 RCW;

(7) To take emergency action ordering summary suspension of a license, or restriction or limitation of the licensee's practice pending proceedings by the director;

(8) To use the office of administrative hearings as authorized in chapter 34.12 RCW to conduct hearings. However, the director or the director's designee shall make the final decision in the hearing;

(9) To enter into contracts for professional services determined to be necessary for adequate enforcement of this chapter;

(10) To adopt standards of professional conduct or practice;

(11) In the event of a finding of unprofessional conduct by an applicant or license holder, to impose sanctions against an applicant or license holder as provided by this chapter;

(12) To enter into an assurance of discontinuance in lieu of issuing a statement of charges or conducting a hearing. The assurance shall consist of a statement of the law in question and an agreement to not violate the stated provision. The applicant or license holder shall not be required to admit to any violation of the law, and the assurance shall not be construed as such an admission. Violation of an assurance under this subsection is grounds for disciplinary action;

(13) To designate individuals authorized to sign subpoenas and statements of charges; and

(14) To employ such investigative, administrative, and clerical staff as necessary for the enforcement of this chapter. [1993 c 260 § 13.]

18.185.130 Complaints. Any person may submit a written complaint to the department charging a license holder or applicant with unprofessional conduct and specifying the grounds for the charge. If the director determines that the complaint merits investigation, or if the director has reason to believe, without a formal complaint, that a license holder or applicant may have engaged in unprofessional conduct, the director shall investigate to determine if there has been unprofessional conduct. A person who files a complaint under this section in good faith is immune from suit in any civil action related to the filing or contents of the complaint. [1993 c 260 § 14.]

18.185.140 Charges against licensee or applicant—Hearing. (1) If the director determines, upon investigation, that there is reason to believe a violation of this chapter has occurred, a statement of charges shall be prepared and served upon the license holder or applicant and notice of this action given to the owner or qualified agent of the employing bail bond agency. The statement of charges shall be accompanied by a notice that the license holder or applicant may request a hearing to contest the charges. The license holder or applicant must file a request for hearing with the department within twenty days after being served the statement of charges. The failure to request a hearing constitutes a default, whereupon the director may enter an order under RCW 34.05.440.

(2) If a hearing is requested, the time of the hearing shall be scheduled but the hearing shall not be held earlier than thirty days after service of the charges upon the license holder or applicant. A notice of hearing shall be issued at least twenty days prior to the hearing, specifying the time, date, and place of the hearing. [1993 c 260 § 15.]

18.185.150 Hearing procedures. The procedures governing adjudicative proceedings before agencies under chapter 34.05 RCW, the Administrative Procedure Act, shall govern all hearings before the director. [1993 c 260 § 16.]

18.185.160 Enforcement of monetary penalty. If an order for payment of a monetary penalty is made as a result of a hearing and timely payment is not made as directed in the final order, the director may enforce the order for payment in the superior court in the county in which the hearing was held. This right of enforcement shall be in addition to any other rights the director may have as to a licensee ordered to pay a monetary penalty but shall not be construed to limit a licensee's ability to seek judicial review.

In an action for enforcement of an order of payment of a monetary penalty, the director's order is conclusive proof of the validity of the order of payment of a penalty and the terms of payment. [1993 c 260 § 17.]

18.185.170 Cease and desist orders—Injunctions—Criminal penalties—Disposition of monetary assessments. (1) The director shall investigate complaints concerning practice by unlicensed persons of a profession or business for which a license is required by this chapter. In the investigation of the complaints, the director has the same authority as provided the director under RCW 18.185.140. The director shall issue a cease and desist order to a person after notice and hearing and upon a determination that the person has violated this subsection. If the director makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order, the director may issue a temporary cease and desist order. The cease and desist order shall not relieve the person practicing or operating a business without a license from criminal prosecution therefor, but the remedy of a cease and desist order shall be in addition to any criminal liability. The cease and desist order is conclusive proof of unlicensed practice and may be enforced under RCW 7.21.060. This method of enforcement of the cease and desist order may be used in

addition to, or as an alternative to, any provisions for enforcement of agency orders.

(2) The attorney general, a county prosecuting attorney, the director, or any person may, in accordance with the law of this state governing injunctions, maintain an action in the name of this state to enjoin any person practicing a profession or business for which a license is required by this chapter without a license from engaging in such practice or operating such business until the required license is secured. However, the injunction shall not relieve the person practicing or operating a business without a license from criminal prosecution therefor, but the remedy by injunction shall be in addition to any criminal liability.

(3) After June 30, 1994, any person who performs the functions and duties of a bail bond agent in this state without being licensed in accordance with the provisions of this chapter, or any person presenting or attempting to use as his or her own the license of another, or any person who gives false or forged evidence of any kind to the director in obtaining a license, or any person who falsely impersonates any other licensee, or any person who attempts to use an expired or revoked license, or any person who violates any of the provisions of this chapter is guilty of a gross misdemeanor.

(4) After January 1, 1994, a person is guilty of a gross misdemeanor if he or she owns or operates a bail bond agency in this state without first obtaining a bail bond agency license.

(5) After June 30, 1994, the owner or qualified agent of a bail bond agency is guilty of a gross misdemeanor if he or she employs any person to perform the duties of a bail bond agent without the employee having in his or her possession a permanent bail bond agent license issued by the department.

(6) All fees, fines, forfeitures, and penalties collected or assessed by a court because of a violation of this section shall be remitted to the department. [1993 c 260 § 18.]

18.185.180 Civil penalties. A person or business that violates an injunction issued under this chapter shall pay a civil penalty, as determined by the court, of not more than twenty-five thousand dollars, which shall be paid to the department. For the purpose of this section, the superior court issuing any injunction shall retain jurisdiction. [1993 c 260 § 19.]

18.185.190 Official immunity. The director or individuals acting on the director's behalf are immune from suit in any action, civil or criminal, based on disciplinary proceedings or other official acts performed in the course of their duties in the administration and enforcement of this chapter. [1993 c 260 § 20.]

18.185.200 Application of Administrative Procedure Act. The director, in implementing and administering the provisions of this chapter, shall act in accordance with the Administrative Procedure Act, chapter 34.05 RCW. [1993 c 260 § 21.]

18.185.210 Application of Consumer Protection Act. Failure to fulfill the fiduciary duties and other duties as prescribed in RCW 18.185.100 is not reasonable in relation to the development and preservation of business. A violation of RCW 18.185.100 is an unfair or deceptive act in trade or commerce for the purpose of applying the Consumer Protection Act, chapter 19.86 RCW. [1993 c 260 § 22.]

18.185.900 Severability—1993 c 260. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected. [1993 c 260 § 23.]

18.185.901 Effective date—1993 c 260. 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, 1993. [1993 c 260 § 25.]

Implementation—1993 c 260: "The director of licensing may take such steps as are necessary to ensure that this act is implemented on its effective date." [1993 c 260 § 24.]

Title 19

BUSINESS REGULATIONS—MISCELLANEOUS

Chapters

Chapter 19.02

BUSINESS LICENSE CENTER ACT

Sections

19.02.020 Definitions. As used in this chapter, the following words shall have the following meanings:

(1) "System" means the mechanism by which master licenses are issued and renewed, license and regulatory information is disseminated, and account data is exchanged by the agencies;

(2) "Business license center" means the business registration and licensing center established by this chapter and located in and under the administrative control of the department of licensing;

(3) "Master application" means a document incorporating pertinent data from existing applications for licenses covered under this chapter;

(4) "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;

(5) "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;

(6) "Regulatory" means all licensing and other governmental or statutory requirements pertaining to business or professional activities;

(7) "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;

(8) "Director" means the director of licensing;

(9) "Department" means the department of licensing;

(10) "Regulatory agency" means any state agency, board, commission, or division which regulates one or more professions, occupations, industries, businesses, or activities;

(11) "Renewal application" means a document used to collect pertinent data for renewal of licenses covered under this chapter; and

(12) "License information packet" means a collection of information about licensing requirements and application procedures custom-assembled for each request. [1993 c 142 § 3; 1992 c 107 § 1; 1982 c 182 § 2; 1979 c 158 § 75; 1977 ex.s. c 319 § 2.]

Effective dates—1992 c 107: "(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." [1992 c 107 § 9.]

19.02.030 Center—Created—Duties—Administrator—Rules. (1) There is created within the department of licensing a business license center.

(2) The duties of the center shall include:

(a) Developing and administering a computerized one-stop master license system capable of storing, retrieving, and exchanging license information with due regard to privacy statutes, as well as issuing and renewing master licenses in an efficient manner;

(b) Providing a license information service detailing requirements to establish or engage in business in this state;

(c) Providing for staggered master license renewal;

(d) Identifying types of licenses appropriate for inclusion in the master license system;

(e) Recommending in reports to the governor and the legislature the elimination, consolidation, or other modification of duplicative, ineffective, or inefficient licensing or inspection requirements; and

(f) Incorporating licenses into the master license system.

(3) The department of licensing shall establish the position of assistant director of the business license center.

(4) The director of licensing may adopt under chapter 34.05 RCW such rules as may be necessary to effectuate the purposes of this chapter. [1993 c 142 § 4; 1982 c 182 § 3; 1979 c 158 § 76; 1977 ex.s. c 319 § 3.]

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

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

Chapter 19.09
CHARITABLE SOLICITATIONS

Sections

Fees—Charitable trusts—Charitable solicitations: RCW 43.07.125.

19.09.020 Definitions. When used in this chapter, unless the context otherwise requires:

(1) A "bona fide officer or employee" of a charitable organization is one (a) whose conduct is subject to direct control by such organization; (b) who does not act in the

manner of an independent contractor in his or her relation with the organization; and (c) whose compensation is not computed on funds raised or to be raised.

(2) "Charitable organization" means any entity that solicits or collects contributions from the general public where the contribution is or is purported to be used to support a charitable activity, but does not include any commercial fund raiser or commercial fund-raising entity as defined in this section. "Charitable" (a) is not limited to its common law meaning unless the context clearly requires a narrower meaning; (b) does not include religious or political activities; and (c) includes, but is not limited to, educational, recreational, social, patriotic, legal defense, benevolent, and health causes.

(3) "Compensation" means salaries, wages, fees, commissions, or any other remuneration or valuable consideration.

(4) "Contribution" means the payment, donation, promise or grant, for consideration or otherwise, of any money or property of any kind or value which contribution is wholly or partly induced by a solicitation. Reference to dollar amounts of "contributions" or "solicitations" in this chapter means in the case of payments or promises to pay for merchandise or rights of any description, the value of the total amount paid or promised to be paid for such merchandise or rights less the reasonable purchase price to the charitable organization of any such tangible merchandise, rights, or services resold by the organization, and not merely that portion of the purchase price to be applied to a charitable purpose.

(5) "Cost of solicitation" means and includes all direct and indirect costs, expenditures, debts, obligations, salaries, wages, commissions, fees, or other money or thing of value paid or incurred in making a solicitation. Cost of solicitation does not include the reasonable purchase price to the charitable organization of any tangible goods or services resold by the organization as a part of its fund raising activities.

(6) "Entity" means an individual, organization, group, association, partnership, corporation, agency or unit of state government, or any combination thereof.

(7) "General public" or "public" means any individual located in Washington state without a membership or other official relationship with a charitable organization before a solicitation by the charitable organization.

(8) "Commercial fund raiser" or "commercial fund-raising entity" means any entity that for compensation or other consideration within this state directly or indirectly solicits or receives contributions for or on behalf of any charitable organization or charitable purpose, or that is engaged in the business of or is held out to persons in this state as independently engaged in the business of soliciting or receiving contributions for such purposes. However, the following shall not be deemed a commercial fund raiser or "commercial fund-raising entity": (a) Any entity that provides fund-raising advice or consultation to a charitable organization within this state but neither directly nor indirectly solicits or receives any contribution for or on behalf of any such charitable organization; and (b) a bona fide officer or other employee of a charitable organization.

(9) "Membership" means that for the payment of fees, dues, assessments, etc., an organization provides services and confers a bona fide right, privilege, professional standing, honor, or other direct benefit, in addition to the right to vote, elect officers, or hold office. The term "membership" does not include those persons who are granted a membership upon making a contribution as the result of solicitation.

(10) "Other employee" of a charitable organization means any person (a) whose conduct is subject to direct control by such organization; (b) who does not act in the manner of any independent contractor in his or her relation with the organization; and (c) who is not engaged in the business of or held out to persons in this state as independently engaged in the business of soliciting contributions for charitable or religious purposes.

(11) "Parent organization" means that part of a charitable organization that coordinates, supervises, or exercises control over policy, fund raising, or expenditures, or assists or advises one or more related foundations, supporting organizations, chapters, branches, or affiliates of such organization in the state of Washington.

(12) "Political activities" means those activities subject to chapter 42.17 RCW or the Federal Elections Campaign Act of 1971, as amended.

(13) "Religious activities" means those religious, evangelical, or missionary activities under the direction of a religious organization duly organized and operating in good faith that are entitled to receive a declaration of current tax exempt status for religious purposes from the United States government and the duly organized branches or chapters of those organizations.

(14) "Secretary" means the secretary of state.

(15) "Solicitation" means any oral or written request for a contribution, including the solicitor's offer or attempt to sell any property, rights, services, or other thing in connection with which:

(a) Any appeal is made for any charitable purpose; or

(b) The name of any charitable organization is used as an inducement for consummating the sale; or

(c) Any statement is made that implies that the whole or any part of the proceeds from the sale will be applied toward any charitable purpose or donated to any charitable organization.

The solicitation shall be deemed completed when made, whether or not the person making it receives any contribution or makes any sale.

Bingo activities, raffles, and amusement games conducted under chapter 9.46 RCW and applicable rules of the Washington state gambling commission are specifically excluded and shall not be deemed a solicitation under this chapter. [1993 c 471 § 1; 1986 c 230 § 2; 1983 c 265 § 1; 1979 c 158 § 80; 1977 ex.s. c 222 § 1; 1974 ex.s. c 106 § 1; 1973 1st ex.s. c 13 § 2.]

19.09.065 Charitable organizations and commercial fund raisers—Registration required—Public record—Registration not endorsement. (1) All charitable organizations and commercial fund raisers shall register with the secretary prior to conducting any solicitations.

(2) Failure to register as required by this chapter is a violation of this chapter.

(3) Information provided to the secretary pursuant to this chapter shall be a public record except as otherwise stated in this chapter.

(4) Registration shall not be considered or be represented as an endorsement by the secretary or the state of Washington. [1993 c 471 § 2; 1986 c 230 § 3; 1983 c 265 § 4.]

19.09.075 Charitable organizations—Application for registration—Contents—Fee—Veterans' affairs—Notice, advice. An application for registration as a charitable organization shall be submitted in the form prescribed by rule by the secretary, containing, but not limited to, the following:

(1) The name, address, and telephone number of the charitable organization;

(2) The name(s) under which the organization will solicit contributions;

(3) The name, address, and telephone number of the officers of or persons accepting responsibility for the organization;

(4) The names of the three officers or employees receiving the greatest amount of compensation from the organization;

(5) The purpose of the organization;

(6)(a) Whether the organization is exempt from federal income tax; and if so the organization shall attach to its application a copy of the letter by which the internal revenue service granted such status; and

(b) The name and address of the entity that prepares, reviews, or audits the financial statement of the organization;

(7) A solicitation report of the organization for the preceding accounting year including:

(a) The number and types of solicitations conducted;

(b) The total dollar value of support received from solicitations and from all other sources received on behalf of the charitable purpose of the charitable organization;

(c) The total amount of money applied to charitable purposes, fund raising costs, and other expenses;

(d) The name, address, and telephone number of any commercial fund raiser used by the organization;

(8) An irrevocable appointment of the secretary to receive service of process in noncriminal proceedings as provided in RCW 19.09.305; and

(9) The total revenue of the preceding fiscal year.

The solicitation report required to be submitted under subsection (7) of this section shall be in the form prescribed by rule by the secretary, or as agreed to by the secretary and a charitable organization or a group of charitable organizations. A consolidated application for registration may, at the option of the charitable organization, be submitted by a parent organization for itself and any or all of its related foundations, supporting organizations, chapters, branches, or affiliates in the state of Washington.

The application shall be signed by the president, treasurer, or comparable officer of the organization whose signature shall be notarized. The application shall be submitted with a nonrefundable filing fee which shall be in an amount to be established by the secretary by rule. In determining the amount of this application fee, the secretary may consider factors such as the entity's annual budget and its federal income tax status. If the secretary determines that the application is complete, the application shall be filed and the applicant deemed registered.

The secretary shall notify the director of veterans' affairs upon receipt of an application for registration as a charitable organization from an entity that purports to raise funds to benefit veterans of the United States military services. The director of veterans' affairs may advise the secretary and the attorney general of any information, reports, or complaints regarding such an organization. [1993 c 471 § 3; 1986 c 230 § 4; 1983 c 265 § 5.]

19.09.076 Charitable organizations—Application for registration—Exemptions—Compliance with conditions. The application requirements of RCW 19.09.075 do not apply to the following:

(1) Any charitable organization raising less than five thousand dollars in any accounting year when all the activities of the organization, including all fund raising activities, are carried on by persons who are unpaid for their services and no part of the charitable organization's assets or income inures to the benefit of or is paid to any officer or member of the organization;

(2) Any charitable organization located outside of the state of Washington if the organization files the following with the secretary:

(a) The registration documents required under the charitable solicitation laws of the state in which the charitable organization is located;

(b) The registration required under the charitable solicitation laws of the state of California and the state of New York; and

(c) Such federal income tax forms as may be required by rule of the secretary.

All entities soliciting charitable donations shall comply with the requirements of RCW 19.09.100. [1993 c 471 § 4; 1986 c 230 § 5.]

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

19.09.079 Commercial fund raisers—Application for registration—Contents—Fee. An application for registration as a commercial fund raiser shall be submitted in the form prescribed by the secretary, containing, but not limited to, the following:

(1) The name, address, and telephone number of the commercial fund-raising entity;

(2) The name(s), address(es), and telephone number(s) of the owner(s) and principal officer(s) of the commercial fund-raising entity;

(3) The name, address, and telephone number of the individual responsible for the activities of the commercial fund-raising entity in Washington;

(4) A list of states and Canadian provinces in which fund raising has been performed;

(5) The names of the three officers or employees receiving the greatest amount of compensation from the commercial fund-raising entity;

(6) The name and address of the entity that prepares, reviews, or audits the financial statement of the organization;

(7) A solicitation report of the commercial fund-raising entity for the preceding accounting year, including:

(a) The number and types of fund raising services conducted;

(b) The names of charitable organizations required to register under RCW 19.09.065 for whom fund raising services have been performed;

(c) The total value of contributions received on behalf of charitable organizations required to register under RCW 19.09.065 by the commercial fund raiser, affiliate of the commercial fund raiser, or any entity retained by the commercial fund raiser; and

(d) The amount of money disbursed to charitable organizations for charitable purposes, net of fund raising costs paid by the charitable organization as stipulated in any agreement between charitable organizations and the commercial fund raiser;

(8) The name, address, and telephone number of any commercial fund raiser that was retained in the conduct of providing fund raising services; and

(9) An irrevocable appointment of the secretary to receive service of process in noncriminal proceedings as provided in RCW 19.09.305.

The application shall be signed by an officer or owner of the commercial fund raiser and shall be submitted with a nonrefundable fee in an amount to be established by rule of the secretary. If the secretary determines that the application is complete, the application shall be filed and the applicant deemed registered. [1993 c 471 § 5; 1986 c 230 § 7; 1983 c 265 § 15.]

19.09.085 Registration—Duration—Change—Notice to reregister. (1) Registration under this chapter shall be effective for one year or longer, as established by the secretary.

(2) Reregistration required under RCW 19.09.075 or 19.09.079 shall be submitted to the secretary no later than the date established by the secretary by rule.

(3) Entities required to register under this chapter shall file a notice of change of information within thirty days of any change in the information contained in RCW 19.09.075 (1) through (6) or 19.09.079 (1) through (6).

(4) The secretary shall notify entities registered under this chapter of the need to reregister upon the expiration of their current registration. The notification shall be by mail, sent at least sixty days prior to the expiration of their current registration. Failure to register shall not be excused by a failure of the secretary to mail the notice or by an entity's failure to receive the notice. [1993 c 471 § 6; 1986 c 230 § 8; 1983 c 265 § 8.]

19.09.097 Contract with commercial fund raiser—Limitations—Registration form—Contents—Copy—Fee. (1) No charitable organization may contract with a commercial fund raiser for any fund raising service or activity unless its contract requires that both parties comply with the law and permits officers of the charity reasonable access to: (a) The fund raisers' financial records relating to that charitable organization; and (b) the fund raisers' operations including without limitation the right to be present during any telephone solicitation. In addition, the contract shall specify the amount of raised funds that the charitable organization will receive or the method of computing that amount, the amount of compensation of the commercial fund raiser or the method of computing that amount, and whether the compensation is fixed or contingent.

(2) Before a charitable organization may contract with a commercial fund raiser for any fund raising service or activity, the charitable organization and commercial fund raiser shall complete a registration form. The registration shall be filed by the charitable organization with the secretary, in the form prescribed by the secretary, within five working days of the execution of the contract containing, but not limited to the following information:

(a) The name and registration number of the commercial fund raiser;

(b) The name of the surety or sureties issuing the bond required by RCW 19.09.190, the aggregate amount of such bond or bonds, the bond number(s), original effective date(s), and termination date(s);

(c) The name and registration number of the charitable organization;

(d) The name of the representative of the commercial fund raiser who will be responsible for the conduct of the fund raising;

(e) The type(s) of service(s) to be provided by the commercial fund raiser;

(f) The dates such service(s) will begin and end;

(g) The terms of the agreement between the charitable organization and commercial fund raiser relating to:

(i) Amount or percentages of amounts to inure to the charitable organization;

(ii) Limitations placed on the maximum amount to be raised by the fund raiser, if the amount to inure to the charitable organization is not stated as a percentage of the amount raised;

(iii) Costs of fund raising that will be the responsibility of the charitable organization, regardless of whether paid as a direct expense, deducted from the amounts disbursed, or otherwise; and

(iv) The manner in which contributions received directly by the charitable organization, not the result of services provided by the commercial fund raiser, will be identified and used in computing the fee owed to the commercial fund raiser; and

(h) The names of any entity to which more than ten percent of the total anticipated fund raising cost is to be paid, and whether any principal officer or owner of the commercial fund raiser or relative by blood or marriage thereof is an owner or officer of any such entity.

(3) A correct copy of the contract shall be filed with the secretary before the commencement of any campaign.

(4) The registration form shall be submitted with a nonrefundable filing fee in an amount to be established by rule of the secretary and shall be signed by an owner or principal officer of the commercial fund raiser and the president, treasurer, or comparable officer of the charitable organization. [1993 c 471 § 7; 1986 c 230 § 10.]

19.09.100 Conditions applicable to solicitations. The following conditions apply to solicitations as defined by RCW 19.09.020:

(1) A charitable organization, whether or not required to register pursuant to this chapter, that directly solicits contributions from the public in this state shall make the following clear and conspicuous disclosures at the point of solicitation:

(a) The name of the individual making the solicitation;

(b) The identity of the charitable organization and the city of the principal place of business of the charitable organization;

(c) If requested by the solicitee, the toll-free number for the donor to obtain additional financial disclosure information on file with the secretary.

(2) A commercial fund raiser shall clearly and conspicuously disclose at the point of solicitation:

(a) The name of the individual making the solicitation;

(b) The name of the entity for which the fund raiser is an agent or employee and the name and city of the charitable organization for which the solicitation is being conducted; and

(c) If requested by the solicitee, the toll-free number for the donor to obtain additional financial disclosure information on file with the secretary. The disclosure must be made during an oral solicitation of a contribution, and at the same time at which a written request for a contribution is made.

(3) A person or organization soliciting charitable contributions by telephone shall make the disclosures required under subsection (1) or (2) of this section in the course of the solicitation but prior to asking for a commitment for a contribution from the solicitee, and in writing to any solicitee that makes a pledge within five days of making the pledge. If the person or organization sends any materials to the person or organization solicited before the receipt of any contribution, those materials shall include the disclosures required in subsection (1) or (2) of this section, whichever is applicable.

(4) In the case of a solicitation by advertisement or mass distribution, including posters, leaflets, automatic dialing machines, publication, and audio or video broadcasts, it shall be clearly and conspicuously disclosed in the body of the solicitation material that:

(a) The solicitation is conducted by a named commercial fund raiser, if it is;

(b) The notice of solicitation required by the charitable solicitation act is on file with the secretary's office; and

(c) The potential donor can obtain additional information at a toll-free number.

(5) A container or vending machine displaying a solicitation must also display in a clear and conspicuous manner the name of the charitable organization for which funds are solicited, the name, residence address, and telephone number of the individual and any commercial fund raiser responsible for collecting funds placed in the containers or vending machines, and the following statement: "This charity is registered with the secretary's office under the charitable solicitation act, registration number . . . ."

(6) A commercial fund raiser shall not represent that tickets to any fund raising event will be donated for use by another person unless all the following requirements are met:

(a) The commercial fund raiser prior to conducting a solicitation has written commitments from persons stating that they will accept donated tickets and specifying the number of tickets they will accept;

(b) The written commitments are kept on file by the commercial fund raiser for three years and are made available to the attorney general on demand;

(c) The contributions solicited for donated tickets may not be more than the amount representing the number of ticket commitments received from persons and kept on file under (a) of this subsection; and

(d) Not later than seven calendar days prior to the date of the event for which ticket donations are solicited, the commercial fund raiser shall give all donated tickets to the persons who made the written commitments to accept them.

(7) Each person or organization soliciting charitable contributions shall not represent orally or in writing that:

(a) The charitable contribution is tax deductible unless the charitable organization for which charitable contributions are being solicited or to which tickets for fund raising events or other services or goods will be donated, has applied for and received from the internal revenue service a letter of determination granting tax deductible status to the charitable organization;

(b) The person soliciting the charitable contribution is a volunteer or words of similar meaning or effect that create the impression that the person soliciting is not a paid solicitor unless such person is unpaid for his or her services;

(c) The person soliciting the charitable contribution is a member, staffer, helper, or employee of the charitable organization or words of similar meaning or effect that create the impression that the person soliciting is not a paid solicitor if the person soliciting is employed, contracted, or paid by a commercial fund raiser.

(8) If the charitable organization is associated with, or has a name that is similar to, any unit of government each person or organization soliciting contributions shall disclose to each person solicited whether the charitable organization is or is not part of any unit of government and the true nature of its relationship to the unit of government. This subsection does not apply to a foundation or other charitable organization that is organized, operated, or controlled by or in connection with a registered public charity, including any governmental agency or unit, from which it derives its name.

(9) No person may, in conducting any solicitation, use the name "police," "sheriff," "fire fighter," "firemen," or a similar name unless properly authorized by a bona fide police, sheriff, or fire fighter organization or police, sheriff, or fire department. A proper authorization shall be in writing and signed by two authorized officials of the organization or department and shall be filed with the secretary.

(10) A person may not, in conducting any solicitation, use the name of a federally chartered military veterans' service organization unless authorized in writing by the highest ranking official of that organization in this state.

(11) A charitable organization shall comply with all local governmental regulations that apply to soliciting for or on behalf of charitable organizations.

(12) The advertising material and the general promotional plan for a solicitation shall not be false, misleading, or deceptive, and shall afford full and fair disclosure.

(13) Solicitations shall not be conducted by a charitable organization or commercial fund raiser that has, or if a corporation, its officers, directors, or principals have, been

convicted of a crime involving solicitations for or on behalf of a charitable organization in this state, the United States, or any other state or foreign country within the past ten years or has been subject to any permanent injunction or administrative order or judgment under RCW 19.86.080 or 19.86.090, involving a violation or violations of RCW 19.86.020, within the past ten years, or of restraining a false or misleading promotional plan involving solicitations for charitable organizations.

(14) No charitable organization or commercial fund raiser subject to this chapter may use or exploit the fact of registration under this chapter so as to lead the public to believe that registration constitutes an endorsement or approval by the state, but the use of the following is not deemed prohibited: "Registered with the Washington state secretary of state as required by law. Registration number . . . ."

(15) No entity may engage in any solicitation for contributions for or on behalf of any charitable organization or commercial fund raiser unless the charitable organization or commercial fund raiser is registered with the secretary.

(16) No entity may engage in any solicitation for contributions unless it complies with all provisions of this chapter.

(17)(a) No entity may place a telephone call for the purpose of charitable solicitation that will be received by the solicitee before eight o'clock a.m. or after nine o'clock p.m.

(b) No entity may, while placing a telephone call for the purpose of charitable solicitation, engage in any conduct the natural consequence of which is to harass, intimidate, or torment any person in connection with the telephone call.

(18) Failure to comply with subsections (1) through (17) of this section is a violation of this chapter. [1993 c 471 § 9; 1986 c 230 § 11; 1983 c 265 § 9; 1982 c 227 § 7; 1977 ex.s. c 222 § 6; 1974 ex.s. c 106 § 3; 1973 1st ex.s. c 13 § 10.]

Effective date—1982 c 227: "Sections 5 and 6 of this act shall take effect June 30, 1983. The remaining sections of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect March 1, 1982." [1982 c 227 § 25.] "Sections 5 and 6 of this act" consist of a temporary section (uncodified) and the 1982 c 227 amendment to RCW 18.34.130, respectively.

Reviser's note: Substitute House Bill No. 778, (1982 c 227), was signed by the governor April 3, 1982.

19.09.190 Commercial fund raisers—Surety bond. Every commercial fund raiser who (1) directly or indirectly receives contributions from the public on behalf of any charitable organization; or (2) is compensated based upon funds raised or to be raised, number of solicitations made or to be made, or any other similar method; or (3) incurs or is authorized to incur expenses on behalf of the charitable organization; or (4) has not been registered with the secretary as a commercial fund raiser for the preceding accounting year shall execute a surety bond as principal with one or more sureties whose liability in the aggregate as such sureties will equal at least fifteen thousand dollars. The secretary may, by rule, provide for the reduction and reinstatement of the bond required by this section.

The issuer of the surety bond shall be licensed to do business in this state, and shall promptly notify the secretary when claims or payments are made against the bond or when the bond is canceled. The bond shall be filed with the secretary in the form prescribed by the secretary. The bond shall run to the state and to any person who may have a cause of action against the obligor of said bond for any malfeasance, misfeasance, or deceptive practice in the conduct of such solicitation. [1993 c 471 § 10; 1986 c 230 § 16; 1983 c 265 § 16; 1982 c 227 § 8; 1977 ex.s. c 222 § 9; 1973 1st ex.s. c 13 § 19.]

Effective date—1982 c 227: See note following RCW 19.09.100.

19.09.200 Books, records, and contracts. (1) Charitable organizations and commercial fund raisers shall maintain accurate, current, and readily available books and records at their usual business locations until at least three years have elapsed following the effective period to which they relate.

(2) All contracts between commercial fund raisers and charitable organizations shall be in writing, and true and correct copies of such contracts or records thereof shall be kept on file in the various offices of the charitable organization and the commercial fund raiser for a three-year period. Such records and contracts shall be available for inspection and examination by the attorney general or by the county prosecuting attorney. A copy of such contract or record shall be submitted by the charitable organization or commercial fund raiser, within ten days, following receipt of a written demand therefor from the attorney general or county prosecutor. [1993 c 471 § 11; 1986 c 230 § 12; 1982 c 227 § 9; 1973 1st ex.s. c 13 § 20.]

Effective date—1982 c 227: See note following RCW 19.09.100.

19.09.210 Financial statements. Upon the request of the attorney general or the county prosecutor, a charitable organization or commercial fund raiser shall submit a financial statement containing, but not limited to, the following information:

(1) The gross amount of the contributions pledged and the gross amount collected.

(2) The amount thereof, given or to be given to charitable purposes represented together with details as to the manner of distribution as may be required.

(3) The aggregate amount paid and to be paid for the expenses of such solicitation.

(4) The amounts paid to and to be paid to commercial fund raisers or charitable organizations.

(5) Copies of any annual or periodic reports furnished by the charitable organization, of its activities during or for the same fiscal period, to its parent organization, subsidiaries, or affiliates, if any. [1993 c 471 § 12; 1986 c 230 § 13; 1983 c 265 § 10; 1982 c 227 § 10; 1977 ex.s. c 222 § 10; 1975 1st ex.s. c 219 § 1; 1973 1st ex.s. c 13 § 21.]

Effective date—1982 c 227: See note following RCW 19.09.100.

19.09.230 Using the name, symbol, or emblem of another entity. No charitable organization, commercial fund raiser, or other entity may knowingly use the name, symbol, or emblem of any other entity for the purpose of soliciting contributions from persons in this state without the written consent of such other entity. Such consent may be deemed to have been given by anyone who is a director, trustee, or other authorized officer, employee, agent, or

commercial fund raiser of the charitable organization, and a copy of the written consent must be kept on file by the charitable organization or commercial fund raiser and made available to the attorney general upon demand.

A person may be deemed to have used the name of another person for the purpose of soliciting contributions if such latter person's name is listed on any stationery, advertisement, brochure, or correspondence of the charitable organization or person or if such name is listed or represented to any one who has contributed to, sponsored, or endorsed the charitable organization or person, or its or his activities.

The secretary may revoke or deny any application for registration that violates this section. [1993 c 471 § 13; 1986 c 230 § 14; 1982 c 227 § 11; 1973 1st ex.s. c 13 § 23.]

Effective date—1982 c 227: See note following RCW 19.09.100.

19.09.240 Using similar name, symbol, emblem, or statement. No charitable organization, commercial fund raiser, or other person soliciting contributions for or on behalf of a charitable organization may use a name, symbol, emblem, or statement so closely related or similar to that used by another charitable organization or governmental agency that the use thereof would tend to confuse or mislead the public. The secretary may revoke or deny any application for registration that violates this section.

This section does not apply to a foundation or other charitable organization that is organized, operated, or controlled by or in connection with a registered public charity, including any governmental agency or unit, from which it derives its name. [1993 c 471 § 14; 1986 c 230 § 15; 1973 1st ex.s. c 13 § 24.]

19.09.271 Failure to register—Late filing fee—Notice to attorney general. (1) Any charitable organization or commercial fund raiser who, after notification by the secretary, fails to properly register under this chapter by the end of the first business day following the issuance of the notice, is liable for a late filing fee in an amount to be established by rule of the secretary. The late filing fee is in addition to any other filing fee provided by this chapter.

(2) The secretary shall notify the attorney general of any entity liable for late filing fees under subsection (1) of this section. [1993 c 471 § 8; 1986 c 230 § 17.]

19.09.275 Violations—Penalties. Any person who knowingly violates any provision of this chapter or who knowingly gives false or incorrect information to the secretary, attorney general, or county prosecuting attorney in filing statements required by this chapter, whether or not such statement or report is verified is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW.

Any person who violates any provisions of this chapter or who gives false or incorrect information to the secretary, attorney general, or county prosecuting attorney in filing statements required by this chapter, whether or not such statement or report is verified, is guilty of a misdemeanor punishable under chapter 9A.20 RCW. [1993 c 471 § 15; 1986 c 230 § 18; 1983 c 265 § 11; 1982 c 227 § 12; 1977 ex.s. c 222 § 14.]

Effective date—1982 c 227: See note following RCW 19.09.100.

19.09.277 Violations—Attorney general—Cease and desist order—Temporary order. If it appears to the attorney general that a person has engaged or is about to engage in an act or practice constituting a violation of a provision of this chapter or a rule adopted or order issued under this chapter, the attorney general may, in the attorney general's discretion, issue an order directing the person to cease and desist from continuing the act or practice. Reasonable notice of and opportunity for a hearing shall be given. The attorney general may issue a temporary order pending the hearing, which shall remain in effect until ten days after the hearing is held and which shall become final if the person to whom the notice is addressed does not request a hearing within fifteen days after the receipt of the notice. [1993 c 471 § 20.]

19.09.279 Violations—Attorney general—Penalty—Hearing—Recovery in superior court. (1) The attorney general may assess against any person or organization who violates this chapter, or any rule adopted under this chapter, a civil penalty of not more than one thousand dollars for each violation.

(2) Such person or organization shall be afforded the opportunity for a hearing, upon request made to the attorney general within thirty days after the date of issuance of the notice of assessment. The hearing shall be conducted in accordance with chapter 34.05 RCW.

(3) If any person fails to pay an assessment after it has become a final and unappealable order, or after the court has entered final judgment in favor of the state, the attorney general may recover the amount assessed by action in the appropriate superior court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review. [1993 c 471 § 21.]

19.09.305 Service on secretary when registrant not found—Procedure—Fee—Costs. When a person or an organization registered under this chapter, or its president, treasurer, or comparable officers, cannot be found after reasonably diligent effort, the secretary of state shall be an agent of such person or organization upon whom process may be served. Service on the secretary shall be made by delivering to the secretary or the secretary's designee duplicate copies of such process, and a filing fee to be established by rule of the secretary. Thereupon, the secretary shall immediately cause one of the copies thereof to be forwarded to the registrant at the most current address shown in the secretary's files. Any service so had on the secretary shall be returnable in not less than thirty days.

Any fee under this section shall be taxable as costs in the action.

The secretary shall maintain a record of all process served on the secretary under this section, and shall record the date of service and the secretary's action with reference thereto.

Nothing in this section limits or affects the right to serve process required or permitted to be served on a registrant in any other manner now or hereafter permitted by law. [1993 c 471 § 16; 1983 c 265 § 7.]

19.09.315 Forms and procedures—Filing of financial statement—Publications—Fee. (1) The secretary may establish, by rule, standard forms and procedures for the efficient administration of this chapter.

(2) The secretary may provide by rule for the filing of a financial statement by registered entities.

(3) The secretary may issue such publications, reports, or information from the records as may be useful to the solicited public and charitable organizations. To defray the costs of any such publication, the secretary is authorized to charge a reasonable fee to cover the costs of preparing, printing, and distributing such publications. [1993 c 471 § 17; 1983 c 265 § 17.]

19.09.400 Attorney general—Investigations—Publication of information. The attorney general, in the attorney general's discretion, may:

(1) Annually, or more frequently, make such public or private investigations within or without this state as the attorney general deems necessary to determine whether any registration should be granted, denied, revoked, or suspended, or whether any person has violated or is about to violate a provision of this chapter or any rule adopted or order issued under this chapter, or to aid in the enforcement of this chapter or in the prescribing of rules and forms under this chapter; and

(2) Publish information concerning a violation of this chapter or a rule adopted or order issued under this chapter. [1993 c 471 § 18.]

19.09.410 Attorney general—Investigations—Powers—Superior court may compel. For the purpose of any investigation or proceeding under this chapter, the attorney general or any officer designated by the attorney general may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the attorney general deems relevant or material to the inquiry.

In case of willful failure on the part of a person to comply with a subpoena lawfully issued by the attorney general or on the refusal of a witness to testify to matters regarding which the witness may be lawfully interrogated, the superior court of a county, on application of the attorney general and after satisfactory evidence of willful disobedience, may compel obedience by proceedings for contempt, as in the case of disobedience of a subpoena issued from the court or a refusal to testify therein. [1993 c 471 § 19.]

19.09.420 Copies of information for attorney general. The secretary shall provide the attorney general with copies of or direct electronic access to all registrations, reports, or other information filed under this chapter. [1993 c 471 § 23.]

19.09.430 Administrative procedure act to govern administration. The administrative procedure act, chapter 34.05 RCW, shall wherever applicable govern the rights, remedies, and procedures respecting the administration of this chapter. [1993 c 471 § 22.]

19.09.440 Annual report by secretary of state. (1) Annually, the secretary of state shall publish a report indicating:

(a) For each charitable organization registered under RCW 19.09.065 the percentage relationship between (i) the total amount of money applied to charitable purposes; and (ii) the dollar value of support received from solicitations and received from all other sources on behalf of the charitable purpose of the organization;

(b) For each commercial fund raiser registered under RCW 19.09.065 the percentage relationship between (i) the amount of money disbursed to charitable organizations for charitable purposes; and (ii) the total value of contributions received on behalf of charitable organizations by the commercial fund raiser; and

(c) Such other information as the secretary of state deems appropriate.

(2) The secretary of state may use the latest information obtained pursuant to RCW 19.09.075 or otherwise under chapter 19.09 RCW to prepare the report. [1993 c 471 § 42.]

19.09.914 Severability—1993 c 471. 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. [1993 c 471 § 43.]

19.09.915 Effective date—1993 c 471. 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, 1993. [1993 c 471 § 44.]

Chapter 19.27A
ENERGY-RELATED BUILDING STANDARDS

Sections

19.27A.035 Payments by electric utilities to owners of residential buildings—Recovery of expenses—Effect of Pacific Northwest electric power planning and conservation act—Expiration of subsections. (1) Electric utilities shall make payments to the owner at the time of construction of a newly constructed residential building with electric resistance space heat built in compliance with the requirements of the Washington state energy code adopted pursuant to RCW 19.27A.020 or a residential energy code in effect pursuant to RCW 19.27A.020(7). Payments made under this section are only required for residences in which the primary heat source is electric resistance space heat. All or a portion of the funds for payments may be accepted from federal agencies or other sources. Payments are required for residential buildings on which construction has begun on or after July 1, 1991, and prior to July 1, 1995. Payments in an amount equal to a fixed sum of at least nine hundred dollars per single family residence are required for such buildings so

constructed which are single family residences having two thousand square feet or less of finished floor area. Payments in an amount equal to a fixed sum of at least three hundred ninety dollars per multifamily residential unit, are required for such buildings so constructed which are multifamily residential units. For purposes of this section, a zero lot line home and each unit in a duplex and each attached housing unit in a planned unit development shall each be considered a single family residence.

(2) Electric utilities which provide electrical service in jurisdictions in which the local government has adopted an energy code not preempted by RCW 19.27A.020(7)(b) shall make payments as provided in subsection (1) of this section for residential buildings on which construction has begun on or after March 1, 1990, and prior to July 1, 1991.

(3) Nothing in this section shall prohibit an electric utility from providing incentives in excess of the payments required by this section or from providing additional incentives for energy efficiency measures in excess of those required under RCW 19.27A.020.

(4) This section is null and void if any electric utility providing electric service to its customers in the state of Washington purchases at least one percent of its firm energy load from a federal agency, pursuant to section 5.(b)(1) of the Pacific Northwest electric power planning and conservation act (P.L. 96-501), and if such electric utility is unable to obtain from the agency at least fifty percent of the funds to make the payments required by this section. This subsection shall expire June 30, 1995.

(5) The utilities and transportation commission shall provide an appropriate regulatory mechanism which allows a utility regulated by the commission to recover expenses incurred by the utility in making payments under this section.

(6) Subsections (1) through (3) of this section shall expire July 1, 1996. [1993 c 64 § 2; 1990 c 2 § 4.]

Findings—1993 c 64: "The legislature finds that when new energy-efficient residential building codes were enacted in 1990, payments to certain building owners were required in an effort to offset the higher costs of more stringent component levels of residences heated with electricity. The legislature further finds that through the code enacted by the state building code council it is possible for owners of residences with other primary heat sources to qualify for these payments even though the costs of these payments are borne by electricity ratepayers, and that this situation should be corrected." [1993 c 64 § 1.]

Effective date—1993 c 64: "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 [April 19, 1993]." [1993 c 64 § 3.]

Effective dates—1990 c 2: See note following RCW 19.27.040.

Findings—Severability—1990 c 2: See notes following RCW 19.27A.015.

Chapter 19.28

ELECTRICIANS AND ELECTRICAL INSTALLATIONS

Sections

19.28.005 Definitions. The definitions in this section apply throughout this chapter.

(1) "Administrator" means a person designated by an electrical contractor to supervise electrical work and electricians in accordance with the rules adopted under this chapter.

(2) "Board" means the electrical board under RCW 19.28.065.

(3) "Chapter" means chapter 19.28 RCW.

(4) "Department" means the department of labor and industries.

(5) "Director" means the director of the department or the director's designee.

(6) "Electrical construction trade" includes but is not limited to installing or maintaining electrical wires and equipment that are used for light, heat, or power and installing and maintaining remote control, signaling, power limited, or communication circuits or systems.

(7) "Electrical contractor" means a person, firm, partnership, corporation, or other entity that offers to undertake, undertakes, submits a bid for, or does the work of installing or maintaining wires or equipment that convey electrical current.

(8) "Equipment" means any equipment or apparatus that directly uses, conducts, or is operated by electricity but does not mean plug-in household appliances.

(9) "Industrial control panel" means a factory-wired or user-wired assembly of industrial control equipment such as motor controllers, switches, relays, power supplies, computers, cathode ray tubes, transducers, and auxiliary devices. The panel may include disconnect means and motor branch circuit protective devices.

(10) "Journeyman electrician" means a person who has been issued a journeyman electrician certificate of competency by the department.

(11) "Specialty electrician" means a person who has been issued a specialty electrician certificate of competency by the department. [1993 c 275 § 1; 1988 c 81 § 1; 1986 c 156 § 1; 1983 c 206 § 1.]

19.28.010 Electrical wiring requirements—General—Exceptions. (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, the national electrical safety code, and other installation and safety regulations approved by the national fire protection 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 any electrical product testing laboratory which is accredited by the department. Industrial control panels, utilization equipment, and their components do not need to be listed, labeled, or otherwise indicated as acceptable by an accredited electrical product testing laboratory unless specifically required by the National Electrical Code, 1993 edition.

(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. 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.

(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. [1993 c 275 § 2; 1992 c 79 § 2. Prior: 1986 c 263 § 1; 1986 c 156 § 2; 1983 c 206 § 2; 1965 ex.s. c 117 § 1; 1963 c 207 § 1; 1935 c 169 § 1; RRS § 8307-1. Formerly RCW 19.28.010 through 19.28.050.]

19.28.060 Rules, regulations, and standards. (1) Prior to January 1st of each year, the director shall obtain an authentic copy of the national electrical code, latest revision. The department, after consulting with the board and receiving the board's recommendations, shall adopt reasonable rules in furtherance of safety to life and property. All rules shall be kept on file by the department. Compliance with the rules shall be prima facie evidence of compliance with this chapter. The department upon request shall deliver to all persons, firms, partnerships, corporations, or other entities licensed under this chapter a copy of the rules.

(2) The department shall also obtain and keep on file an authentic copy of any applicable regulations and standards of any electrical product testing laboratory which is accredited by the department prescribing rules, regulations, and standards for electrical materials, devices, appliances, and equipment, including any modifications and changes that have been made during the previous year. [1993 c 275 § 3; 1988 c 81 § 3; 1986 c 156 § 3; 1983 c 206 § 4; 1965 ex.s. c 117 § 2; 1935 c 169 § 10; RRS § 8307-10.]

19.28.550 Certificate of competency—Issuance—Renewal—Continuing education—Fees—Effect. (1) The department shall issue a certificate of competency to all applicants who have passed the examination provided in RCW 19.28.540, and who have complied with RCW 19.28.510 through 19.28.620 and the rules adopted under this chapter. The certificate shall bear the date of issuance, and shall expire on October 31st or April 30th, not less than six months nor more than three years immediately following the date of issuance. The certificate shall be renewed every three years, upon application, on or before the holder's birthdate. A fee shall be assessed for each certificate and for each annual renewal.

(2) If the certificate holder demonstrates to the department that he or she has satisfactorily completed an annual eight-hour continuing education course, the certificate may be renewed without examination by appropriate application unless the certificate has been revoked, suspended, or not renewed within ninety days after the expiration date.

(a) The contents and requirements for satisfactory completion of the continuing education course shall be determined by the director and approved by the board.

(b) The department shall accept proof of a certificate holder's satisfactory completion of a continuing education course offered in another state as meeting the requirements for maintaining a current Washington state certificate of competency if the department is satisfied the course is comparable in nature to that required in Washington state for maintaining a current certificate of competency.

(3) If the certificate is not renewed before the expiration date, the individual shall pay twice the usual fee. The department shall set the fees by rule for issuance and renewal of a certificate of competency. The fees shall cover but not exceed the costs of issuing the certificates and of administering and enforcing the electrician certification requirements of this chapter.

(4) The certificates of competency and temporary permits provided for in this chapter grant the holder the right to work in the electrical construction trade as a journeyman electrician or specialty electrician in accordance with their provisions throughout the state and within any of its political subdivisions without additional proof of competency or any other license, permit, or fee to engage in such work. [1993 c 192 § 1; 1986 c 156 § 14; 1983 c 206 § 16; 1980 c 30 § 6.]

Chapter 19.31
EMPLOYMENT AGENCIES

Sections

19.31.020 Definitions. Unless a different meaning is clearly required by the context, the following words and phrases, as hereinafter used in this chapter, shall have the following meanings:

(1) "Employment agency" is synonymous with "agency" and shall mean any business in which any part of the business gross or net income is derived from a fee received from applicants, and in which any of the following activities are engaged in:

(a) The offering, promising, procuring, or attempting to procure employment for applicants;

(b) The giving of information regarding where and from whom employment may be obtained; or

(c) The sale of a list of jobs or a list of names of persons or companies accepting applications for specific positions, in any form.

In addition the term "employment agency" shall mean and include any person, bureau, employment listing service, employment directory, organization, or school which for profit, by advertisement or otherwise, offers, as one of its main objects or purposes, to procure employment for any person who pays for its services, or which collects tuition, or charges for service of any nature, where the main object of the person paying the same is to secure employment. It also includes any business that provides a resume to an individual and provides that person with a list of names to whom the resume may be sent or provides that person with preaddressed envelopes to be mailed by the individual or by the business itself, if the list of names or the preaddressed envelopes have been compiled and are represented by the business as having job openings. The term "employment agency" shall not include labor union organizations, temporary service contractors, proprietary schools, nonprofit schools and colleges, career guidance and counseling services, employment directories that are sold in a manner that allows the applicant to examine the directory before purchase, theatrical agencies, farm labor contractors, or the Washington state employment agency.

(2) "Temporary service contractors" shall mean any person, firm, association, or corporation conducting a business which consists of employing individuals directly for the purpose of furnishing such individuals on a part time or temporary help basis to others.

(3) "Theatrical agency" means any person who, for a fee or commission, procures or attempts to procure on behalf of an individual or individuals, employment or engagements for circus, vaudeville, the variety field, the legitimate theater, motion pictures, radio, television, phonograph recordings, transcriptions, opera, concert, ballet, modeling, or other entertainments, exhibitions, or performances.

(4) "Farm labor contractor" means any person, or his agent, who, for a fee, employs workers to render personal services in connection with the production of any farm products, to, for, or under the direction of an employer engaged in the growing, producing, or harvesting of farm products, or who recruits, solicits, supplies, or hires workers on behalf of an employer engaged in the growing, producing, or harvesting of farm products or who provides in connection with recruiting, soliciting, supplying, or hiring workers engaged in the growing, producing, or harvesting of farm products, one or more of the following services: Furnishes board, lodging, or transportation for such workers, supervises, times, checks, counts, sizes, or otherwise directs or measures their work; or disburses wage payments to such persons.

(5) "Employer" means any person, firm, corporation, partnership, or association employing or seeking to enter into an arrangement to employ a person through the medium or service of an employment agency.

(6) "Applicant", except when used to describe an applicant for an employment agency license, means any person, whether employed or unemployed, seeking or entering into any arrangement for his employment or change of his employment through the medium or service of an employment agency.

(7) "Person" includes any individual, firm, corporation, partnership, association, company, society, manager, contractor, subcontractor, bureau, agency, service, office, or an agent or employee of any of the foregoing.

(8) "Director" shall mean the director of licensing.

(9) "Resume" means a document of the applicant's employment history that is approved, received, and paid for by the applicant.

(10) "Fee" means anything of value. The term includes money or other valuable consideration or services or the promise of money or other valuable consideration or services, received directly or indirectly by an employment agency from a person seeking employment, in payment for the service.

(11) "Employment listing service" means any business operated by any person that provides in any form, including written or verbal, lists of specified positions of employment available with any employer other than itself or that holds itself out to applicants as able to provide information about specific positions of employment available with any employer other than itself, and that charges a fee to the applicant for its services and does not set up interviews or otherwise intercede between employer and applicant.

(12) "Employment directory" means any business operated by any person that provides in any form, including written or verbal, lists of employers, does not provide lists of specified positions of employment, that holds itself out to applicants as able to provide information on employment in specific industries or geographical areas, and that charges a fee to the applicant for its services.

(13) "Career guidance and counseling service" means any person, firm, association, or corporation conducting a business that engages in any of the following activities:

(a) Career assessment, planning, or testing through individual counseling or group seminars, classes, or workshops;

(b) Skills analysis, resume writing, and preparation through individual counseling or group seminars, classes, or workshops;

(c) Training in job search or interviewing skills through individual counseling or group seminars, classes, or work-

shops: PROVIDED, That the career guidance and counseling service does not engage in any of the following activities:

(i) Contacts employers on behalf of an applicant or in any way intercedes between employer and applicant;

(ii) Provides information on specific job openings;

(iii) Holds itself out as able to provide referrals to specific companies or individuals who have specific job openings. [1993 c 499 § 1; 1990 c 70 § 1; 1979 c 158 § 82; 1977 ex.s. c 51 § 1; 1969 ex.s. c 228 § 2.]

19.31.030 Records. Each employment agency shall keep records of all services rendered employers and applicants. These records shall contain the name and address of the employer by whom the services were solicited; the name and address of the applicant; kind of position ordered by the employer; dates job orders or job listings are obtained; subsequent dates job orders or job listings are verified as still being current; kind of position accepted by the applicant; probable duration of the employment, if known; rate of wage or salary to be paid the applicant; amount of the employment agency's fee; dates and amounts of refund if any, and reason for such refund; and the contract agreed to between the agency and applicant. An employment listing service need not keep records pertaining to the kind of position accepted by applicant and probable duration of employment.

An employment directory shall keep records of all services rendered to applicants. These records shall contain: The name and address of the applicant; amount of the employment directory's fee; dates and amounts of refund if any, and reason for the refund; the contract agreed to between the employment directory and applicant; and the dates of contact with employers made pursuant to RCW 19.31.190(11).

The director shall have authority to demand and to examine, at the employment agency's regular place of business, all books, documents, and records in its possession for inspection. Unless otherwise provided by rules or regulation adopted by the director, such records shall be maintained for a period of three years from the date in which they are made. [1993 c 499 § 2; 1969 ex.s. c 228 § 3.]

19.31.040 Contract between agency and applicant—Contents—Notice. An employment agency shall provide each applicant with a copy of the contract between the applicant and employment agency which shall have printed on it or attached to it a copy of RCW 19.31.170 as now or hereafter amended. Such contract shall contain the following:

(1) The name, address, and telephone number of the employment agency;

(2) Trade name if any;

(3) The date of the contract;

(4) The name of the applicant;

(5) The amount of the fee to be charged the applicant, or the method of computation of the fee, and the time and method of payments: PROVIDED, HOWEVER, That if the provisions of the contract come within the definition of a "retail installment transaction", as defined in RCW 63.14.010, the contract shall conform to the requirements of chapter 63.14 RCW, as now or hereafter amended;

(6) A notice in eight-point bold face type or larger directly above the space reserved in the contract for the signature of the buyer. The caption, "NOTICE TO APPLICANT—READ BEFORE SIGNING" shall precede the body of the notice and shall be in ten-point bold face type or larger. The notice shall read as follows:

"This is a contract. If you accept employment with any employer through [name of employment agency] you will be liable for the payment of the fee as set out above. Do not sign this contract before you read it or if any spaces intended for the agreed terms are left blank. You must be given a copy of this contract at the time you sign it."

The notice for an employment listing service shall read as follows:

"This is a contract. You understand [the employment listing service] provides information on bona fide job listings but does not guarantee you will be offered a job. You also understand you are liable for the payment of the fee when you receive the list or referral. Do not sign this contract before you read it or if any spaces intended for the agreed terms are left blank. You must be given a copy of this contract at the time you sign it."

The notice for an employment directory shall read as follows if the directory is sold in person:

"This is a contract. You understand [the employment directory] provides information on possible employers along with general employment, industry, and geographical information to assist you, but does not list actual job openings or guarantee you will obtain employment through its services. You also understand you are liable for the payment of the fee when you receive the directory. Do not sign this contract before you read it or if any spaces intended for the agreed terms are left blank. You must be given a copy of this contract at the time you sign it."

A verbal notice for an employment directory shall be as follows before accepting a fee if the directory is sold over the telephone:

"You understand [the employment directory] provides information on possible employers along with general employment, industry, and geographical information to assist you, but does not list actual job openings or guarantee you will obtain employment through its services. You also understand you are liable for the payment of the fee when you order the directory."

A copy of the contract must be sent to all applicants ordering by telephone and must specify the following information:

(a) Name, address, and phone number of employment directory;

(b) Name, address, and phone number of applicant;

(c) Date of order;

(d) Date verbal notice was read to applicant along with a printed statement to read as follows:

"On [date verbal notice was read] and prior to placing this order the following statement was read to you: "You understand [the employment directory] provides information on possible employers along with general employment, industry, and geographical information to assist you, but does not list actual job openings or guarantee you will be offered a job. You also understand you are liable for the payment of the fee when you order the directory."; and

(e) Signature of employment directory representative. [1993 c 499 § 3; 1985 c 7 § 83; 1977 ex.s. c 51 § 2; 1969 ex.s. c 228 § 4.]

19.31.100 Application—Contents—Filing—Qualifications of applicants and licensees—Waiver—Exceptions. (1) Every applicant for an employment agency's license or a renewal thereof shall file with the director a written application stating the name and address of the applicant; the street and number of the building in which the business of the employment agency is to be conducted; the name of the person who is to have the general management of the office; the name under which the business of the office is to be carried on; whether or not the applicant is pecuniarily interested in the business to be carried on under the license; shall be signed by the applicant and sworn to before a notary public; and shall identify anyone holding over twenty percent interest in the agency. If the applicant is a corporation, the application shall state the names and addresses of the officers and directors of the corporation, and shall be signed and sworn to by the president and secretary thereof. If the applicant is a partnership, the application shall also state the names and addresses of all partners therein, and shall be signed and sworn to by all of them. The application shall also state whether or not the applicant is, at the time of making the application, or has at any previous time been engaged in or interested in or employed by anyone engaged in the business of an employment agency.

(2) The application shall require a certification that no officer or holder of more than twenty percent interest in the business has been convicted of a felony within ten years of the application which directly relates to the business for which the license is sought, or had any judgment entered against such person in any civil action involving fraud, misrepresentation, or conversion.

(3) All applications for employment agency licenses shall be accompanied by a copy of the form of contract and fee schedule to be used between the employment agency and the applicant.

(4) No license to operate an employment agency in this state shall be issued, transferred, renewed, or remain in effect, unless the person who has or is to have the general management of the office has qualified pursuant to this section. The director may, for good cause shown, waive the requirement imposed by this section for a period not to exceed one hundred and twenty days. Persons who have been previously licensed or who have operated to the satisfaction of the director for at least one year prior to September 21, 1977 as a general manager shall be entitled to operate for up to one year from such date before being required to qualify under this section. In order to qualify, such person shall, through testing procedures developed by the director, show that such person has a knowledge of this law, pertinent labor laws, and laws against discrimination in employment in this state and of the United States. Said examination shall be given at least once each quarter and a fee for such examination shall be established by the director. Nothing in this chapter shall be construed to preclude any one natural person from being designated as the person who is to have the general management of up to three offices operated by any one licensee.

While employment directories may at the director's discretion be required to show that the person has a knowledge of this chapter, employment directories are exempt from testing on pertinent labor laws, and laws against discrimination in employment in this state and of the United States.

(5) Employment directories shall register with the department and meet all applicable requirements of this chapter but shall not be required to be licensed by the department or pay a licensing fee. [1993 c 499 § 4; 1982 c 227 § 14; 1977 ex.s. c 51 § 5; 1969 ex.s. c 228 § 10.]

Effective date—1982 c 227: See note following RCW 19.09.100.

19.31.150 Employment condition precedent to charging fee—Exceptions. (1) Except as otherwise provided in subsections (2) and (3) of this section, no employment agency shall charge or accept a fee or other consideration from an applicant without complying with the terms of a written contract as specified in RCW 19.31.040, and then only after such agency has been responsible for referring such job applicant to an employer or such employer to a job applicant and where as a result thereof such job applicant has been employed by such employer.

(2) Employment listing services may charge or accept a fee when they provide the applicant with the job listing or the referral.

(3) An employment directory may charge or accept a fee when it provides the applicant with the directory. [1993 c 499 § 5; 1969 ex.s. c 228 § 15.]

19.31.170 Limitations on fee amounts—Refunds—Exceptions. (1) If an applicant accepts employment by agreement with an employer and thereafter never reports for work, the gross fee charged to the applicant shall not exceed: (a) Ten percent of what the first month's gross salary or wages would be, if known; or (b) ten percent of the first month's drawing account. If the employment was to have been on a commission basis without any drawing account, then no fee may be charged in the event that the applicant never reports for work.

(2) If an applicant accepts employment on a commission basis without any drawing account, then the gross fee charged such applicant shall be a percentage of commissions actually earned.

(3) If an applicant accepts employment and if within sixty days of his reporting for work the employment is terminated, then the gross fee charged such applicant shall not exceed twenty percent of the gross salary, wages or commission received by him.

(4) If an applicant accepts temporary employment as a domestic, household employee, baby sitter, agricultural worker, or day laborer, then the gross fee charged such applicant shall not be in excess of twenty-five percent of the first full month's gross salary or wages: PROVIDED, That where an applicant accepts employment as a domestic or household employee for a period of less than one month, then the gross fee charged such applicant shall not exceed twenty-five percent of the gross salary or wages paid.

(5) Any applicant requesting a refund of a fee paid to an employment agency in accordance with the terms of the approved fee schedule of the employment agency pursuant to this section shall file with the employment agency a form requesting such refund on which shall be set forth information reasonably needed and requested by the employment agency, including but not limited to the following: Circumstances under which employment was terminated, dates of employment, and gross earnings of the applicant.

(6) Refund requests which are not in dispute shall be made by the employment agency within thirty days of receipt.

(7) Subsections (1) through (6) of this section do not apply to employment listing services or employment directories. [1993 c 499 § 6; 1977 ex.s. c 51 § 7; 1969 ex.s. c 228 § 17.]

19.31.190 Rules of conduct—Complaints. In addition to the other provisions of this chapter the following rules shall govern each and every employment agency:

(1) Every license or a verified copy thereof shall be displayed in a conspicuous place in each office of the employment agency;

(2) No fee shall be solicited or accepted as an application or registration fee by any employment agency solely for the purpose of being registered as an applicant for employment;

(3) No licensee or agent of the licensee shall solicit, persuade, or induce an employee to leave any employment in which the licensee or agent of the licensee has placed the employee; nor shall any licensee or agent of the licensee persuade or induce or solicit any employer to discharge any employee;

(4) No employment agency shall knowingly cause to be printed or published a false or fraudulent notice or advertisement for obtaining work or employment. All advertising by a licensee shall signify that it is an employment agency solicitation except an employment listing service shall advertise it is an employment listing service;

(5) An employment directory shall include the following on all advertisements:

"Directory provides information on possible employers and general employment information but does not list actual job openings.";

(6) No licensee shall fail to state in any advertisement, proposal or contract for employment that there is a strike or lockout at the place of proposed employment, if he has knowledge that such condition exists;

(7) No licensee or agent of a licensee shall directly or indirectly split, divide, or share with an employer any fee, charge, or compensation received from any applicant who has obtained employment with such employer or with any other person connected with the business of such employer;

(8) When an applicant is referred to the same employer by two licensees, the fee shall be paid to the licensee who first contacted the applicant concerning the position for that applicant: PROVIDED, That the licensee has given the name of the employer to the applicant and has within five working days arranged an interview with the employer and the applicant was hired as the result of that interview;

(9) No licensee shall require in any manner that a potential employee or an employee of an employer make any contract with any lending agency for the purpose of fulfilling a financial obligation to the licensee;

(10) All job listings must be bona fide job listings. To qualify as a bona fide job listing the following conditions must be met:

(a) A bona fide job listing must be obtained from a representative of the employer that reflects an actual current job opening;

(b) A representative of the employer must be aware of the fact that the job listing will be made available to applicants by the employment listing service and that applicants will be applying for the job listing;

(c) All job listings and referrals must be current. To qualify as a current job listing the employment listing service shall contact the employer and verify the availability of the job listing no less than once per week;

(11) All listings for employers listed in employment directories shall be current. To qualify as a current employer, the employment directory must contact the employer at least once per month and verify that the employer is currently hiring;

(12) Any aggrieved person, firm, corporation, or public officer may submit a written complaint to the director charging the holder of an employment agency license with violation of this chapter and/or the rules and regulations adopted pursuant to this chapter. [1993 c 499 § 7; 1977 ex.s. c 51 § 8; 1969 ex.s. c 228 § 19.]

19.31.245 Registration or licensing prerequisite to suit by employment agency—Action against unregistered or unlicensed employment agency. (1) No employment agency may bring or maintain a cause of action in any court of this state for compensation for, or seeking equitable relief in regard to, services rendered employers and applicants, unless such agency shall allege and prove that at the time of rendering the services in question, or making the contract therefor, it was registered with the department or the holder of a valid license issued under this chapter.

(2) Any person who shall give consideration of any kind to any employment agency for the performance of employment services in this state when said employment agency shall not be registered with the department or be the holder of a valid license issued under this chapter shall have a cause of action against the employment agency. Any court having jurisdiction may enter judgment therein for treble the amount of such consideration so paid, plus reasonable attorney's fees and costs.

(3) A person performing the services of an employment agency, employment listing service, or employment directory without being registered with the department or holding a valid license shall cease operations or immediately apply for a valid license or register with the department. If the person continues to operate in violation of this chapter the director or the attorney general has a cause of action in any court having jurisdiction for the return of any consideration paid by any person to the agency. The court may enter judgment in the action for treble the amount of the consideration so paid, plus reasonable attorney's fees and costs. [1993 c 499 § 8; 1990 c 70 § 2; 1977 ex.s. c 51 § 10.]

Chapter 19.68
REBATING BY PRACTITIONERS OF HEALING PROFESSIONS

Sections

19.68.010 Rebating prohibited—Disclosure—List of alternative facilities. It shall be unlawful for any person, firm, corporation or association, whether organized as a cooperative, or for profit or nonprofit, to pay, or offer to pay or allow, directly or indirectly, to any person licensed by the state of Washington to engage in the practice of medicine and surgery, drugless treatment in any form, dentistry, or pharmacy and it shall be unlawful for such person to request, receive or allow, directly or indirectly, a rebate, refund, commission, unearned discount or profit by means of a credit or other valuable consideration in connection with the referral of patients to any person, firm, corporation or association, or in connection with the furnishings of medical, surgical or dental care, diagnosis, treatment or service, on the sale, rental, furnishing or supplying of clinical laboratory supplies or services of any kind, drugs, medication, or medical supplies, or any other goods, services or supplies prescribed for medical diagnosis, care or treatment. Ownership of a financial interest in any firm, corporation or association which furnishes any kind of clinical laboratory or other services prescribed for medical, surgical, or dental diagnosis shall not be prohibited under this section where (1) the referring practitioner affirmatively discloses to the patient in writing, the fact that such practitioner has a financial interest in such firm, corporation, or association; and (2) the referring practitioner provides the patient with a list of effective alternative facilities, informs the patient that he or she has the option to use one of the alternative facilities, and assures the patient that he or she will not be treated differently by the referring practitioner if the patient chooses one of the alternative facilities.

Any person violating the provisions of this section is guilty of a misdemeanor. [1993 c 492 § 233; 1973 1st ex.s. c 26 § 1; 1965 ex.s. c 58 § 1. Prior: 1949 c 204 § 1; Rem. Supp. 1949 § 10185-14.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Chapter 19.85
REGULATORY FAIRNESS ACT

Sections

19.85.020 Definitions. (Effective July 1, 1994.) Unless the context clearly indicates otherwise, the definitions in this section apply through this chapter.

(1) "Small business" means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, that has the purpose of making a profit, and that has fifty or fewer employees.

(2) "Small business economic impact statement" means a statement meeting the requirements of RCW 19.85.040 prepared by a state agency pursuant to RCW 19.85.030.

(3) "Industry" means all of the businesses in this state in any one three-digit standard industrial classification as published by the United States department of commerce. [1993 c 280 § 34; 1989 c 374 § 1; 1982 c 6 § 2.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Chapter 19.86
UNFAIR BUSINESS PRACTICES—CONSUMER PROTECTION

Sections

Going out of business sales: Chapter 19.178 RCW.

19.86.110 Demand to produce documentary materials for inspection, answer written interrogatories, or give oral testimony—Contents—Service—Unauthorized disclosure—Return—Modification, vacation—Use—Penalty. (1) Whenever the attorney general believes that any person (a) may be in possession, custody, or control of any original or copy of any book, record, report, memorandum, paper, communication, tabulation, map, chart, photograph, mechanical transcription, or other tangible document or recording, wherever situate, which he believes to be relevant to the subject matter of an investigation of a possible violation of RCW 19.86.020, 19.86.030, 19.86.040, 19.86.050, or 19.86.060, or federal statutes dealing with the same or similar matters that the attorney general is authorized to enforce, or (b) may have knowledge of any information which the attorney general believes relevant to the subject matter of such an investigation, he may, prior to the institution of a civil proceeding thereon, execute in writing and cause to be served upon such a person, a civil investigative demand requiring such person to produce such documentary material and permit inspection and copying, to answer in writing written interrogatories, to give oral testimony, or any combination of such demands pertaining to such documentary material or information: PROVIDED, That this section shall not be applicable to criminal prosecutions.

(2) Each such demand shall:

(a) State the statute and section or sections thereof, the alleged violation of which is under investigation, and the general subject matter of the investigation;

(b) If the demand is for the production of documentary material, describe the class or classes of documentary material to be produced thereunder with reasonable specificity so as fairly to indicate the material demanded;

(c) Prescribe a return date within which the documentary material is to be produced, the answers to written inter-

rogatories are to be made, or a date, time, and place at which oral testimony is to be taken; and

(d) Identify the members of the attorney general's staff to whom such documentary material is to be made available for inspection and copying, to whom answers to written interrogatories are to be made, or who are to conduct the examination for oral testimony.

(3) No such demand shall:

(a) Contain any requirement which would be unreasonable or improper if contained in a subpoena duces tecum, a request for answers to written interrogatories, or a request for deposition upon oral examination issued by a court of this state; or

(b) Require the disclosure of any documentary material which would be privileged, or which for any other reason would not be required by a subpoena duces tecum issued by a court of this state.

(4) Service of any such demand may be made by:

(a) Delivering a duly executed copy thereof to the person to be served, or, if such person is not a natural person, to any officer or managing agent of the person to be served; or

(b) Delivering a duly executed copy thereof to the principal place of business in this state of the person to be served; or

(c) Mailing by registered or certified mail a duly executed copy thereof addressed to the person to be served at the principal place of business in this state, or, if said person has no place of business in this state, to his principal office or place of business.

(5)(a) Documentary material demanded pursuant to the provisions of this section shall be produced for inspection and copying during normal business hours at the principal office or place of business of the person served, or at such other times and places as may be agreed upon by the person served and the attorney general;

(b) Written interrogatories in a demand served under this section shall be answered in the same manner as provided in the civil rules for superior court;

(c) The oral testimony of any person obtained pursuant to a demand served under this section shall be taken in the same manner as provided in the civil rules for superior court for the taking of depositions. In the course of the deposition, the assistant attorney general conducting the examination may exclude from the place where the examination is held all persons other than the person being examined, the person's counsel, and the officer before whom the testimony is to be taken;

(d) Any person compelled to appear pursuant to a demand for oral testimony under this section may be accompanied by counsel;

(e) The oral testimony of any person obtained pursuant to a demand served under this section shall be taken in the county within which the person resides, is found, or transacts business, or in such other place as may be agreed upon between the person served and the attorney general.

(6) If, after prior court approval, a civil investigative demand specifically prohibits disclosure of the existence or content of the demand, unless otherwise ordered by a superior court for good cause shown, it shall be a misdemeanor for any person if not a bank, trust company, mutual savings bank, credit union, or savings and loan association organized under the laws of the United States or of any one of the United States to disclose to any other person the existence or content of the demand, except for disclosure to counsel for the recipient of the demand or unless otherwise required by law.

(7) No documentary material, answers to written interrogatories, or transcripts of oral testimony produced pursuant to a demand, or copies thereof, shall, unless otherwise ordered by a superior court for good cause shown, be produced for inspection or copying by, nor shall the contents thereof be disclosed to, other than an authorized employee of the attorney general, without the consent of the person who produced such material, answered written interrogatories, or gave oral testimony, except as otherwise provided in this section: PROVIDED, That:

(a) Under such reasonable terms and conditions as the attorney general shall prescribe, the copies of such documentary material, answers to written interrogatories, or transcripts of oral testimony shall be available for inspection and copying by the person who produced such material, answered written interrogatories, or gave oral testimony, or any duly authorized representative of such person;

(b) The attorney general may provide copies of such documentary material, answers to written interrogatories, or transcripts of oral testimony to an official of this state, the federal government, or other state, who is charged with the enforcement of federal or state antitrust or consumer protection laws, if before the disclosure the receiving official agrees in writing that the information may not be disclosed to anyone other than that official or the official's authorized employees. The material provided under this subsection (7)(b) is subject to the confidentiality restrictions set forth in this section and may not be introduced as evidence in a criminal prosecution; and

(c) The attorney general or any assistant attorney general may use such copies of documentary material, answers to written interrogatories, or transcripts of oral testimony as he determines necessary in the enforcement of this chapter, including presentation before any court: PROVIDED, That any such material, answers to written interrogatories, or transcripts of oral testimony which contain trade secrets shall not be presented except with the approval of the court in which action is pending after adequate notice to the person furnishing such material, answers to written interrogatories, or oral testimony.

(8) At any time before the return date specified in the demand, or within twenty days after the demand has been served, whichever period is shorter, a petition to extend the return date for, or to modify or set aside a demand issued pursuant to subsection (1), stating good cause, may be filed in the superior court for Thurston county, or in such other county where the parties reside. A petition, by the person on whom the demand is served, stating good cause, to require the attorney general or any person to perform any duty imposed by the provisions of this section, and all other petitions in connection with a demand, may be filed in the superior court for Thurston county, or in the county where the parties reside. The court shall have jurisdiction to impose such sanctions as are provided for in the civil rules for superior court with respect to discovery motions.

(9) Whenever any person fails to comply with any civil investigative demand for documentary material, answers to

written interrogatories, or oral testimony duly served upon him under this section, or whenever satisfactory copying or reproduction of any such material cannot be done and such person refuses to surrender such material, the attorney general may file, in the trial court of general jurisdiction of the county in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of this section, except that if such person transacts business in more than one county such petition shall be filed in the county in which such person maintains his principal place of business, or in such other county as may be agreed upon by the parties to such petition. Whenever any petition is filed in the trial court of general jurisdiction of any county under this section, such court shall have jurisdiction to hear and determine the matter so presented and to enter such order or orders as may be required to carry into effect the provisions of this section, and may impose such sanctions as are provided for in the civil rules for superior court with respect to discovery motions. [1993 c 125 § 1; 1990 c 199 § 1; 1987 c 152 § 1; 1982 c 137 § 1; 1970 ex.s. c 26 § 4; 1961 c 216 § 11.]

Rules of court: See Superior Court Civil Rules.

19.86.115 Materials from a federal agency or other state's attorney general. Whenever the attorney general receives documents or other material from:

(1) A federal agency, pursuant to its subpoena or Hart-Scott-Rodino authority; or

(2) Another state's attorney general, pursuant to that state's presuit investigative subpoena powers,

the documents or materials are subject to the same restrictions as and may be used for all the purposes set forth in RCW 19.86.110. [1993 c 125 § 2.]

Chapter 19.146
MORTGAGE BROKER PRACTICES ACT

Sections

19.146.005 Findings and declaration. (Effective October 31, 1993, until October 31, 1994.) The legislature finds and declares that the brokering of residential real estate loans substantially affects the public interest. The practices of mortgage brokers have had significant impact on the citizens of the state and the banking and real estate industries. It is the intent of the legislature to establish a temporary state system of licensure in addition to rules of practice and conduct of mortgage brokers to promote honesty and fair dealing with citizens and to preserve public confidence in the lending and real estate community. [1993 c 468 § 1; 1987 c 391 § 1.]

Adoption of rules—Severability—1993 c 468: See notes following RCW 19.146.0201.

Effective dates—1993 c 468: See note following RCW 19.146.200.

Expiration date—1993 c 468: See note following RCW 19.146.280.

19.146.010 Definitions. (Effective until October 31, 1994.) Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Affiliate" means any person who directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with another person.

(2) "Computer loan origination systems" or "CLO system" means the real estate mortgage financing information system defined by rule of the director.

(3) "Department" means the department of licensing.

(4) "Director" means the director of licensing.

(5) "Loan originator" means a natural person employed, either directly or indirectly, by a licensed mortgage broker, or a natural person who represents a licensed mortgage broker, in the performance of any acts specified in subsection (7) of this section.

(6) "Lock-in agreement" means an agreement with a borrower made by a mortgage broker or loan originator, in which the mortgage broker agrees that, for a period of time, a specific interest rate or other financing terms will be the rate or terms at which it will make a loan available to that borrower.

(7) "Mortgage broker" means any person who for compensation or gain, or in the expectation of compensation or gain, directly or indirectly negotiates, places, assists in placement, finds, or offers to negotiate, place, assist in placement, or find residential mortgage loans for others.

(8) "Person" means a natural person, corporation, company, partnership, or association.

(9) "Residential mortgage loan" means any loan primarily for personal, family, or household use secured by a mortgage or deed of trust on residential real estate upon which is constructed or intended to be constructed a single family dwelling or multiple family dwelling of four or less units.

(10) "Third-party provider" means any person other than a mortgage broker or lender who provides goods or services to the mortgage broker in connection with the preparation of the borrower's loan and includes, but is not limited to, credit reporting agencies, title companies, appraisers, structural and pest inspectors, or escrow companies. [1993 c 468 § 2; 1987 c 391 § 3.]

Adoption of rules—Severability—1993 c 468: See notes following RCW 19.146.0201.

Effective dates—1993 c 468: See note following RCW 19.146.200.

Expiration date—1993 c 468: See note following RCW 19.146.280.

19.146.020 Exemptions from chapter. (Effective until October 31, 1994.) (1) Except as provided under subsection (2) of this section, the following are exempt from all provisions of this chapter:

(a) Any person doing business under the laws of this state or the United States relating to commercial banks, bank holding companies, savings banks, trust companies, savings and loan associations, credit unions, consumer loan companies, insurance companies, or real estate investment trusts as defined in 26 U.S.C. Sec. 856 and the affiliates, subsidiaries, and service corporations thereof;

(b) An attorney licensed to practice law in this state who is not principally engaged in the business of negotiating residential mortgage loans when such attorney renders services in the course of his or her practice as an attorney;

(c) Any person doing any act under order of any court;

(d) Any person making or acquiring a residential mortgage loan solely with his or her own funds for his or her own investment without intending to resell the residential mortgage loans;

(e) A real estate broker or salesperson licensed by the state who obtains financing for a real estate transaction involving a bona fide sale of real estate in the performance of his or her duties as a real estate broker and who receives only the customary real estate broker's or salesperson's commission in connection with the transaction;

(f) Any mortgage broker approved and subject to auditing by the federal national mortgage association, the government national mortgage association, or the federal home loan mortgage corporation;

(g) Any mortgage broker approved by the United States secretary of housing and urban development for participation in any mortgage insurance program under the National Housing Act, 12 U.S.C. Sec. 1701, as now or hereafter amended;

(h) The United States of America, the state of Washington, any other state, and any Washington city, county, or other political subdivision, and any agency, division, or corporate instrumentality of any of the entities in this subsection (1)(h); and

(i) A real estate broker who provides information only in connection with a CLO system, who may receive a fee for such information in an amount approved by the director and who conforms to all rules of the director with respect to the providing of such service.

(2) Those persons otherwise exempt under subsection (1) (f), (g), and (i) of this section must comply with RCW 19.146.0201. [1993 c 468 § 3; 1987 c 391 § 4.]

Adoption of rules—Severability—1993 c 468: See notes following RCW 19.146.0201.

Effective dates—1993 c 468: See note following RCW 19.146.200.

Expiration date—1993 c 468: See note following RCW 19.146.280.

19.146.0201 Loan originator, mortgage broker—Prohibitions. (Effective until October 31, 1994.) It is unlawful for a loan originator, mortgage broker required to be licensed under this chapter, or mortgage broker otherwise exempted from this chapter under RCW 19.146.020(1) (f), (g), or (i) in connection with a residential mortgage loan to:

(1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders;

(2) Engage in any conduct that operates as a fraud upon or unfair or deceptive practice toward any person;

(3) Obtain property by fraud or misrepresentation;

(4) Solicit or enter into a contract with a borrower that provides in substance that the mortgage broker may earn a fee or commission through the mortgage broker's "best efforts" to obtain a loan even though no loan is actually obtained for the borrower;

(5) Solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting from a person exempt from licensing under RCW 19.146.020(1) (f) or (g) or a lender with whom the mortgage broker maintains a written correspondent or loan brokerage agreement under RCW 19.146.040;

(6) Fail to make disclosures to loan applicants and noninstitutional investors as required by RCW 19.146.030 and any other applicable state or federal law;

(7) Make, in any manner, any false or deceptive statement or representation with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan;

(8) Make any false statement in connection with any reports filed by a licensee, or in connection with any examination of the licensee's business;

(9) Make any payment, directly or indirectly, to any fee appraiser third party of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

(10) Fail to include the words "licensed mortgage broker" in all advertising for the broker's services that are directed at the general public if the person is required to be licensed under this chapter;

(11) Fail to comply with the requirements of the truth-in-lending act, 15 U.S.C. Sec. 1601 and Regulation Z, 12 C.F.R. Sec. 226, as now or hereafter amended, in all advertising of residential mortgage loans. [1993 c 468 § 4.]

Adoption of rules—1993 c 468: "The director shall take steps and adopt rules necessary to implement the sections of this act by their effective dates." [1993 c 468 § 22.]

Severability—1993 c 468: "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." [1993 c 468 § 23.]

Effective dates—1993 c 468: See note following RCW 19.146.200.

Expiration date—1993 c 468: See note following RCW 19.146.280.

19.146.030 Written disclosure of lenders, fees, and costs—Contents—Violations of certain federal requirements. (Effective October 31, 1993, until October 31, 1994.) (1) Upon receipt of a loan application and before the receipt of any moneys from a borrower, a mortgage broker shall provide to each borrower a written notice indicating the number of the lenders with whom it maintains a written correspondent or loan brokerage agreement, unless exempt from licensing under this chapter, and make a full written disclosure to each borrower containing an itemization and explanation of all fees and costs that the borrower is required to pay in connection with obtaining a residential mortgage loan. A good faith estimate of a fee or cost shall be provided if the exact amount of the fee or cost is not determinable.

(2) The written disclosure shall contain the following information:

(a) The annual percentage rate, finance charge, amount financed, total amount of all payments, number of payments, amount of each payment, amount of points or prepaid interest and the conditions and terms under which any loan terms may change between the time of disclosure and closing of the loan; and if a variable rate, the circumstances under which the rate may increase, any limitation on the increase, the effect of an increase, and an example of the payment terms resulting from an increase. Disclosure in compliance with the requirements of the Truth-in-Lending Act, 15 U.S.C. Sec. 1601 and Regulation Z, 12 C.F.R. Sec. 226, as now or hereafter amended, shall be deemed to comply with the disclosure requirements of this subsection;

(b) The itemized costs of any credit report, appraisal, title report, title insurance policy, mortgage insurance, escrow fee, property tax, insurance, structural or pest inspection, and any other third-party provider's costs associated with the residential mortgage loan. Disclosure through good faith estimates of settlement services and special information booklets in compliance with the requirements of the Real Estate Settlement Procedures Act, 12 U.S.C. Sec. 2601, and Regulation X, 24 C.F.R. Sec. 3500, as now or hereafter amended, shall be deemed to comply with the disclosure requirements of this subsection;

(c) If applicable, the cost, terms, duration, and conditions of a lock-in agreement and whether a lock-in agreement has been entered;

(d) A statement that if the borrower is unable to obtain a loan for any reason, the mortgage broker must, within five days of a written request by the borrower, give copies of any appraisal, title report, or credit report paid for by the borrower to the borrower, and transmit the appraisal, title report, or credit report to any other mortgage broker or lender to whom the borrower directs the documents to be sent;

(e) The name of the lender and the nature of the business relationship between the lender providing the residential mortgage loan and the mortgage broker, if any: PROVIDED, That this disclosure may be made at any time up to the time the borrower accepts the lender's commitment; and

(f) A statement providing that moneys paid by the borrower to the mortgage broker for third-party provider services are held in a trust account and any moneys remaining after payment to third-party providers will be refunded.

A violation of the Truth-in-Lending Act, Regulation Z, the Real Estate Settlement Procedures Act, and Regulation X is a violation of this section for purposes of this chapter. [1993 c 468 § 12; 1987 c 391 § 5.]

Adoption of rules—Severability—1993 c 468: See notes following RCW 19.146.0201.

Effective dates—1993 c 468: See note following RCW 19.146.200.

Expiration date—1993 c 468: See note following RCW 19.146.280.

19.146.070 Fee, commission, or compensation—When permitted. (Effective until October 31, 1994.) (1) Except as otherwise permitted by this section, a mortgage broker shall not receive a fee, commission, or compensation of any kind in connection with the preparation, negotiation, and brokering of a residential mortgage loan unless a borrower actually obtains a loan from a lender on the terms and conditions agreed upon by the borrower and mortgage broker.

(2) A mortgage broker may:

(a) If the mortgage broker has obtained for the borrower a written commitment from a lender for a loan on the terms and conditions agreed upon by the borrower and the mortgage broker, and the borrower fails to close on the loan through no fault of the mortgage broker, charge a fee not to exceed three hundred dollars for services rendered, preparation of documents, or transfer of documents in the borrower's file which were prepared or paid for by the borrower if the fee is not otherwise prohibited by the Truth-in-Lending Act, 15 U.S.C. Sec. 1601, and Regulation Z, 12 C.F.R. Sec. 226, as now or hereafter amended; or

(b) Solicit or receive fees for third party provider goods or services in advance. Fees for any goods or services not provided must be refunded to the borrower and the mortgage broker may not charge more for the goods and services than the actual costs of the goods or services charged by the third party provider. [1993 c 468 § 13; 1987 c 391 § 9.]

Adoption of rules—Severability—1993 c 468: See notes following RCW 19.146.0201.

Effective dates—1993 c 468: See note following RCW 19.146.200.

Expiration date—1993 c 468: See note following RCW 19.146.280.

19.146.110 Criminal penalties. (Effective October 31, 1993, until October 31, 1994.) Any person who violates any provision of this chapter other than RCW 19.146.050 or any rule or order of the director shall be guilty of a misdemeanor punishable under chapter 9A.20 RCW. Any person who violates RCW 19.146.050 shall be guilty of a class C felony under chapter 9A.20 RCW. [1993 c 468 § 20; 1987 c 391 § 13.]

Adoption of rules—Severability—1993 c 468: See notes following RCW 19.146.0201.

Effective dates—1993 c 468: See note following RCW 19.146.200.

Expiration date—1993 c 468: See note following RCW 19.146.280.

19.146.200 License—Required—Suit or action as mortgage broker. (Contingent effective date; effective until October 31, 1994.) (1) A person may not engage in

the business of a mortgage broker, except as an employee of a person licensed or exempt from licensing, without first obtaining and maintaining a license under this chapter.

(2) A person may not bring a suit or action for the collection of compensation as a mortgage broker unless the plaintiff alleges and proves that he or she was a duly licensed mortgage broker, or exempt from the license requirement of this chapter, at the time of offering to perform or performing any such an act or service regulated by this chapter. This subsection does not apply to suits or actions for the collection or compensation for services performed prior to *the effective date of this section. [1993 c 468 § 5.]

***Reviser's note:** See effective date note following this section.

Effective dates—1993 c 468: "(1) Sections 2 through 4, 9, 13, and 21 through 23 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 [May 17, 1993].

(2) Sections 6 through 8, 10, 18, and 19 of this act shall take effect September 1, 1993.

(3) Sections 1, 5, 11, 12, 14 through 17, and 20 of this act shall take effect October 31, 1993. However, the effective date of section 5 of this act may be delayed thirty days upon an order of the director of licensing under section 7(3) of this act." [1993 c 468 § 26.]

Adoption of rules—Severability—1993 c 468: See notes following RCW 19.146.0201.

Expiration date—1993 c 468: See note following RCW 19.146.280.

19.146.205 License—Application—Fee—Bond or alternative. (Effective until October 31, 1994.) (1) Application for a mortgage broker license under this chapter shall be in writing and in the form prescribed by the director. Unless waived by the director, the application shall contain at least the following information:

(a) The name, address, date of birth, and social security number of the applicant, and any other names, dates of birth, or social security numbers previously used by the applicant;

(b) If the applicant is a partnership or association, the name, address, date of birth, and social security number of each general partner or principal of the association, and any other names, dates of birth, or social security numbers previously used by the members;

(c) If the applicant is a corporation, the name, address, date of birth, and social security number of each officer, director, registered agent, and each principal stockholder, and any other names, dates of birth, or social security numbers previously used by the officers, directors, registered agents, and principal stockholders;

(d) The street address, county, and municipality where the principal business office is to be located;

(e) Submission of a complete set of fingerprints taken by an authorized law enforcement officer; and

(f) Such other information regarding the applicant's background, financial responsibility, experience, character, and general fitness as the director may require by rule.

(2) At the time of filing an application for a license under this chapter, each applicant shall pay to the director the appropriate license fee in an amount determined by rule of the director in accordance with RCW 43.24.086 to be sufficient to cover, but not exceed, the department's costs in administering this chapter. The director shall deposit the moneys in the mortgage broker fund created under RCW 19.146.270.

(3)(a) Each applicant for a mortgage broker's license shall file and maintain a surety bond, in an amount of forty thousand dollars or such lower amount the director deems adequate to protect the public interest, executed by the applicant as obligor and by a surety company authorized to do a surety business in this state as surety. The bond shall run to the state of Washington as obligee, and shall run to the benefit of the state and any person or persons who suffer loss by reason of the applicant's violation of any provision of this chapter or rules adopted under this chapter. The bond shall be conditioned that the obligor as licensee will faithfully conform to and abide by this chapter and all rules adopted under this chapter, and shall reimburse all persons who suffer loss by reason of a violation of this chapter or rules adopted under this chapter. The bond shall be continuous and may be canceled by the surety upon the surety giving written notice to the director of its intent to cancel the bond. The cancellation shall be effective thirty days after the notice is received by the director. Whether or not the bond is renewed, continued, reinstated, reissued, or otherwise extended, replaced, or modified, including increases or decreases in the penal sum, it shall be considered one continuous obligation, and the surety upon the bond shall not be liable in an aggregate or cumulative amount exceeding the penal sum set forth on the face of the bond. In no event shall the penal sum, or any portion thereof, at two or more points in time be added together in determining the surety's liability. The bond shall not be liable for any penalties imposed on the licensee, including, but not limited to, any increased damages or attorneys' fees, or both, awarded under RCW 19.86.090. The applicant may obtain the bond directly from the surety or through a group bonding arrangement involving a professional organization comprised of mortgage brokers if the arrangement provides at least as much coverage as is required under this subsection.

(b) In lieu of a surety bond, the applicant may, upon approval by the director, file with the director a certificate of deposit, an irrevocable letter of credit, or such other instrument as approved by the director by rule, drawn in favor of the director for an amount equal to the required bond.

(c) In lieu of the surety bond or compliance with (b) of this subsection, an applicant may obtain insurance or coverage from an association comprised of mortgage brokers that is organized as a mutual corporation for the sole purpose of insuring or self-insuring claims that may arise from a violation of this chapter. An applicant may only substitute coverage under this subsection for the requirements of (a) or (b) of this subsection if the director, with the consent of the insurance commissioner, has authorized such association to organize a mutual corporation under such terms and conditions as may be imposed by the director to ensure that the corporation is operated in a financially responsible manner to pay any claims within the financial responsibility limits specified in (a) of this subsection. [1993 c 468 § 6.]

Adoption of rules—Severability—1993 c 468: See notes following RCW 19.146.0201.

Effective dates—1993 c 468: See note following RCW 19.146.200.

Expiration date—1993 c 468: See note following RCW 19.146.280.

19.146.210 License—Requirements for issuance—Denial—Validity—Surrender. (Effective until October 31, 1994.) (1) The director shall issue and deliver a mortgage broker license to an applicant if, after investigation, the director makes the following findings:

(a) The applicant has paid the required license fees;

(b) The applicant has complied with RCW 19.146.205;

(c) The applicant has not had a license issued under this chapter or any similar state statute suspended or revoked within five years of the filing of the present application;

(d) The applicant has not been convicted of a felony within seven years of the filing of the present application;

(e) The applicant has at least two years of experience in the residential mortgage loan industry; and

(f) The applicant has demonstrated financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a belief that the business will be operated honestly, fairly, and efficiently within the purposes of this chapter.

(2) If the director does not find the conditions of subsection (1) of this section have been met, the director shall not issue the license. The director shall notify the applicant of the denial and return to the applicant the bond or approved alternative and any remaining portion of the license fee that exceeds the departments actual cost to investigate the license.

(3) The director may delay *the effective date of section 5 of this act for an additional thirty days with respect to an applicant for a mortgage broker license for the purpose of processing the application when the applicant has filed a completed application by October 31, 1993.

(4) A license issued pursuant to this chapter is valid from the date of issuance.

(5) A licensee may surrender a license by delivering to the director written notice of surrender, but the surrender does not affect the licensee's civil or criminal liability arising from acts or omissions occurring before such surrender. [1993 c 468 § 7.]

***Reviser's note:** For the effective date of 1993 c 468 § 5, codified as RCW 19.146.200, see note following RCW 19.146.200.

Adoption of rules—Severability—1993 c 468: See notes following RCW 19.146.0201.

Effective dates—1993 c 468: See note following RCW 19.146.200.

Expiration date—1993 c 468: See note following RCW 19.146.280.

19.146.220 Director—Powers and duties—Rules. (Effective until October 31, 1994.) (1) The director shall enforce all laws and rules relating to the licensing of mortgage brokers, grant or deny licenses to mortgage brokers, and hold hearings. The director may impose any one or more of the following sanctions: Suspend or revoke licenses, deny applications for licenses, or fine violators under this chapter. In addition, the director may issue an order directing a licensee or person subject to this chapter to cease and desist from conducting business in a manner that is injurious to the public or violates any provision of this chapter.

(2) The director may take those actions specified in subsection (1) of this section if the director finds any of the following:

(a) The licensee has failed to pay a fee due the state of Washington, to maintain in effect the bond or approved alternative required under this chapter, or to comply with any specific order or demand of the director lawfully made and directed to the licensee in accordance with this chapter; or

(b) The licensee or person subject to this chapter has violated any provision of this chapter or a rule adopted under this chapter; or

(c) The licensee made false statements on the application or omitted material information that, if known, would have allowed the director to deny the application for the original license.

(3) The director shall establish by rule standards for licensure of applicants licensed in other jurisdictions. [1993 c 468 § 8.]

Adoption of rules—Severability—1993 c 468: See notes following RCW 19.146.0201.

Effective dates—1993 c 468: See note following RCW 19.146.200.

Expiration date—1993 c 468: See note following RCW 19.146.280.

19.146.225 Director—Rule-making powers. (Effective until October 31, 1994.) In accordance with the administrative procedure act, chapter 34.05 RCW, the director may issue rules to govern the activities of licensed mortgage brokers consistent with this chapter. [1993 c 468 § 9.]

Adoption of rules—Severability—1993 c 468: See notes following RCW 19.146.0201.

Effective dates—1993 c 468: See note following RCW 19.146.200.

Expiration date—1993 c 468: See note following RCW 19.146.280.

19.146.230 Administrative procedure act application. (Effective until October 31, 1994.) The proceedings for denying license applications, issuing cease and desist orders, and suspending or revoking licenses issued pursuant to this chapter and any appeal therefrom or review thereof shall be governed by the provisions of the administrative procedure act, chapter 34.05 RCW. [1993 c 468 § 10.]

Adoption of rules—Severability—1993 c 468: See notes following RCW 19.146.0201.

Effective dates—1993 c 468: See note following RCW 19.146.200.

Expiration date—1993 c 468: See note following RCW 19.146.280.

19.146.235 Director—Investigation powers. (Effective October 31, 1993, until October 31, 1994.) For the purposes of investigating complaints arising under this chapter, the director may at any time, either personally or by a designee, examine the business, including but not limited to the books, accounts, records, and files used therein, of every licensee and of every person engaged in the business of mortgage brokering, whether such a person shall act or claim to act under or without the authority of this chapter. For that purpose the director and designated representatives shall have free access to the offices and places of business, books, accounts, papers, records, files, safes, and vaults of all such persons. The director or designated person may require the attendance of and examine under oath all persons whose testimony may be required about the loans or the business or subject matter of any such investigation. [1993 c 468 § 11.]

Adoption of rules—Severability—1993 c 468: See notes following RCW 19.146.0201.

Effective dates—1993 c 468: See note following RCW 19.146.200.

Expiration date—1993 c 468: See note following RCW 19.146.280.

19.146.240 Violations—Claims against bond or alternative. (Effective October 31, 1993, until October 31, 1994.) (1) Any person injured by a violation of this chapter may bring an action against the surety bond or approved alternative of the licensed mortgage broker who committed the violation or who employed the loan originator committing the violation.

(2) A person who is damaged by the licensee's violation of this chapter, or rules adopted under this chapter, may bring suit upon the surety bond or approved alternative in the superior court of any county in which jurisdiction over the licensee may be obtained. Jurisdiction shall be exclusively in the superior court. Any such action must be brought not later than one year after the alleged violation of this chapter or rules adopted under this chapter. In the event valid claims against a bond or deposit exceed the amount of the bond or deposit, each claimant shall only be entitled to a pro rata amount, based on the amount of the claim as it is valid against the bond or deposit, without regard to the date of filing of any claim or action. A judgment arising from a violation of this chapter or rule adopted under this chapter shall be entered for actual damages and in no case be less than the amount paid by the borrower to the licensed mortgage broker plus reasonable attorneys' fees and costs. In no event shall the surety bond or approved alternative provide payment for any trebled or punitive damages.

(3) The remedies provided under this section are cumulative and nonexclusive and do not affect any other remedy available at law. [1993 c 468 § 14.]

Adoption of rules—Severability—1993 c 468: See notes following RCW 19.146.0201.

Effective dates—1993 c 468: See note following RCW 19.146.200.

Expiration date—1993 c 468: See note following RCW 19.146.280.

19.146.245 Violations—Liability. (Effective October 31, 1993, until October 31, 1994.) A licensed mortgage broker is liable for any conduct violating this chapter by a loan originator or other licensed mortgage broker while employed by the broker. In addition, a branch office manager is liable for any conduct violating this chapter by a loan originator or other licensed mortgage broker employed at the branch office. [1993 c 468 § 15.]

Adoption of rules—Severability—1993 c 468: See notes following RCW 19.146.0201.

Effective dates—1993 c 468: See note following RCW 19.146.200.

Expiration date—1993 c 468: See note following RCW 19.146.280.

19.146.250 Authority restricted to person named in license—Exceptions. (Effective October 31, 1993, until October 31, 1994.) No license issued under the provisions of this chapter shall authorize any person other than the person to whom it is issued to do any act by virtue thereof nor to operate in any other manner than under his or her own name except:

(1) A licensed mortgage broker may operate or advertise under a name other than the one under which the license is issued by obtaining the written consent of the director to do so; and

(2) A broker may establish one or more branch offices under a name or names different from that of the main office if the name or names are approved by the director, so long as each branch office is clearly identified as a branch or division of the main office. No broker may establish branch offices under more than three names. Both the name of the branch office and of the main office must clearly appear on the sign identifying the office, if any, and in any advertisement or on any letterhead of any stationery or any forms, or signs used by the mortgage firm on which either the name of the main or branch offices appears. [1993 c 468 § 16.]

Adoption of rules—Severability—1993 c 468: See notes following RCW 19.146.0201.

Effective dates—1993 c 468: See note following RCW 19.146.200.

Expiration date—1993 c 468: See note following RCW 19.146.280.

19.146.260 Office required—Branch office. (Effective October 31, 1993, until October 31, 1994.) Every licensed mortgage broker must have and maintain an office in this state accessible to the public which shall serve as his or her office for the transaction of business. Any office so established must comply with the zoning requirements of city or county ordinances and the broker's license must be prominently displayed therein. In addition, any branch office must comply with the zoning requirements of city or county ordinances. [1993 c 468 § 17.]

Adoption of rules—Severability—1993 c 468: See notes following RCW 19.146.0201.

Effective dates—1993 c 468: See note following RCW 19.146.200.

Expiration date—1993 c 468: See note following RCW 19.146.280.

19.146.265 Branch offices—Fee—Licenses. (Effective until October 31, 1994.) A licensed mortgage broker may apply to the director for authority to establish one or more branch offices under the same or different name as the main office upon the payment of a fee as prescribed by the director by rule. The director shall issue a duplicate license for each of the branch offices showing the location of the main office and the particular branch. Each duplicate license shall be prominently displayed in the office for which it is issued. Each branch office shall be required to have a branch manager who shall be a licensed mortgage broker authorized by the mortgage broker to perform the duties of a branch manager. [1993 c 468 § 18.]

Adoption of rules—Severability—1993 c 468: See notes following RCW 19.146.0201.

Effective dates—1993 c 468: See note following RCW 19.146.200.

Expiration date—1993 c 468: See note following RCW 19.146.280.

19.146.270 Mortgage brokers' licensing account. (Effective until October 31, 1994.) All moneys collected under this chapter shall be deposited in the mortgage brokers' licensing account hereby created in the state treasury. Expenditures from the account, subject to appropriation, may be used solely for department costs in administering this chapter. [1993 c 468 § 19.]

Adoption of rules—Severability—1993 c 468: See notes following RCW 19.146.0201.

Effective dates—1993 c 468: See note following RCW 19.146.200.

Expiration date—1993 c 468: See note following RCW 19.146.280.

19.146.280 Mortgage brokerage commission. (Contingent expiration date.) (1) There is established the mortgage brokerage commission consisting of five commission members who shall act in an advisory capacity to the director on mortgage brokerage issues.

(2) The director shall appoint the members of the commission, weighing the recommendations from professional organizations representing mortgage brokers. At least three of the commission members shall be mortgage brokers required to apply for a mortgage brokers license under this chapter and at least one shall be exempt from licensure under RCW 19.146.020(1) (f) or (g). No commission member shall be appointed who has had less than five years' experience in the business of residential mortgage lending. In addition, the attorney general, or a designee, and the director, or a designee, shall serve as ex officio, nonvoting members of the commission. Voting members of the commission shall serve for two-year terms with three of the initial commission members serving one-year terms. The department shall provide staff support to the commission.

(3) Members of the commission shall be reimbursed for their travel expenses incurred in carrying out the provisions of this chapter in accordance with RCW 43.03.050 and 43.03.060. All costs and expenses associated with the commission shall be paid from the mortgage brokers' licensing account created in RCW 19.146.270.

(4)(a) The commission shall advise the director on the characteristics and needs of the mortgage brokerage profession. In addition to its advisory capacity, the commission shall review all state and federal provisions governing mortgage brokers and shall prepare a report:

(i) Summarizing state and federal statutes and regulations governing mortgage brokers;

(ii) Identifying the type and magnitude of complaints arising with regard to the practices of mortgage brokers operating in this state;

(iii) Reviewing the detrimental and beneficial effects of state licensing, bonding, training, experience, and educational requirements for mortgage brokers;

(iv) Considering the appropriate location within state government to exercise regulatory authority and administer a licensing program; and

(v) Containing recommended legislation that adopts ongoing state licensing requirements for mortgage brokers.

(b) In preparing its report, the commission shall solicit comments from the mortgage broker industry, the department of licensing, the attorney general's office, other state regulators, and residential mortgage loan consumers. The committee shall submit its report to the labor and commerce committee of the senate and the financial institutions and insurance committee of the house of representatives by December 1, 1993. [1993 c 468 § 21.]

Expiration date—1993 c 468: "This act shall expire October 31, 1994, except for section 21 of this act. However, if a licensing program for mortgage brokers is not extended past October 31, 1994, section 21 of this act also shall expire on October 31, 1994." [1993 c 468 § 27.]

Adoption of rules—Severability—1993 c 468: See notes following RCW 19.146.0201.

Effective dates—1993 c 468: See note following RCW 19.146.200.

Chapter 19.150
SELF-SERVICE STORAGE FACILITIES

Sections

19.150.060 Attachment of lien—Notice of lien sale or notice of disposal. If a notice has been sent, as required by RCW 19.150.040, and the total sum due has not been paid as of the date specified in the preliminary lien notice, the lien proposed by this notice attaches as of that date and the owner may deny an occupant access to the space, enter the space, inventory the goods therein, and remove any property found therein to a place of safe keeping. The owner shall then serve by personal service or send to the occupant, addressed to the occupant's last known address and to the alternative address specified in RCW 19.150.120(2) by certified mail, postage prepaid, a notice of lien sale or notice of disposal which shall state all of the following:

(1) That the occupant's right to use the storage space has terminated and that the occupant no longer has access to the stored property.

(2) That the stored property is subject to a lien, and the amount of the lien accrued and to accrue prior to the date required to be specified in subsection (3) of this section.

(3) That the property, other than personal papers and personal effects, may be sold to satisfy the lien after a specified date which is not less than fourteen days from the date of mailing the lien sale notice, or a minimum of forty-two days after the date when any part of the rent or other charges due from the occupants remain unpaid, whichever is later, unless the amount of the lien is paid. If the total value of property in the storage space is less than one hundred dollars, the owner may, instead of sale, dispose of the property in any reasonable manner, subject to the restrictions of RCW 19.150.080(4).

(4) That any excess proceeds of the sale or other disposition under RCW 19.150.080(2) over the lien amount and costs of sale will be retained by the owner and may be reclaimed by the occupant, or claimed by another person, at any time for a period of six months from the sale and that thereafter the proceeds will be turned over to the state as abandoned property as provided in RCW 63.29.165.

(5) That any personal papers and personal effects will be retained by the owner and may be reclaimed by the occupant at any time for a period of six months from the sale or other disposition of property and that thereafter the owner may dispose of the personal papers and effects in a reasonable manner, subject to the restrictions of RCW 19.150.080(3).

(6) That if the occupant was served with notice of the lien sale by mail, the occupant within six months after the date of the sale may repurchase from any purchaser or subsequent purchaser any of the occupant's property sold pursuant to RCW 19.150.080 at the price paid by the original purchaser.

(7) That if notice of the lien sale was by personal service, the occupant has no right to repurchase any property sold at the lien sale. [1993 c 498 § 5; 1988 c 240 § 7.]

19.150.080 Manner of sale—Who may not acquire—Excess proceeds—Accounting. (1) After the expiration of the time given in the notice of lien sale pursuant to RCW 19.150.060, the property, other than personal papers and personal effects, may be sold or disposed of in a reasonable manner.

(2)(a) If the property has a value of one hundred dollars or more, the sale shall be conducted in a commercially reasonable manner, and, after deducting the amount of the lien and costs of sale, the owner shall retain any excess proceeds of the sale on the occupant's behalf. The occupant, or any other person having a court order or other judicial process against the property, may claim the excess proceeds, or a portion thereof sufficient to satisfy the particular claim, at any time within six months of the date of sale.

(b) If the property has a value of less than one hundred dollars, the property may be disposed of in a reasonable manner.

(3) Personal papers and personal effects that are not reclaimed by the occupant within six months of a sale under subsection (2)(a) of this section or other disposition under subsection (2)(b) of this section may be disposed of in a reasonable manner.

(4) No employee or owner, or family member of an employee or owner, may acquire, directly or indirectly, the property sold pursuant to subsection (2)(a) of this section or disposed of pursuant to subsection (2)(b) of this section, or personal papers and personal effects disposed of under subsection (3) of this section.

(5) The owner is entitled to retain any interest earned on the excess proceeds until the excess proceeds are claimed by another person or are turned over to the state as abandoned property pursuant to RCW 63.29.165.

(6) After the sale or other disposition pursuant to this section has been completed, the owner shall provide an accounting of the disposition of the proceeds of the sale or other disposition to the occupant at the occupant's last known address and at the alternative address. [1993 c 498 § 6; 1988 c 240 § 9.]

Chapter 19.174
AUTOMATED TELLER MACHINES AND NIGHT DEPOSITORIES SECURITY

Sections

19.174.010 Intent. The intent of the legislature in enacting this chapter is to enhance the safety of consumers using automated teller machines and night deposit facilities in Washington without discouraging the siting of automated teller machines and night deposit facilities in locations convenient to consumers' homes and workplaces. Because decisions concerning safety at automated teller machines and night deposit facilities are inherently subjective, the legislature establishes as the standard of care applicable to operators of automated teller machines and night deposit facilities, in connection with user safety, compliance with the objective standards and information requirements of this chapter. It is not the intent of the legislature in enacting this chapter to impose a duty to relocate or modify automated teller machines or night deposit facilities upon the occurrence of a particular event or circumstance, but rather to establish a means for the evaluation of all automated teller machines and night deposit facilities as provided in this chapter. The legislature further recognizes the need for uniformity as to the establishment of safety standards for automated teller machines and night deposit facilities and intends with this chapter to supersede and preempt a rule, regulation, code, or ordinance of a city, county, municipality, or local agency regarding customer safety at automated teller machines and night deposit facilities in Washington. [1993 c 324 § 2.]

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

(1) "Access area" means a paved walkway or sidewalk that is within fifty feet of an automated teller machine or night deposit facility. "Access area" does not include publicly maintained sidewalks or roads.

(2) "Access device" means:

(a) "Access device" as defined in federal reserve board Regulation E, 12 C.F.R. Part 205, promulgated under the Electronic Fund Transfer Act, 15 U.S.C. Sec. 1601, et seq.; or

(b) A key or other mechanism issued by a banking institution to its customer to give the customer access to the banking institution's night deposit facility.

(3) "Automated teller machine" means an electronic information processing device located in this state that accepts or dispenses cash in connection with a credit, deposit, or convenience account. "Automatic [automated] teller machine" does not include a device used primarily to facilitate check guarantees or check authorizations, used in connection with the acceptance or dispensing of cash on a person-to-person basis such as by a store cashier, or used for payment of goods and services.

(4) "Banking institution" means a state or federally chartered bank, trust company, savings bank, savings and loan association, and credit union.

(5) "Candle-foot power" means a light intensity of candles on a horizontal plane at thirty-six inches above ground level and five feet in front of the area to be measured.

(6) "Control of an access area or defined parking area" means to have the present authority to determine how, when, and by whom it is to be used, and how it is to be maintained, lighted, and landscaped.

(7) "Defined parking area" means that portion of a parking area open for customer parking that is:

(a) Contiguous to an access area with respect to an automated teller machine or night deposit facility;

(b) Regularly, principally, and lawfully used for parking by users of the automated teller machine or night deposit facility while conducting transactions during hours of darkness; and

(c) Owned or leased by the operator of the automated teller machine or night deposit facility or owned or controlled by the party leasing the automated teller machine or night deposit facility site to the operator. "Defined parking area" does not include a parking area that is not open or regularly used for parking by users of the automated teller machine or night deposit facility who are conducting transactions during hours of darkness. A parking area is not open if it is physically closed to access or if conspicuous signs indicate that it is closed. If a multiple level parking area satisfies the conditions of this subsection (7)(c) and would therefore otherwise be a defined parking area, only the single parking level deemed by the operator of the automated teller machine and night deposit facility to be the most directly accessible to the users of the automated teller machine and night deposit facility is a defined parking area.

(8) "Hours of darkness" means the period that commences thirty minutes after sunset and ends thirty minutes before sunrise.

(9) "Night deposit facility" means a receptacle that is provided by a banking institution for the use of its customers in delivering cash, checks, and other items to the banking institution.

(10) "Operator" means a banking institution or other business entity or a person who operates an automated teller machine or night deposit facility. [1993 c 324 § 1.]

19.174.030 Safety procedures—Requirements. On or before July 1, 1994, with respect to an existing installed automated teller machine and night deposit facility in this state, and an automated teller machine or night deposit facility installed after July 1, 1994, the operator shall adopt procedures for evaluating the safety of the automated teller machine or night deposit facility. These procedures must pertain to the following:

(1) The extent to which the lighting for the automated teller machine or night deposit facility complies or will comply with the standards required by RCW 19.174.050;

(2) The presence of landscaping, vegetation, or other obstructions in the area of the automated teller machine or night deposit facility, the access area, and the defined parking area; and

(3) The incidence of crimes of violence in the immediate neighborhood of the automated teller machine or night deposit facility, as reflected in the records of the local law enforcement agency and of which the operator has actual knowledge. [1993 c 324 § 3.]

19.174.040 Lighting requirements—Compliance. (1) An operator of an automated teller machine or night deposit facility installed on or after July 1, 1994, shall comply with RCW 19.174.050 beginning on the date the automated teller machine or night deposit facility is installed. Compliance with RCW 19.174.050 by an operator as to an automated teller machine and night deposit facility existing as of July 1, 1994, is optional until July 1, 1996, and mandatory thereafter. This section applies to an operator of an automated teller machine or night deposit facility only to the extent that the operator controls the access area or defined parking area to be lighted.

(2) If an access area or a defined parking area is not controlled by the operator of an automated teller machine or night deposit facility, and if the person who leased the automated teller machine or night deposit facility site to the operator controls the access area or defined parking area, the person who controls the access area or defined parking area shall comply with RCW 19.174.050 for an automated teller machine or night deposit facility installed on or after July 1, 1994, beginning on the date the automated teller machine or night deposit facility is installed and for an automated teller machine or night deposit facility existing as of July 1, 1994, by or on July 1, 1996. [1993 c 324 § 4.]

19.174.050 Lighting requirements. The operator, owner, or other person responsible for an automated teller machine or night deposit facility shall provide lighting during hours of darkness with respect to an open and operating automated teller machine or night deposit facility and a defined parking area, access area, and the exterior of an enclosed automated teller machine or night deposit facility installation according to the following standards:

(1) There must be a minimum of ten candle-foot power at the face of the automated teller machine or night deposit facility and extending in an unobstructed direction outward five feet;

(2) There must be a minimum of two candle-foot power within fifty feet from all unobstructed directions from the face of the automated teller machine or night deposit facility. In the event the automated teller machine or night deposit facility is located within ten feet of the corner of the building and the automated teller machine or night deposit facility is generally accessible from the adjacent side, there must be a minimum of two candle-foot power along the first forty unobstructed feet of the adjacent side of the building; and

(3) There must be a minimum of two candle-foot power in that portion of the defined parking area within fifty feet of the automated teller machine or night deposit facility. [1993 c 324 § 5.]

19.174.060 Notice to customer. The issuer of an access device shall furnish a customer receiving the device with a notice of basic safety precautions that the customer should employ while using an automated teller machine or night deposit facility. This information must be furnished by personally delivering or by mailing the information to each customer whose mailing address is in this state for the account to which the access device relates. This information must be furnished for an access device issued on or after July 1, 1994, at or before the time the customer is furnished with his or her access device. For a customer to whom an access device was issued before July 1, 1994, the information must be delivered or mailed to the customer on or before December 31, 1994. Only one notice must be furnished per household, and if an access device is furnished to more than one customer for a single account or set of

accounts or on the basis of a single application or other request for the access devices, only a single notice must be furnished in satisfaction of the notification responsibilities as to all those customers. The information may be included with other disclosures related to the access device furnished to the customer, such as with an initial or periodic disclosure statement furnished under the Electronic Fund Transfer Act, 15 U.S.C. Sec. 1601, et seq. [1993 c 324 § 6.]

19.174.070 Exceptions. This chapter does not apply to an automated teller machine or night deposit facility that is:

(1) Located inside of a building, unless it is a freestanding installation that exists for the sole purpose of providing an enclosure for the automated teller machine or night deposit facility;

(2) Located inside a building, except to the extent a transaction can be conducted from outside the building; or

(3) Located in an area, including an access area, building, enclosed space, or parking area that is not controlled by the operator. [1993 c 324 § 7.]

19.174.080 Chapter supersedes local government actions. This chapter supersedes and preempts all rules, regulations, codes, statutes, or ordinances of all cities, counties, municipalities, and local agencies regarding customer safety at automated teller machines or night deposit facilities located in this state. [1993 c 324 § 8.]

19.174.090 Compliance evidence of adequate safety measures. Compliance with the objective standards and information requirements of this chapter is prima facie evidence that the operator of the automated teller machine or night deposit facility in question has provided adequate measures for the safety of users of the automated teller machine or night depository. [1993 c 324 § 9.]

19.174.900 Effective date—1993 c 324. 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 [May 12, 1993]. [1993 c 324 § 15.]

Chapter 19.178
GOING OUT OF BUSINESS SALES

Sections

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

(1) "Affiliated business" means a business or business location that is directly or indirectly controlled by or under common control with the business location or locations listed in the notice of the sale or that has a common ownership interest in the merchandise to be sold with the business location or locations listed in the notice of the sale.

(2) "Going out of business sale" means a sale or auction advertised or held out to the public as the disposal of merchandise in anticipation of cessation of business. This includes but is not limited to a sale or auction advertised or held out to the public as a "going out of business sale," a "closing out sale," a "quitting business sale," a "loss of lease sale," a "must vacate sale," a "liquidation sale," a "bankruptcy sale," a "sale to prevent bankruptcy," or another description suggesting price reduction due to the imminent closure of the business.

(3) "Merchandise" means goods, wares, or other property or services capable of being the object of a sale regulated under this chapter.

(4) "Moving sale" means a sale or auction advertised or held out to the public in anticipation of a relocation of the business to within a thirty-mile radius of its existing location.

(5) "Person" means, where applicable, natural persons, corporations, trusts, unincorporated associations, partnerships, or other legal entities. [1993 c 456 § 2.]

19.178.020 Notice—Recording—Display—Service on attorney general. (1) It is unlawful for a person to sell, offer for sale, or advertise for sale merchandise at a going out of business sale without first recording a notice of the going out of business sale and executing an affidavit of inventory under this chapter.

(2) The notice of the sale must be displayed in a prominent place on the premises where a going out of business sale is being conducted.

(3) Where a going out of business sale is part of a bankruptcy, receivership, or other court-ordered action, a person required by this chapter to record a notice of the sale shall serve a copy of the petition, motion, proposed order, or other pleading requesting court approval of the sale on the attorney general no less than seven days before the date on which an action may be taken related to the conduct of the sale by a court. [1993 c 456 § 3.]

19.178.030 Notice—Recording—Procedure. (1) A person conducting a going out of business sale shall record a notice of the sale with the county auditor at least fourteen days before the beginning date of the sale.

(2) The notice must be signed under oath and acknowledged and must require, and the person signing the notice shall set forth, the following facts and information regarding the sale:

(a) The name, address, telephone number, and Washington state business identification number of the owner of the merchandise to be sold. If the owner is a corporation, trust, unincorporated association, partnership, or other legal entity, the person signing the notice must be an officer of the entity and must identify his or her title;

(b) The name, address, and telephone number of the person who will be in charge and responsible for the conduct of the sale;

(c) The descriptive name, location or locations, and beginning and ending dates of the sale;

(d) Whether a person who has an ownership interest in the business or in the merchandise to be sold has conducted a going out of business sale within one year of recording the notice;

(e) Whether a person who has an ownership interest in the business or in the merchandise to be sold established or acquired an ownership interest in the business within six months of recording the notice; and

(f) A statement that:

(i) The merchandise ordered during the thirty days before recording the notice consists only of bona fide orders made in the usual course of business and does not contain merchandise taken on consignment or otherwise;

(ii) No merchandise transferred from an affiliated business was transferred in contemplation of conducting the sale;

(iii) No merchandise will be ordered, taken on consignment, or transferred from an affiliated business after the notice is recorded or during the sale;

(iv) No person who has an ownership interest in the business or in the merchandise to be sold established or acquired an interest in the business or in the merchandise to be sold solely or principally for the purpose of conducting a going out of business sale;

(v) The business will be discontinued after the ending date of the sale and no merchandise held out for sale will be subsequently offered for sale to the public by anyone who had an ownership interest in the business or in the merchandise offered for sale; and

(vi) No person who has an ownership interest in the business or in the merchandise to be sold is subject to a court order resulting from a civil enforcement action under the consumer protection act for a violation of this chapter or the type of conduct prohibited by this chapter. [1993 c 456 § 5.]

19.178.040 Inventory list—Compilation of purchase orders. (1) A person conducting a going out of business sale shall, before recording the notice, make either an inventory list of the merchandise to be sold or a compilation of purchase orders issued by the business in the thirty days before recording the notice of the sale.

(2) If a person elects to make an inventory list:

(a) The inventory list must identify the merchandise and include the quantity of each item and the price at which each item was offered for sale within one week of recording the notice;

(b) The inventory list must identify items ordered within thirty days of recording the notice but not yet received by the business;

(c) The inventory list must be permanently attached to an affidavit executed by the person recording the notice of the sale stating that the inventory list is a true and correct inventory of merchandise owned by the business conducting the sale as of the date the affidavit is executed; and

(d) No item may be offered for sale at a going out of business sale unless the item is included in the inventory list for the sale.

(3) If a person elects to make a purchase order compilation, the compilation must be permanently attached to an affidavit executed by the person recording the notice of the sale stating that the compilation is a true and correct compilation of the purchase orders issued by the business in the thirty days before recording the notice of the sale.

(4) The affidavit must be signed under oath and acknowledged before a notary public. Each page of the inventory list or purchase order compilation must be marked in some form by a notary public to verify its identity as part of the inventory list or purchase order compilation for the going out of business sale.

(5) A person conducting a going out of business sale shall maintain possession of the affidavit and attached inventory list or purchase order compilation for three years after the ending date of the sale. The inventory list or purchase order compilation is admissible evidence of compliance or noncompliance with this chapter. [1993 c 456 § 6.]

19.178.050 Business identification number—Ownership interest purposes limited—Application of consumer protection act. (1) No person may conduct a going out of business sale except a person with a valid Washington state business identification number.

(2) No person may conduct a going out of business sale if a person who has an ownership interest in the business or in the merchandise to be sold established or acquired an ownership interest in the business solely or principally for the purpose of conducting a going out of business sale. A person who has either conducted a going out of business sale within one year or established or acquired an interest in the business conducting the sale within six months of recording the notice is presumed to have established or acquired an interest in the business solely or principally for the purpose of conducting a going out of business sale.

(3) No person may conduct a going out of business sale if a person who has an ownership interest in the business or in the merchandise to be sold is subject to a court order resulting from a civil enforcement action under the consumer protection act for a violation of this chapter or the type of conduct prohibited by this chapter. [1993 c 456 § 7.]

19.178.060 Time limit. No person may conduct a going out of business sale for more than sixty days from the beginning date of the sale. [1993 c 456 § 8.]

19.178.070 Merchandise—Consigned or not owned by seller—Transfer—Additional. (1) No person may sell consigned merchandise or other merchandise not owned by the person signing the notice at a going out of business sale. Merchandise ordered within thirty days of recording the notice of the sale may consist only of bona fide orders made

in the usual course of business and may contain no merchandise taken on consignment or otherwise.

(2) No person in contemplation of conducting a going out of business sale may transfer merchandise from an affiliated business or business location to the location or locations of the sale.

(3) No person, after recording the notice of a going out of business sale, may buy or order merchandise, take merchandise on consignment, or receive a transfer of merchandise from an affiliated business or business location for the purpose of selling it at the sale or sell the merchandise in a going out of business sale. [1993 c 456 § 9.]

19.178.080 Continuing business prohibited—Exception. (1) No person may continue to conduct a going out of business sale beyond the ending date listed in the notice of the sale.

(2) No person after conducting a going out of business sale may remain in business under any of the same ownership, or under the same or substantially the same trade name, or continue to offer for sale the same type of merchandise for a period of one year after the ending date of the sale unless the continuing business location was in operation before recording the notice for the closing business location.

(3) For the purposes of this section, if a business entity that is prohibited from continuing a business under this section reformulates itself as a new entity or as an individual, whether by sale, merger, acquisition, bankruptcy, dissolution, or other transaction, for the purpose of continuing the business or profiting from the business, the successor entity or individual is considered the same person as the original entity. If an individual who is prohibited from continuing a business under this section forms a new business entity to continue the business, participate in the business, or profit from the business, that entity is considered the same person as the individual. [1993 c 456 § 10.]

19.178.090 Means for continuation of closing business location prohibited. No person may conduct a going out of business sale if any means have been established for continuation of the closing business location by the same owner, directly or indirectly, by corporation, trust, unincorporated association, partnership, or other legal entity under the same name or under a different name. [1993 c 456 § 11.]

19.178.100 Advertising—Moving sale. (1) No person may advertise a going out of business sale more than fourteen days before the beginning date of the sale. All advertising of the sale must state the beginning date and must clearly and prominently state the ending date of the sale. Except as provided in subsection (2) of this section, all advertising must be confined to or refer to the address or addresses and place or places of business specified in the notice as going out of business and may not state that other locations or affiliated businesses are cooperating with or participating in the sale unless the other locations or affiliated businesses are included in the notice.

(2) Advertising broadcast on radio is not required to refer to the address or addresses of the business specified in the notice as going out of business, but must meet all other conditions of this section.

(3) No advertising may contain false, misleading, or deceptive statements regarding the nature, duration, merchandise, or other terms of a going out of business sale.

(4) Representations in advertising regarding price savings or discounts on sale merchandise must be bona fide and substantiated.

(5) A moving sale may not be advertised for more than ninety days and may not occur more than once within a twenty-four month period. [1993 c 456 § 12.]

19.178.110 Violations—Application of consumer protection act. The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. Violations of this chapter are not reasonable in relation to the development and preservation of business. A violation of this chapter is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW. [1993 c 456 § 1.]

19.178.120 Violation—False or incorrect notice—Penalty. A person who knowingly violates this chapter or who knowingly gives false or incorrect information in a notice required by this chapter is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW. [1993 c 456 § 13.]

19.178.130 Proceedings instituted by attorney general or prosecuting attorney. The attorney general or the proper prosecuting attorney may institute proceedings under this chapter. [1993 c 456 § 14.]

19.178.140 State preemption. The state of Washington fully occupies and preempts the entire field of regulating going out of business sales. [1993 c 456 § 15.]

19.178.900 Application of chapter—Exceptions. (1) This chapter shall apply only to persons who engage in the retail sale of merchandise in their regular course of business.

(2) This chapter does not apply to:

(a) Persons acting in accordance with their powers and duties as public officers, such as county sheriffs;

(b) Bulk transfers as defined in *RCW 62A.6-102; or

(c) Moving sales, except for RCW 19.178.100(5).

(3) Going out of business sales of perishable merchandise or merchandise damaged by fire, smoke, or water are exempt from the requirement that the notice of the sale be recorded at least fourteen days before the beginning date of the sale. [1993 c 456 § 4.]

***Reviser's note:** RCW 62A.6-102 was repealed by 1993 c 395 § 6-101.

19.178.901 Severability—1993 c 456. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or

the application of the provision to other persons or circumstances is not affected. [1993 c 456 § 16.]

Chapter 19.182
FAIR CREDIT REPORTING ACT

Sections

19.182.005 Findings—Declaration. (Effective January 1, 1994.) The legislature finds and declares that consumers have a vital interest in establishing and maintaining creditworthiness. The legislature further finds that an elaborate mechanism using credit reports has developed for investigating and evaluating a consumer's creditworthiness, credit capacity, and general reputation and character. As such, credit reports are used for evaluating credit card, loan, mortgage, and small business financing applications, as well as for decisions regarding employment and the rental or leasing of dwellings. Moreover, financial institutions and other creditors depend upon fair and accurate credit reports to efficiently and accurately evaluate creditworthiness. Unfair or inaccurate reports undermine both public and creditor confidences in the reliability of credit granting systems.

Therefore, this chapter is necessary to assure accurate credit data collection, maintenance, and reporting on the citizens of the state. It is the policy of the state that credit reporting agencies maintain accurate credit reports, resolve disputed reports promptly and fairly, and adopt reasonable procedures to promote consumer confidentiality and the proper use of credit data in accordance with this chapter. [1993 c 476 § 1.]

19.182.010 Definitions. (Effective January 1, 1994.) Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1)(a) "Adverse action" includes:

(i) Denial of, increase in any charge for, or reduction in the amount of insurance for personal, family, or household purposes;

(ii) Denial of employment or any other decision for employment purposes that adversely affects a current or prospective employee;

(iii) Action or determination with respect to a consumer's application for credit that is adverse to the interests of the consumer; and

(iv) Action or determination with respect to a consumer's application for the rental or leasing of residential real estate that is adverse to the interests of the consumer.

(b) "Adverse action" does not include:

(i) A refusal to extend additional credit under an existing credit arrangement if:

(A) The applicant is delinquent or otherwise in default with respect to the arrangement; or

(B) The additional credit would exceed a previously established credit limit; or

(ii) A refusal or failure to authorize an account transaction at a point of sale.

(2) "Attorney general" means the office of the attorney general.

(3) "Consumer" means an individual.

(4)(a) "Consumer report" means a written, oral, or other communication of information by a consumer reporting agency bearing on a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living that is used or expected to be used or collected in whole or in part for:

(i) The purpose of serving as a factor in establishing the consumer's eligibility for credit or insurance to be used primarily for personal, family, or household purposes;

(ii) Employment purposes; or

(iii) Other purposes authorized under RCW 19.182.020.

(b) "Consumer report" does not include:

(i) A report containing information solely as to transactions or experiences between the consumer and the person making the report;

(ii) An authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device;

(iii) A report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys his or her decision with respect to the request, if the third party advises the consumer of the name and address of the person to whom the request was made and the person makes the disclosures to the consumer required under RCW 19.182.070;

(iv) A list compiled by a consumer reporting agency to be used by its client for direct marketing of goods or services not involving an offer of credit;

(v) A report solely conveying a decision whether to guarantee a check in response to a request by a third party; or

(vi) A report furnished for use in connection with a transaction that consists of an extension of credit to be used for a commercial purpose.

(5) "Consumer reporting agency" means a person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the business of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and who uses any means or facility of commerce for the purpose of preparing or furnishing consumer reports. "Consumer reporting agency" does not include a person solely by reason of conveying a decision whether to guarantee a check in response to a request by a third party or a person who obtains a consumer report and provides the report or information contained in it to a subsidiary or affiliate of the person.

(6) "Credit transaction that is not initiated by the consumer" does not include the use of a consumer report by an assignee for collection or by a person with which the consumer has an account, for purposes of (a) reviewing the account, or (b) collecting the account. For purposes of this subsection "reviewing the account" includes activities related to account maintenance and monitoring, credit line increases, and account upgrades and enhancements.

(7) "Direct solicitation" means the process in which the consumer reporting agency compiles or edits for a client a list of consumers who meet specific criteria and provides this list to the client or a third party on behalf of the client for use in soliciting those consumers for an offer of a product or service.

(8) "Employment purposes," when used in connection with a consumer report, means a report used for the purpose of evaluating a consumer for employment, promotion, reassignment, or retention as an employee.

(9) "File," when used in connection with information on any consumer, means all of the information on that consumer recorded and retained by a consumer reporting agency regardless of how the information is stored.

(10) "Investigative consumer report" means a consumer report or portion of it in which information on a consumer's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on or with others with whom the consumer is acquainted or who may have knowledge concerning any items of information. However, the information does not include specific factual information on a consumer's credit record obtained directly from a creditor of the consumer or from a consumer reporting agency when the information was obtained directly from a creditor of the consumer or from the consumer.

(11) "Medical information" means information or records obtained, with the consent of the individual to whom it relates, from a licensed physician or medical practitioner, hospital, clinic, or other medical or medically related facility.

(12) "Person" includes an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal or commercial entity.

(13) "Prescreening" means the process in which the consumer reporting agency compiles or edits for a client a list of consumers who meet specific credit criteria and provides this list to the client or a third party on behalf of the client for use in soliciting those consumers for an offer of credit. [1993 c 476 § 3.]

19.182.020 Consumer report—Furnishing—Procuring. (Effective January 1, 1994.) (1) A consumer reporting agency may furnish a consumer report only under the following circumstances:

(a) In response to the order of a court having jurisdiction to issue the order;

(b) In accordance with the written instructions of the consumer to whom it relates; or

(c) To a person that the agency has reason to believe:

(i) Intends to use the information in connection with a credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of, the consumer;

(ii) Intends to use the information for employment purposes;

(iii) Intends to use the information in connection with the underwriting of insurance involving the consumer;

(iv) Intends to use the information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status; or

(v) Otherwise has a legitimate business need for the information in connection with a business transaction involving the consumer.

(2)(a) A person may not procure a consumer report, or cause a consumer report to be procured, for employment purposes with respect to any consumer who is not an employee at the time the report is procured or caused to be procured unless:

(i) A clear and conspicuous disclosure has been made in writing to the consumer before the report is procured or caused to be procured that a consumer report may be obtained for purposes of considering the consumer for employment. The disclosure may be contained in a written statement contained in employment application materials; or

(ii) The consumer authorizes the procurement of the report.

(b) A person may not procure a consumer report, or cause a consumer report to be procured, for employment purposes with respect to any employee unless the employee has received, at any time after the person became an employee, written notice that consumer reports may be used for employment purposes. A written statement that consumer reports may be used for employment purposes that is contained in employee guidelines or manuals available to employees or included in written materials provided to employees constitutes written notice for purposes of this subsection. This subsection does not apply with respect to a consumer report of an employee who the employer has reasonable cause to believe has engaged in specific activity that constitutes a violation of law.

(c) In using a consumer report for employment purposes, before taking any adverse action based in whole or part on the report, a person shall provide to the consumer to whom the report relates: (i) The name, address, and telephone number of the consumer reporting agency providing the report; (ii) a description of the consumer's rights under this chapter pertaining to consumer reports obtained for employment purposes; and (iii) a reasonable opportunity to respond to any information in the report that is disputed by the consumer. [1993 c 476 § 4.]

19.182.030 Consumer report—Credit action not initiated by consumer—Exclusion by consumer. (Effective January 1, 1994.) (1) A consumer reporting agency may provide a consumer report relating to a consumer under RCW 19.182.020(1)(c)(i) in connection with a credit transaction that is not initiated by the consumer only if:

(a) The consumer authorized the consumer reporting agency to provide the report to such a person; or

(b) The consumer has not elected in accordance with subsection (3) of this section to have the consumer's name and address excluded from such transactions.

(2) A consumer reporting agency may provide only the following information under subsection (1) of this section:

(a) The name and address of the consumer; and

(b) Information pertaining to a consumer that is not identified or identifiable with particular accounts or transactions of the consumer.

(3)(a) A consumer may elect to have his or her name and address excluded from any list provided by a consumer reporting agency through prescreening under subsection (1) of this section or from any list provided by a consumer reporting agency for direct solicitation transactions that are not initiated by the consumer by notifying the consumer reporting agency. The notice must be made in writing through the notification system maintained by the consumer reporting agency under subsection (4) of this section and must state that the consumer does not consent to any use of consumer reports relating to the consumer in connection with any transaction that is not initiated by the consumer.

(b) An election of a consumer under (a) of this subsection is effective with respect to a consumer reporting agency and any affiliate of the consumer reporting agency, within five business days after the consumer reporting agency receives the consumer's notice.

(4) A consumer reporting agency that provides information intended to be used in a prescreened credit transaction or direct solicitation transaction that is not initiated by the consumer shall:

(a) Maintain a notification system that facilitates the ability of a consumer in the agency's data base to notify the agency to promptly withdraw the consumer's name from lists compiled for prescreened credit transactions and direct solicitation transactions not initiated by the consumer; and

(b) Publish at least annually in a publication of general circulation in the area served by the agency, the address for consumers to use to notify the agency of the consumer's election under subsection (3) of this section.

(5) A consumer reporting agency that maintains consumer reports on a nation-wide basis shall establish a system meeting the requirements of subsection (4) of this section on a nation-wide basis, and may operate such a system jointly with any other consumer reporting agencies.

(6) Compliance with the requirements of this section by any consumer reporting agency constitutes compliance by the agency's affiliates. [1993 c 476 § 5.]

19.182.040 Consumer report—Prohibited information—Exceptions. (Effective January 1, 1994.) (1) Except as authorized under subsection (2) of this section, no consumer reporting agency may make a consumer report containing any of the following items of information:

(a) Bankruptcies that, from date of adjudication of the most recent bankruptcy, antedate the report by more than ten years;

(b) Suits and judgments that, from date of entry, antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period;

(c) Paid tax liens that, from date of payment, antedate the report by more than seven years;

(d) Accounts placed for collection or charged to profit and loss that antedate the report by more than seven years;

(e) Records of arrest, indictment, or conviction of crime that, from date of disposition, release, or parole, antedate the report by more than seven years;

(f) Any other adverse item of information that antedates the report by more than seven years.

(2) Subsection (1) of this section is not applicable in the case of a consumer report to be used in connection with:

(a) A credit transaction involving, or that may reasonably be expected to involve, a principal amount of fifty thousand dollars or more;

(b) The underwriting of life insurance involving, or that may reasonably be expected to involve, a face amount of fifty thousand dollars or more; or

(c) The employment of an individual at an annual salary that equals, or that may reasonably be expected to equal, twenty thousand dollars or more. [1993 c 476 § 6.]

19.182.050 Investigative consumer report—Procurement, preparation—Disclosure—Use—Liability—Record. (Effective January 1, 1994.) (1) A person may not procure or cause to be prepared an investigative consumer report on a consumer unless:

(a) It is clearly and accurately disclosed to the consumer that an investigative consumer report including information as to the consumer's character, general reputation, personal characteristics, and mode of living, whichever are applicable, may be made, and the disclosure:

(i) Is made in a writing mailed, or otherwise delivered, to the consumer not later than three days after the date on which the report was first requested; and

(ii) Includes a statement informing the consumer of the consumer's right to request the additional disclosures provided for under subsection (2) of this section and the written summary of the rights of the consumer prepared under RCW 19.182.080(7); or

(b) The report is to be used for employment purposes for which the consumer has not specifically applied.

(2) A person who procures or causes to be prepared an investigative consumer report on a consumer shall make,

upon written request made by the consumer within a reasonable period of time after the receipt by the consumer of the disclosure required in subsection (1)(a) of this section, a complete and accurate disclosure of the nature and scope of the investigation requested. This disclosure must be made in a writing mailed, or otherwise delivered, to the consumer not later than the latter of five days after the date on which the request for the disclosure was either received from the consumer or the report was first requested.

(3) No person may be held liable for a violation of subsection (1) or (2) of this section if the person shows by a preponderance of the evidence that at the time of the violation the person maintained reasonable procedures to assure compliance with subsection (1) or (2) of this section.

(4) A consumer reporting agency shall maintain a detailed record of:

(a) The identity of the person to whom an investigative consumer report or information from a consumer report is provided by the consumer reporting agency; and

(b) The certified purpose for which an investigative consumer report on a consumer, or any other information relating to a consumer, is requested by the person.

For purposes of this subsection, "person" does not include an individual who requests the report unless the individual obtains the report or information for his or her own individual purposes. [1993 c 476 § 7.]

19.182.060 Consumer report—Procedures for compliance—Information for governmental agency—Record. (Effective January 1, 1994.) (1) A consumer reporting agency shall maintain reasonable procedures designed to avoid violations of RCW 19.182.040 and to limit the furnishing of consumer reports to the purposes listed under RCW 19.182.020. These procedures must require that prospective users of the information identify themselves, certify the purposes for which the information is sought, and certify that the information will be used for no other purpose. A consumer reporting agency shall make a reasonable effort to verify the identity of a new prospective user and the uses certified by the prospective user before furnishing the user a consumer report. No consumer reporting agency may furnish a consumer report to a person if the agency has reasonable grounds for believing that the consumer report will not be used for a purpose listed in RCW 19.182.020.

(2) Whenever a consumer reporting agency prepares a consumer report it shall follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates.

(3) Notwithstanding RCW 19.182.020, a consumer reporting agency may furnish identifying information about a consumer, limited to the consumer's name, address, former addresses, places of employment, or former places of employment, to a governmental agency.

(4) A consumer reporting agency shall maintain a detailed record of:

(a) The identity of any person to whom a consumer report or information from a consumer report is provided by the consumer reporting agency; and

(b) The certified purpose for which a consumer report on a consumer, or any other information relating to a consumer, is requested by any person.

For purposes of this subsection, "person" does not include an individual who requests the report unless the individual obtains the report or information for his or her own purposes. [1993 c 476 § 8.]

19.182.070 Disclosures to consumer. (Effective January 1, 1994.) A consumer reporting agency shall, upon request by the consumer, clearly and accurately disclose:

(1) All information in the file on the consumer at the time of request, except that medical information may be withheld. The agency shall inform the consumer of the existence of medical information, and the consumer has the right to have that information disclosed to the health care provider of the consumer's choice. Nothing in this chapter prevents, or authorizes a consumer reporting agency to prevent, the health care provider from disclosing the medical information to the consumer. The agency shall inform the consumer of the right to disclosure of medical information at the time the consumer requests disclosure of his or her file.

(2) All items of information in its files on that consumer, including disclosure of the sources of the information, except that sources of information acquired solely for use in an investigative report may only be disclosed to a plaintiff under appropriate discovery procedures.

(3) Identification of (a) each person who for employment purposes within the two-year period before the request, and (b) each person who for any other purpose within the six-month period before the request, procured a consumer report.

(4) A record identifying all inquiries received by the agency in the six-month period before the request that identified the consumer in connection with a credit transaction that is not initiated by the consumer.

(5) An identification of a person under subsection (3) or (4) of this section must include (a) the name of the person or, if applicable, the trade name under which the person conducts business; and (b) upon request of the consumer, the address of the person. [1993 c 476 § 9.]

19.182.080 Disclosures to consumer—Procedures. (Effective January 1, 1994.) (1) A consumer reporting agency shall make the disclosures required under RCW 19.182.070 during normal business hours and on reasonable notice.

(2) The consumer reporting agency shall make the disclosures required under RCW 19.182.070 to the consumer:

(a) In person if the consumer appears in person and furnishes proper identification;

(b) By telephone if the consumer has made a written request, with proper identification, for telephone disclosure and the toll charge, if any, for the telephone call is prepaid by or charged directly to the consumer; or

(c) By any other reasonable means that are available to the consumer reporting agency if that means is authorized by the consumer.

(3) A consumer reporting agency shall provide trained personnel to explain to the consumer, information furnished to the consumer under RCW 19.182.070.

(4) The consumer reporting agency shall permit the consumer to be accompanied by one other person of the consumer's choosing, who shall furnish reasonable identification. A consumer reporting agency may require the consumer to furnish a written statement granting permission to the consumer reporting agency to discuss the consumer's file in the other person's presence.

(5) If a credit score is provided by a consumer reporting agency to a consumer, the agency shall provide an explanation of the meaning of the credit score.

(6) Except as provided in RCW 19.182.150, no consumer may bring an action or proceeding in the nature of defamation, invasion of privacy, or negligence with respect to the reporting of information against a consumer reporting agency or a user of information, based on information disclosed under this section or RCW 19.182.070, except as to false information furnished with malice or willful intent to injure the consumer. Except as provided in RCW 19.182.150, no consumer may bring an action or proceeding against a person who provides information to a consumer reporting agency in the nature of defamation, invasion of privacy, or negligence for unintentional error.

(7)(a) A consumer reporting agency must provide to a consumer, with each written disclosure by the agency to the consumer under RCW 19.182.070, a written summary of all rights and remedies the consumer has under this chapter.

(b) The summary of the rights and remedies of consumers under this chapter must include:

(i) A brief description of this chapter and all rights and remedies of consumers under this chapter;

(ii) An explanation of how the consumer may exercise the rights and remedies of the consumer under this chapter; and

(iii) A list of all state agencies, including the attorney general's office, responsible for enforcing any provision of this chapter and the address and appropriate phone number of each such agency. [1993 c 476 § 10.]

19.182.090 Consumer file—Dispute—Procedure—Notice—Statement of dispute—Toll-free information number. (Effective January 1, 1994.) (1) If the completeness or accuracy of an item of information contained in a consumer's file at a consumer reporting agency is disputed by the consumer and the consumer notifies the agency directly of the dispute, the agency shall reinvestigate without charge and record the current status of the disputed information before the end of thirty business days, beginning on the date the agency receives the notice from the consumer.

(2) Before the end of the five business-day period beginning on the date a consumer reporting agency receives notice of a dispute from a consumer in accordance with subsection (1) of this section, the agency shall notify any person who provided an item of information in dispute.

(3)(a) Notwithstanding subsection (1) of this section, a consumer reporting agency may terminate a reinvestigation of information disputed by a consumer under subsection (1) of this section if the agency determines that the dispute by the consumer is frivolous or irrelevant, including by reason of a failure of the consumer to provide sufficient information.

(b) Upon making a determination in accordance with (a) of this subsection that a dispute is frivolous or irrelevant, a consumer reporting agency shall notify the consumer within five business days of the determination. The notice shall be made in writing or any other means authorized by the consumer that are available to the agency, but the notice shall include the reasons for the determination and a notice of the consumer's rights under subsection (6) of this section.

(4) In conducting a reinvestigation under subsection (1) of this section with respect to disputed information in the file of any consumer, the consumer reporting agency shall review and consider all relevant information submitted by the consumer in the period described in subsection (1) of this section with respect to the disputed information.

(5)(a) If, after a reinvestigation under subsection (1) of this section of information disputed by a consumer, the information is found to be inaccurate or cannot be verified, the consumer reporting agency shall promptly delete the information from the consumer's file.

(b)(i) If information is deleted from a consumer's file under (a) of this subsection, the information may not be reinserted in the file after the deletion unless the person who furnishes the information verifies that the information is complete and accurate.

(ii) If information that has been deleted from a consumer's file under (a) of this subsection is reinserted in the file in accordance with (b)(i) of this subsection, the consumer reporting agency shall notify the consumer of the reinsertion within thirty business days. The notice shall be in writing or any other means authorized by the consumer that are available to the agency.

(6) If the reinvestigation does not resolve the dispute or if the consumer reporting agency determines the dispute is frivolous or irrelevant, the consumer may file a brief statement setting forth the nature of the dispute. The consumer reporting agency may limit these statements to not more than one hundred words if it provides the consumer with assistance in writing a clear summary of the dispute.

(7) After the deletion of information from a consumer's file under this section or after the filing of a statement of dispute under subsection (6) of this section, the consumer reporting agency shall, at the request of the consumer, furnish notification that the item of information has been deleted or that item of information is disputed. In the case of disputed information, the notification shall include the statement filed under subsection (6) of this section. The notification shall be furnished to any person specifically designated by the consumer, who has, within two years before the deletion or filing of a dispute, received a consumer report concerning the consumer for employment purposes, or who has, within six months of the deletion or the filing of the dispute, received a consumer report concerning the consumer for any other purpose, if these consumer reports contained the deleted or disputed information.

(8)(a) Upon completion of the reinvestigation under this section, a consumer reporting agency shall provide notice, in writing or by any other means authorized by the consumer, of the results of a reinvestigation within five business days.

(b) The notice required under (a) of this subsection must include:

(i) A statement that the reinvestigation is completed;

(ii) A consumer report that is based upon the consumer's file as that file is revised as a result of the reinvestigation;

(iii) A description or indication of any changes made in the consumer report as a result of those revisions to the consumer's file;

(iv) If requested by the consumer, a description of the procedure used to determine the accuracy and completeness of the information shall be provided to the consumer by the agency, including the name, business address, and telephone number of any person contacted in connection with the information;

(v) If the reinvestigation does not resolve the dispute, a summary of the consumer's right to file a brief statement as provided in subsection (6) of this section; and

(vi) If information is deleted or disputed after reinvestigation, a summary of the consumer's right to request notification to persons who have received a consumer report as provided in subsection (7) of this section.

(9) In the case of a consumer reporting agency that compiles and maintains consumer reports on a nation-wide basis, the consumer reporting agency must provide to a consumer who has undertaken to dispute the information contained in his or her file a toll-free telephone number that the consumer can use to communicate with the agency. A consumer reporting agency that provides a toll-free number required by this subsection shall also provide adequately trained personnel to answer basic inquiries from consumers using the toll-free number. [1993 c 476 § 11.]

19.182.100 Consumer reporting agency—Consumer fees and charges for required information—Exceptions. (Effective January 1, 1994.) (1) Except as provided in subsections (2) and (3) of this section, a consumer reporting agency may charge the following fees to the consumer:

(a) For making a disclosure under RCW 19.182.070 and 19.182.080, the consumer reporting agency may charge a fee not exceeding eight dollars. Beginning January 1, 1995, the eight-dollar charge may be adjusted on January 1st of each year based on corresponding changes in the consumer price index with fractional changes rounded to the nearest half dollar.

(b) For furnishing a notification, statement, or summary to a person under RCW 19.182.090(7), the consumer reporting agency may charge a fee not exceeding the charge that the agency would impose on each designated recipient for a consumer report. The amount of any charge must be disclosed to the consumer before furnishing the information.

(2) A consumer reporting agency shall make all disclosures under RCW 19.182.070 and 19.182.080 and furnish all consumer reports under RCW 19.182.090 without charge, if requested by the consumer within sixty days after receipt by the consumer of a notification of adverse action under RCW 19.182.110 or of a notification from a debt collection agency affiliated with that consumer reporting agency stating that the consumer's credit rating may be or has been adversely affected.

(3) A consumer reporting agency shall not impose any charge for (a) providing notice to a consumer required under RCW 19.182.090, or (b) notifying a person under RCW 19.182.090(7) of the deletion of information that is found to be inaccurate or that can no longer be verified, if the consumer designates that person to the agency before the end of the thirty-day period beginning on the date of notice under RCW 19.182.090(8). [1993 c 476 § 12.]

19.182.110 Adverse action based on report—Procedure—Notice. (Effective January 1, 1994.) If a person takes an adverse action with respect to a consumer that is based, in whole or in part, on information contained in a consumer report, the person shall:

(1) Provide written notice of the adverse action to the consumer, except verbal notice may be given by a person in an adverse action involving a business regulated by the Washington utilities and transportation commission or involving an application for the rental or leasing of residential real estate if such verbal notice does not impair a consumer's ability to obtain a credit report without charge under RCW 19.182.100(2); and

(2) Provide the consumer with the name, address, and telephone number of the consumer reporting agency that furnished the report to the person. [1993 c 476 § 13.]

19.182.120 Limitation on action—Exception. (Effective January 1, 1994.) An action to enforce a liability created under this chapter is permanently barred unless commenced within two years after the cause of action accrues, except that where a defendant has materially and willfully misrepresented information required under this chapter to be disclosed to an individual and the information so misrepresented is material to the establishment of the defendant's liability to that individual under this chapter, the action may be brought at any time within two years after discovery by the individual of the misrepresentation. [1993 c 476 § 14.]

19.182.130 Obtaining information under false pretenses—Penalty. (Effective January 1, 1994.) A person who knowingly and willfully obtains information on a consumer from a consumer reporting agency under false pretenses is subject to a fine of up to five thousand dollars or imprisonment for up to one year, or both. [1993 c 476 § 15.]

19.182.140 Provision of information to unauthorized person—Penalty. (Effective January 1, 1994.) An officer or employee of a consumer reporting agency who knowingly and willfully provides information concerning an individual from the agency's files to a person not authorized to receive that information is subject to a fine of up to five thousand dollars or imprisonment for up to one year, or both. [1993 c 476 § 16.]

19.182.150 Application of consumer protection act—Limitation—Awards—Penalties—Attorneys' fees. (Effective January 1, 1994.) The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. Violations of this chapter are not reasonable in relation to the development and preservation of business. A violation of this chapter is an unfair or deceptive act in trade or commerce and an unfair

method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW. The burden of proof in an action alleging a violation of this chapter shall be by a preponderance of the evidence, and the applicable statute of limitation shall be as set forth in RCW 19.182.120. For purposes of a judgment awarded pursuant to an action by a consumer under chapter 19.86 RCW, the consumer shall be awarded actual damages and costs of the action together with reasonable attorney's fees as determined by the court. However, where there has been willful failure to comply with any requirement imposed under this chapter, the consumer shall be awarded actual damages, a monetary penalty of one thousand dollars, and the costs of the action together with reasonable attorneys' fees as determined by the court. [1993 c 476 § 17.]

19.182.900 Short title—1993 c 476. This chapter shall be known as the Fair Credit Reporting Act. [1993 c 476 § 2.]

19.182.901 Severability—1993 c 476. 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. [1993 c 476 § 18.]

19.182.902 Effective date—1993 c 476. This act takes effect January 1, 1994. [1993 c 476 § 20.]

Title 20

COMMISSION MERCHANTS—AGRICULTURAL PRODUCTS

Chapters

Chapter 20.01

AGRICULTURAL PRODUCTS—COMMISSION MERCHANTS, DEALERS, BROKERS, BUYERS, AGENTS

Sections

20.01.030 Exemptions. This chapter does not apply to:

(1) Any cooperative marketing associations or federations incorporated under, or whose articles of incorporation and bylaws are equivalent to, the requirements of chapter 23.86 RCW, except as to that portion of the activities of the association or federation that involve the handling or dealing in the agricultural products of nonmembers of the organization: PROVIDED, That the associations or federations may purchase up to fifteen percent of their gross from nonmembers for the purpose of filling orders: PROVIDED FURTHER, That if the cooperative or association acts as a processor as defined in RCW 20.01.500(2) and markets the processed agricultural crops on behalf of the grower or its own behalf, the association or federation is subject to the provisions of RCW 20.01.500 through 20.01.560 and the license provision of this chapter excluding bonding provisions: PROVIDED FURTHER, That none of the foregoing exemptions in this subsection apply to any such cooperative or federation dealing in or handling grain in any manner, and not licensed under the provisions of chapter 22.09 RCW;

(2) Any person who sells exclusively his or her own agricultural products as the producer thereof;

(3) Any public livestock market operating under a bond required by law or a bond required by the United States to secure the performance of the public livestock market's obligation. However, any such market operating as a livestock dealer or order buyer, or both, is subject to all provisions of this chapter except for the payment of the license fee required in RCW 20.01.040;

(4) Any retail merchant having a bona fide fixed or permanent place of business in this state, but only for the retail merchant's retail business conducted at such fixed or established place of business;

(5) Any person buying farm products for his or her own use or consumption;

(6) Any warehouseman or grain dealer licensed under the state grain warehouse act, chapter 22.09 RCW, with respect to his or her handling of any agricultural product as defined under that chapter;

(7) Any nurseryman who is required to be licensed under the horticultural laws of the state with respect to his or her operations as such licensee;

(8) Any person licensed under the now existing dairy laws of the state with respect to his or her operations as such licensee;

(9) Any producer who purchases less than fifteen percent of his or her volume to complete orders;

(10) Any person, association, or corporation regulated under chapter 67.16 RCW and the rules adopted thereunder while performing acts regulated by that chapter and the rules adopted thereunder;

(11) Any domestic winery, as defined in RCW 66.04.010, licensed under Title 66 RCW, with respect to its transactions involving agricultural products used by the domestic winery in making wine. [1993 c 104 § 1. Prior: 1989 c 354 § 38; 1989 c 307 § 37; 1988 c 254 § 10; 1983 c 305 § 2; 1982 c 194 § 2; 1981 c 296 § 31; 1979 ex.s. c 115 § 2; 1977 ex.s. c 304 § 2; 1975 1st ex.s. c 7 § 18; 1971 ex.s. c 182 § 2; 1969 ex.s. c 132 § 1; 1967 c 240 § 41; 1959 c 139 § 3.]

Severability—1989 c 354: See note following RCW 15.32.010.

Legislative finding—1989 c 307: See note following RCW 23.86.007.

Application—1989 c 307: See RCW 23.86.900.

Severability—1983 c 305: See note following RCW 20.01.010.

Severability—1981 c 296: See note following RCW 15.04.020.

20.01.130 Disposition of moneys. All fees and other moneys received by the department under the provisions of this chapter shall be paid to the director and shall be used solely for the purpose of carrying out the provisions of this chapter and rules adopted hereunder or for departmental

administrative expenses during the 1993-95 biennium. All civil fines received by the courts as the result of notices of infractions issued by the director shall be paid to the director, less any mandatory court costs and assessments. [1993 1st sp.s. c 24 § 929; 1986 c 178 § 8; 1973 c 142 § 1; 1971 ex.s. c 182 § 7; 1959 c 139 § 13.]

Severability—Effective dates—1993 1st sp.s. c 24: See notes following RCW 28A.165.070.

Title 21
SECURITIES AND INVESTMENTS

Chapters

Chapter 21.20
SECURITIES ACT OF WASHINGTON

Sections

21.20.005 Definitions. The definitions set forth in this section shall apply throughout this chapter, unless the context otherwise requires:

(1) "Director" means the director of financial institutions of this state.

(2) "Salesperson" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect sales of securities, but "salesperson" does not include an individual who represents an issuer in (a) effecting a transaction in a security exempted by RCW 21.20.310(1), (2), (3), (4), (9), (10), (11), (12), or (13), (b) effecting transactions exempted by RCW 21.20.320, or (c) effecting transactions with existing employees, partners, or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state.

(3) "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for that person's own account. "Broker-dealer" does not include (a) a salesperson, issuer, bank, savings institution, or trust company, (b) a person who has no place of business in this state if the person effects transactions in this state exclusively with or through the issuers of the securities involved in the transactions, other broker-dealers, or banks, savings institutions, trust companies, insurance companies, investment companies as defined in the investment company act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or (c) a person who has no place of business in this state if during any period of twelve consecutive months that person does not direct more than fifteen offers to sell or to buy into this state in any manner to persons other than those specified in subsection (b) above.

(4) "Guaranteed" means guaranteed as to payment of principal, interest, or dividends.

(5) "Full business day" means all calendar days, excluding therefrom Saturdays, Sundays, and all legal holidays, as defined by statute.

(6) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" also includes financial planners and other persons who, as an integral component of other financially related services, (a) provide the foregoing investment advisory services to others for compensation as part of a business or (b) hold themselves out as providing the foregoing investment advisory services to others for compensation. Investment adviser shall also include any person who holds himself out as a financial planner.

"Investment adviser" does not include (a) a bank, savings institution, or trust company, (b) a lawyer, accountant, certified public accountant licensed under chapter 18.04 RCW, engineer, or teacher whose performance of these services is solely incidental to the practice of his or her profession, (c) a broker-dealer, (d) a publisher of any bona fide newspaper, news magazine, or business or financial publication of general, regular, and paid circulation, (e) a radio or television station, (f) a person whose advice, analyses, or reports relate only to securities exempted by RCW 21.20.310(1), (g) a person who has no place of business in this state if (i) that person's only clients in this state are other investment advisers, broker-dealers, banks, savings institutions, trust companies, insurance companies, investment companies as defined in the investment company act of 1940, pension or profit-sharing trust, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or (ii) during any period of twelve consecutive months that person does not direct business communications into this state in any manner to more than five clients other than those specified in clause (i) above, or (h) such other persons not within the intent of this paragraph as the director may by rule or order designate.

(7) "Issuer" means any person who issues or proposes to issue any security, except that with respect to certificates of deposit, voting trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions) or of the fixed, restricted management, or unit type; the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued.

(8) "Nonissuer" means not directly or indirectly for the benefit of the issuer.

(9) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interest of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government.

(10) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value. "Offer" or "offer to sell" includes every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value.

Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value. A purported gift of assessable stock is considered to involve an offer and sale. Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security.

(11) "Securities Act of 1933," "Securities Exchange Act of 1934," "Public Utility Holding Company Act of 1935," and "Investment Company Act of 1940" means the federal statutes of those names as amended before or after June 10, 1959.

(12) "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement; collateral-trust certificate; preorganization certificate or subscription; transferable share; investment contract; investment of money or other consideration in the risk capital of a venture with the expectation of some valuable benefit to the investor where the investor does not receive the right to exercise practical and actual control over the managerial decisions of the venture; voting-trust certificate; certificate of deposit for a security; certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease; charitable gift annuity; or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing; or any sale of or indenture, bond or contract for the conveyance of land or any interest therein where such land is situated outside of the state of Washington and such sale or its offering is not conducted by a real estate broker licensed by the state of Washington. "Security" does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay money either in a lump sum or periodically for life or some other specified period.

(13) "State" means any state, territory, or possession of the United States, as well as the District of Columbia and Puerto Rico.

(14) "Investment adviser salesperson" means a person retained or employed by an investment adviser to solicit clients or offer the services of the investment adviser or manage the accounts of said clients.

(15) "Relatives," as used in RCW 21.20.310(11) includes:

(a) A member's spouse;

(b) Parents of the member or the member's spouse;

(c) Grandparents of the member or the member's spouse;

(d) Natural or adopted children of the member or the member's spouse;

(e) Aunts and uncles of the member or the member's spouse; and

(f) First cousins of the member or the member's spouse.

(16) "Customer" means a person other than a broker-dealer or investment adviser. [1993 c 472 § 14; 1993 c 470 § 4; 1989 c 391 § 1; 1979 ex.s. c 68 § 1; 1979 c 130 § 3; 1977 ex.s. c 188 § 1; 1975 1st ex.s. c 84 § 1; 1967 c 199 § 1; 1961 c 37 § 1; 1959 c 282 § 60.]

Reviser's note: This section was amended by 1993 c 470 § 4 and by 1993 c 472 § 14, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—Implementation—1993 c 472: See RCW 43.320.900 and 43.320.901.

Severability—1979 c 130: See note following RCW 28B.10.485.

21.20.030 Unlawful acts of investment adviser. It is unlawful for any investment adviser to enter into, extend, or renew any investment advisory contract unless it provides in writing:

(1) That the investment adviser shall not be compensated on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client; however, this subsection does not prohibit: (a) An investment advisory contract which provides for compensation based upon the total of a fund averaged over a definite period, or as of definite dates or taken as of a definite date; or (b) performance compensation arrangements permitted under any rule the director may adopt in order to allow performance compensation arrangements permitted under the Investment Advisers Act of 1940 and regulations promulgated by the securities and exchange commission thereunder;

(2) That no assignment of the contract may be made by the investment adviser without the consent of the other party to the contract; and

(3) That the investment adviser, if a partnership, shall notify the other party to the contract of any change in the membership of the partnership within a reasonable time after the change.

"Assignment", as used in subsection (2) of this section, includes any direct or indirect transfer or hypothecation of an investment advisory contract by the assignor or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor; but, if the investment adviser is a partnership, no assignment of an investment advisory contract is considered to result from the death or withdrawal of a minority of the members of the investment adviser having only a minority interest in the business of the investment adviser, or from the admission to the investment adviser of one or more members who, after admission, will be only a minority of the members and will have only a minority interest in the business. [1993 c 114 § 1; 1959 c 282 § 3.]

21.20.035 Unlawful purchases or sales for customer's account. It is unlawful for a broker-dealer, salesperson, investment adviser, or investment adviser salesperson knowingly to effect or cause to be effected, with or for a customer's account, transactions of purchase or sale (1) that are excessive in size or frequency in view of the financial resources and character of the account and (2) that are effected because the broker-dealer, salesperson, investment adviser, or investment adviser salesperson is vested with discretionary power or is able by reason of the customer's trust and confidence to influence the volume and frequency of the trades. [1993 c 470 § 1.]

21.20.110 Denial, suspension, revocation of registration—Censure, fine, restrict the registrant—Grounds. The director may by order deny, suspend, or revoke registration of any broker-dealer, salesperson, investment adviser salesperson, or investment adviser; censure or fine the registrant or an officer, director, partner, or person occupying similar functions for a registrant; or restrict or limit a registrant's function or activity of business for which registration is required in this state; if the director finds that the order is in the public interest and that the applicant or registrant or, in the case of a broker-dealer or investment adviser, any partner, officer, or director:

(1) Has filed an application for registration under this section which, as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in the light of the circumstances under which it was made, false, or misleading with respect to any material fact;

(2) Has willfully violated or willfully failed to comply with any provision of this chapter or a predecessor act or any rule or order under this chapter or a predecessor act, or any provision of chapter 21.30 RCW or any rule or order thereunder;

(3) Has been convicted, within the past five years, of any misdemeanor involving a security, or a commodity contract or commodity option as defined in RCW 21.30.010, or any aspect of the securities or investment commodities business, or any felony involving moral turpitude;

(4) Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities or investment commodities business;

(5) Is the subject of an order of the director denying, suspending, or revoking registration as a broker-dealer, salesperson, investment adviser, or investment adviser salesperson;

(6) Is the subject of an order entered within the past five years by the securities administrator of any other state or by the federal securities and exchange commission denying or revoking registration as a broker-dealer or salesperson, or a commodity broker-dealer or sales representative, or the substantial equivalent of those terms as defined in this chapter or by the commodity futures trading commission denying or revoking registration as a commodity merchant as defined in RCW 21.30.010, or is the subject of an order of suspension or expulsion from membership in or association with a self-regulatory organization registered under the securities exchange act of 1934 or the federal commodity exchange act, or is the subject of a United States post office fraud order; but (a) the director may not institute a revocation or suspension proceeding under this clause more than one year from the date of the order relied on, and (b) the director may not enter any order under this clause on the basis of an order unless that order was based on facts which would currently constitute a ground for an order under this section;

(7) Has engaged in dishonest or unethical practices in the securities or investment commodities business;

(8) Is insolvent, either in the sense that his or her liabilities exceed his or her assets or in the sense that he or she cannot meet his or her obligations as they mature; but the director may not enter an order against a broker-dealer or investment adviser under this clause without a finding of insolvency as to the broker-dealer or investment adviser;

(9) Has not complied with a condition imposed by the director under RCW 21.20.100, or is not qualified on the basis of such factors as training, experience, or knowledge of the securities business; or

(10)(a) Has failed to supervise reasonably a salesperson or an investment adviser salesperson. For the purposes of this subsection, no person fails to supervise reasonably another person, if:

(i) There are established procedures, and a system for applying those procedures, that would reasonably be expected to prevent and detect, insofar as practicable, any violation by another person of this chapter, or a rule or order under this chapter; and

(ii) The supervising person has reasonably discharged the duties and obligations required by these procedures and system without reasonable cause to believe that another person was violating this chapter or rules or orders under this chapter.

(b) The director may issue a summary order pending final determination of a proceeding under this section upon a finding that it is in the public interest and necessary or appropriate for the protection of investors. The director may not impose a fine under this section except after notice and opportunity for hearing. The fine imposed under this section may not exceed five thousand dollars for each act or omission that constitutes the basis for issuing the order. [1993 c 470 § 3; 1986 c 14 § 45; 1979 ex.s. c 68 § 7; 1975 1st ex.s. c 84 § 7; 1965 c 17 § 2; 1959 c 282 § 11.]

Severability—Effective date—1986 c 14: See RCW 21.30.900 and 21.30.901.

21.20.450 Administration of chapter—Rules and forms, publication—Cooperation with other state and federal authorities. The administration of the provisions of this chapter shall be under the department of financial institutions. The director may from time to time make, amend, and repeal such rules and forms as are necessary to carry out the provisions of this chapter, including rules defining any term, whether or not such term is used in the Washington securities law. The director may classify securities, persons, and matters within the director's jurisdiction, and prescribe different requirements for different classes. No rule or form may be made unless the director finds that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with

the purposes fairly intended by the policy and provisions of this chapter. In prescribing rules and forms the director may cooperate with the securities administrators of the other states and the securities and exchange commission with a view to effectuating the policy of this statute to achieve maximum uniformity in the form and content of registration statements, applications, and reports wherever practicable. All rules and forms of the director shall be published. [1993 c 472 § 15; 1979 ex.s. c 68 § 33; 1979 c 158 § 86; 1975 1st ex.s. c 84 § 25; 1959 c 282 § 45.]

Effective date—Implementation—1993 c 472: See RCW 43.320.900 and 43.320.901.

21.20.702 Suitability of recommendation—Reasonable grounds required. (1) In recommending to a customer the purchase, sale, or exchange of a security, a broker-dealer, salesperson, investment adviser, or investment adviser salesperson must have reasonable grounds for believing that the recommendation is suitable for the customer upon the basis of the facts, if any, disclosed by the customer as to his or her other security holdings and as to his or her financial situation and needs.

(2) Before the execution of a transaction recommended to a noninstitutional customer, other than transactions with customers where investments are limited to money market mutual funds, a broker-dealer, salesperson, investment adviser, or investment adviser salesperson shall make reasonable efforts to obtain information concerning:

(a) The customer's financial status;

(b) The customer's tax status;

(c) The customer's investment objectives; and

(d) Such other information used or considered to be reasonable by the broker-dealer, salesperson, investment adviser, or investment adviser salesperson or registered representative in making recommendations to the customer. [1993 c 470 § 2.]

21.20.720 Debenture companies—Prohibited activities by directors, officers, or controlling persons. (1) A director, officer, or controlling person of a debenture company shall not:

(a) Have any interest, direct or indirect, in the gains or profits of the debenture company, except to receive dividends upon the amounts contributed by him or her, the same as any other investor or shareholder and under the same regulations and conditions: PROVIDED, That nothing in this subsection shall be construed to prohibit salaries as may be approved by the debenture company's board of directors;

(b) Become a member of the board of directors or a controlling shareholder of another debenture company or a bank, trust company, or national banking association, of which board enough other directors or officers of the debenture company are members so as to constitute with him or her a majority of the board of directors.

(2) A director, an officer, or controlling person shall not:

(a) For himself or herself or as agent or partner of another, directly or indirectly use any of the funds held by the debenture company, except to make such current and necessary payments as are authorized by the board of directors;

(b) Receive directly or indirectly and retain for his or her own use any commission on or benefit from any loan made by the debenture company, or any pay or emolument for services rendered to any borrower from the debenture company in connection with such loan;

(c) Become an indorser, surety, or guarantor, or in any manner an obligor, for any loan made from the debenture company and except when approval has been given by the director of financial institutions or the director's administrator of securities upon recommendation by the company's board of directors.

(d) For himself or herself or as agent or partner of another, directly or indirectly borrow any of the funds held by the debenture company, or become the owner of real or personal property upon which the debenture company holds a mortgage, deed of trust, or property contract. A loan to or a purchase by a corporation in which he or she is a stockholder to the amount of fifteen percent of the total outstanding stock, or in which he or she and other directors, officers, or controlling persons of the debenture company hold stock to the amount of twenty-five percent of the total outstanding stock, shall be deemed a loan to or a purchase by such director or officer within the meaning of this section, except when the loan to or purchase by such corporation occurred without his or her knowledge or against his or her protest. [1993 c 472 § 16; 1987 c 421 § 4; 1979 ex.s. c 68 § 41; 1979 c 158 § 87; 1973 1st ex.s. c 171 § 9.]

Effective date—Implementation—1993 c 472: See RCW 43.320.900 and 43.320.901.

Effective date—Application—Severability—1987 c 421: See notes following RCW 21.20.705.

Effective date—Construction—Severability—1973 1st ex.s. c 171: See RCW 21.20.800 and 21.20.805.

Chapter 21.35

UNIFORM TRANSFER ON DEATH SECURITY REGISTRATION ACT

Sections

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

(1) "Beneficiary form" means a registration of a security that indicates the present owner of the security and the intention of the owner regarding the person who will become

the owner of the security upon the death of the owner, referred to as a "beneficiary."

(2) "Devisee" means any person designated in a will to receive a disposition of real or personal property.

(3) "Heirs" means those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the property of a decedent.

(4) "Person" means an individual, a corporation, an organization, or other legal entity.

(5) "Personal representative" includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status.

(6) "Property" includes both real and personal property or any interest therein and means anything that may be the subject of ownership.

(7) "Register," including its derivatives, means to issue a certificate showing the ownership of a certificated security or, in the case of an uncertificated security, to initiate or transfer an account showing ownership of securities.

(8) "Registering entity" means a person who originates or transfers a security title by registration, and includes a broker maintaining security accounts for customers and a transfer agent or other person acting for or as an issuer of securities.

(9) "Security" means a share, participation, or other interest in property, in a business, or in an obligation of an enterprise or other issuer, and includes a certificated security, an uncertificated security, and a security account.

(10) "Security account" means (a) a reinvestment account associated with a security; a securities account with a broker; a cash balance in a brokerage account; or cash, interest, earnings, or dividends earned or declared on a security in an account, a reinvestment account, or a brokerage account, whether or not credited to the account before the owner's death; or (b) a cash balance or other property held for or due to the owner of a security as a replacement for or product of an account security, whether or not credited to the account before the owner's death.

(11) "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States. [1993 c 287 § 1.]

21.35.010 Security registered in beneficiary form—Ownership. Only individuals whose registration of a security shows sole ownership by one individual or multiple ownership by two or more with right of survivorship, rather than as tenants in common, may obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form shall hold the security as joint tenants with right of survivorship either as separate property or as community property, and not as tenants in common. [1993 c 287 § 2.]

21.35.015 Registering a security in beneficiary form—Authorization. A registering entity may register a security in beneficiary form if the form is authorized by this chapter or a substantially identical statute of another state if the state is: (1) The state of organization of the issuer or registering entity, (2) the location of the registering entity's principal office, (3) the location of the office of its transfer agent or its office making the registration, or (4) the location of the owner's listed address at the time of registration. A registration governed by the law of a jurisdiction in which this or substantially identical legislation is not in force or was not in force when a registration in beneficiary form was made is nevertheless presumed to be valid and authorized as a matter of contract law. [1993 c 287 § 3.]

21.35.020 Registering a security in beneficiary form—Designation of beneficiary. A security, whether evidenced by certificate or account, is registered in beneficiary form when the registration includes a designation of a beneficiary to take the ownership at the death of a sole owner or at the death of the last to die of multiple owners. [1993 c 287 § 4.]

21.35.025 Registering a security in beneficiary form—Words of designation. Registration in beneficiary form may be shown by the words "transfer on death" or the abbreviation "TOD," or by the words "pay on death" or the abbreviation "POD," after the name of the registered owner or owners and before the name of a beneficiary. [1993 c 287 § 5.]

21.35.030 Designation of a TOD or POD beneficiary—Effect on ownership—Cancellation or change. The designation of a TOD or POD beneficiary on a registration in beneficiary form has no effect on ownership of the security until the owner's death, or on community property rights and obligations of owners. A registration of a security in beneficiary form may be canceled or changed at any time by the sole owner or all then surviving owners, without the consent of the beneficiary. [1993 c 287 § 6.]

21.35.035 Death of owner or owners—Ownership passes to beneficiaries. On death of a sole owner or the last to die of all multiple owners, ownership of securities registered in beneficiary form passes to the beneficiary or beneficiaries who survive all owners. On proof of death of all owners and compliance with any applicable requirements of the registering entity, a security registered in beneficiary form may be reregistered in the name of the beneficiary or beneficiaries who survived the death of all owners. Until division of the security after the death of all owners, multiple beneficiaries surviving the death of all owners hold their interests as tenants in common. If no beneficiary survives the death of all owners, the security belongs to the estate of the deceased sole owner or the estate of the last to die of all multiple owners. [1993 c 287 § 7.]

21.35.040 Registering entity—Protection. (1) A registering entity is not required to offer or to accept a request for security registration in beneficiary form. If a registration in beneficiary form is offered by a registering entity, the owner requesting registration in beneficiary form assents to the protections given to the registering entity by this chapter.

(2) By accepting a request for registration of a security in beneficiary form, the registering entity agrees that the

registration will be implemented on death of the deceased owner as provided in this chapter.

(3) A registering entity is discharged from all claims to a security by the estate, creditors, heirs, or devisees of a deceased owner if it registers a transfer of a security in accordance with RCW 21.35.035 and does so in good faith reliance (a) on the registration, (b) on this chapter, and (c) on information provided to it by affidavit of the personal representative of the deceased owner, or by the surviving beneficiary or by the surviving beneficiary's representatives, or other information available to the registering entity. The protections of this chapter do not extend to a reregistration or payment made after a registering entity has received written notice from any claimant to any interest in the security objecting to implementation of a registration in beneficiary form. No other notice or other information available to the registering entity affects its right to protection under this chapter.

(4) The protection provided by this chapter to a registering entity does not affect the rights of beneficiaries in disputes between themselves and other claimants to ownership of the security transferred or its value or proceeds. [1993 c 287 § 8.]

21.35.045 Transfer on death—Contract—Rights of creditors. (1) A transfer on death resulting from a registration in beneficiary form is effective by reason of the contract regarding the registration between the owner and the registering entity and this chapter and is not testamentary.

(2) This chapter does not limit the rights of creditors of security owners against beneficiaries and other transferees under other laws of this state. [1993 c 287 § 9.]

21.35.050 Registering entity—Terms and conditions—Forms authorized. (1) A registering entity offering to accept registrations in beneficiary form may establish the terms and conditions under which it will receive requests (a) for registrations in beneficiary form, and (b) for implementation of registrations in beneficiary form, including requests for cancellation of previously registered TOD beneficiary designations and requests for reregistration to effect a change of beneficiary. The terms and conditions so established may provide for proving death, avoiding or resolving any problems concerning fractional shares, and designating beneficiaries. Other rules for providing proofs and assurances needed to satisfy reasonable concerns by registering entities regarding conditions and identities relevant to accurate implementation of registrations in beneficiary form may be contained in a registering entity's terms and conditions.

(2) The following are illustrations of registrations in beneficiary form that a registering entity may authorize:

(a) Sole owner-sole beneficiary: John S. Brown TOD (or POD) John S. Brown Jr.

(b) Multiple owners-sole beneficiary: John S. Brown Mary B. Brown JT TEN TOD John S. Brown Jr.

(c) Multiple owners-multiple beneficiaries: John S. Brown Mary B. Brown JT TEN TOD John S. Brown Jr. Peter Q. Brown. [1993 c 287 § 10.]

21.35.900 Short title—Statutory construction. (1) This chapter shall be known as and may be cited as the uniform TOD security registration act.

(2) This chapter shall be liberally construed and applied to promote its underlying purposes and policy and to make uniform the laws with respect to the subject of this chapter among states enacting it.

(3) Unless displaced by the particular provisions of this chapter, the principles of law and equity supplement the provisions of this chapter. [1993 c 287 § 11.]

21.35.901 Application. This chapter applies to registrations of securities in beneficiary form made before or after July 25, 1993, by decedents dying on or after July 25, 1993. [1993 c 287 § 12.]

Title 23

CORPORATIONS AND ASSOCIATIONS (PROFIT)

(Business Corporation Act: See Title 23B RCW)

Chapters

Chapter 23.86

COOPERATIVE ASSOCIATIONS

Sections

23.86.070 Filing fees. For filing articles of incorporation of an association organized under this chapter or filing application for a certificate of authority by a foreign corporation, there shall be paid to the secretary of state the sum of twenty-five dollars. Fees for filing an amendment to articles of incorporation shall be established by the secretary of state by rule. For filing other documents with the secretary of state and issuing certificates, fees shall be as prescribed in RCW 23B.01.220. Associations subject to this chapter shall not be subject to any corporation license fees excepting the fees hereinabove enumerated. [1993 c 269 § 1; 1991 c 72 § 15; 1989 c 307 § 9; 1982 c 35 § 173; 1959 c 263 § 2; 1953 c 214 § 1; 1925 ex.s. c 99 § 1; 1913 c 19 § 4; RRS § 3907. Formerly RCW 23.56.070.]

Effective date—1993 c 269: "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, 1993." [1993 c 269 § 17.]

Legislative finding—1989 c 307: See note following RCW 23.86.007.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Title 23B
WASHINGTON BUSINESS CORPORATION ACT

Chapters

Chapter 23B.01
GENERAL PROVISIONS

Sections

23B.01.220 Fees. (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:

One hundred seventy-five dollars, pursuant to RCW 23B.01.520 and 23B.01.540, for:

(a) Articles of incorporation; and

(b) Application for certificate of authority.

(3) The secretary of state shall establish by rule, fees for the following:

(a) Application for reinstatement;

(b) Articles of correction;

(c) Amendment of articles of incorporation;

(d) Restatement of articles of incorporation, with or without amendment;

(e) Articles of merger or share exchange;

(f) Articles of revocation of dissolution;

(g) Application for amended certificate of authority;

(h) Application for reservation, registration, or assignment of reserved name;

(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;

(j) Agent's resignation, or statement of change of registered office, or both, for each affected corporation;

(k) Initial report; and

(l) Any document not listed in this subsection that is required or permitted to be filed under this title.

(4) Fees shall be adjusted by rule only in an amount that does not exceed the average biennial increase in the cost of providing service. This shall be determined in a biennial cost study performed by the secretary.

(5) The secretary of state shall not collect fees for:

(a) Agent's consent to act as agent;

(b) Agent's resignation, if appointed without consent;

(c) Articles of dissolution;

(d) Certificate of judicial dissolution;

(e) Application for certificate of withdrawal; and

(f) Annual report when filed concurrently with the payment of annual license fees.

(6) The secretary of state shall collect a fee in an amount established by the secretary of state by rule 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.

(7) The secretary of state shall establish by rule and collect a fee from every person or organization:

(a) For furnishing a certified copy of any document, instrument, or paper relating to a corporation;

(b) For furnishing a certificate, under seal, attesting to the existence of a corporation, or any other certificate; 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.

(8) 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. [1993 c 269 § 2; 1992 c 107 § 7; 1991 c 72 § 26; 1990 c 178 § 1; 1989 c 165 § 5.]

Effective date—1993 c 269: See note following RCW 23.86.070.

Effective dates—1992 c 107: See note following RCW 19.02.020.

Effective date—1990 c 178: "This act shall take effect July 1, 1990." [1990 c 178 § 13.]

23B.01.530 Domestic corporations—Inactive corporation defined—Annual license fee. For the privilege of doing business, every corporation organized under the laws of this state, except the corporations for which existing law provides a different fee schedule, shall make and file a statement in the form prescribed by the secretary of state and shall pay an annual license fee each year following incorporation, on or before the expiration date of its corporate license, to the secretary of state. The secretary of state shall collect an annual license fee of ten dollars for each inactive corporation and fifty dollars for other corporations. As used in this section, "inactive corporation" means a corporation that certifies at the time of filing under this section that it did not engage in any business activities during the year ending on the expiration date of its corporate license. [1993 c 269 § 3; 1989 c 165 § 19.]

Effective date—1993 c 269: See note following RCW 23.86.070.

23B.01.560 License fees for reinstated corporation. (1) A corporation seeking reinstatement shall pay the full amount of all annual corporation license fees which would have been assessed for the license years of the period of administrative dissolution had the corporation been in active status, plus a surcharge established by the secretary of state by rule, and the license fee for the year of reinstatement.

(2) The penalties herein established shall be in lieu of any other penalties or interest which could have been assessed by the secretary of state under the corporation laws or which, under those laws, would have accrued during any period of delinquency, dissolution, or expiration of corporate duration. [1993 c 269 § 4; 1989 c 165 § 22.]

Effective date—1993 c 269: See note following RCW 23.86.070.

Chapter 23B.07
SHAREHOLDERS

Sections

23B.07.320 Agreements among shareholders. (1) An agreement among the shareholders of a corporation that complies with this section is effective among the shareholders and the corporation even though it is inconsistent with one or more other provisions of this title in that it:

(a) Eliminates the board of directors or restricts the discretion or powers of the board of directors;

(b) Governs the authorization or making of distributions whether or not in proportion to ownership of shares, subject to the limitations in RCW 23B.06.400;

(c) Establishes who shall be directors or officers of the corporation, or their terms of office or manner of selection or removal;

(d) Governs, in general or in regard to specific matters, the exercise or division of voting power by or between the shareholders and directors or by or among any of them, including use of weighted voting rights or director proxies;

(e) Establishes the terms and conditions of any agreement for the transfer or use of property or the provision of services between the corporation and any shareholder, director, officer, or employee of the corporation or among any of them;

(f) Transfers to one or more shareholders or other persons all or part of the authority to exercise the corporate powers or to manage the business and affairs of the corporation;

(g) Resolves any issue about which there exists a deadlock among directors or shareholders;

(h) Requires dissolution of the corporation at the request of one or more shareholders or upon the occurrence of a specified event or contingency; or

(i) Otherwise governs the exercise of the corporate powers or the management of the business and affairs of the corporation or the relationship among the shareholders, the directors, and the corporation, or among any of them, and is not contrary to public policy.

(2) An agreement authorized by this section shall be:

(a) Set forth in a written agreement that is signed by all persons who are shareholders at the time of the agreement and is made known to the corporation;

(b) Subject to amendment only by all persons who are shareholders at the time of the amendment, unless the agreement provides otherwise; and

(c) Valid for ten years, unless the agreement provides otherwise.

(3) The existence of an agreement authorized by this section shall be noted conspicuously on the front or back of each certificate for outstanding shares or on the information statement required by RCW 23B.06.260(2). If at the time of the agreement the corporation has shares outstanding represented by certificates, the corporation shall recall the outstanding certificates and issue substitute certificates that comply with this subsection. The failure to note the existence of the agreement on the certificate or information statement shall not affect the validity of the agreement or any action taken pursuant to it. Any purchaser of shares who, at the time of purchase, did not have knowledge of the existence of the agreement shall be entitled to rescission of the purchase. A purchaser shall be deemed to have knowledge of the existence of the agreement if its existence is noted on the certificate or information statement for the shares in compliance with this subsection and, if the shares are not represented by a certificate, the information statement is delivered to the purchaser at or prior to the time of purchase of the shares. An action to enforce the right of rescission authorized by this subsection must be commenced within the earlier of ninety days after discovery of the existence of the agreement or two years after the time of purchase of the shares.

(4) An agreement authorized by this section shall cease to be effective when shares of the corporation are listed on a national securities exchange or regularly traded in a market maintained by one or more members of a national or affiliated securities association.

(5) An agreement authorized by this section that limits the discretion or powers of the board of directors shall relieve the directors of, and impose upon the person or persons in whom such discretion or powers are vested, liability for acts or omissions imposed by law on directors to the extent that the discretion or powers of the directors are limited by the agreement.

(6) The existence or performance of an agreement authorized by this section shall not be a ground for imposing personal liability on any shareholder for the acts or debts of the corporation even if the agreement or its performance treats the corporation as if it were a partnership or results in failure to observe the corporate formalities otherwise applicable to the matters governed by the agreement.

(7) Incorporators or subscribers for shares may act as shareholders with respect to an agreement authorized by this section if no shares have been issued when the agreement is made. [1993 c 290 § 4.]

Chapter 23B.14
DISSOLUTION

Sections

23B.14.300 Judicial dissolution—Grounds. The superior courts may dissolve a corporation:

(1) In a proceeding by the attorney general if it is established that:

(a) The corporation obtained its articles of incorporation through fraud; or

(b) The corporation has continued to exceed or abuse the authority conferred upon it by law;

(2) In a proceeding by a shareholder if it is established that:

(a) The directors are deadlocked in the management of the corporate affairs, the shareholders are unable to break the deadlock, and irreparable injury to the corporation is threatened or being suffered, or the business and affairs of the corporation can no longer be conducted to the advantage of the shareholders generally, because of the deadlock;

(b) The directors or those in control of the corporation have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent;

(c) The shareholders are deadlocked in voting power and have failed, for a period that includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have expired;

(d) The corporate assets are being misapplied or wasted; or

(e) The corporation has ceased all business activity and has failed, within a reasonable time, to dissolve, to liquidate its assets, or to distribute its remaining assets among its shareholders;

(3) In a proceeding by a creditor if it is established that:

(a) The creditor's claim has been reduced to judgment, the execution on the judgment was returned unsatisfied, and the corporation is insolvent; or

(b) The corporation has admitted in writing that the creditor's claim is due and owing and the corporation is insolvent; or

(4) In a proceeding by the corporation to have its voluntary dissolution continued under court supervision. [1993 c 290 § 3; 1989 c 165 § 163.]

Chapter 23B.15
FOREIGN CORPORATIONS

Sections

23B.15.010 Authority to transact business required. (1) Unless it is otherwise authorized to transact business pursuant to a state or federal statute, a foreign corporation may not transact business in this state until it obtains a certificate of authority from the secretary of state.

(2) The following activities, among others, do not constitute transacting business within the meaning of subsection (1) of this section:

(a) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes;

(b) Holding meetings of the board of directors or shareholders or carrying on other activities concerning internal corporate affairs;

(c) Maintaining bank accounts, share accounts in savings and loan associations, custodian or agency arrangements with a bank or trust company, or stock or bond brokerage accounts;

(d) Maintaining offices or agencies for the transfer, exchange, and registration of the corporation's own securities or maintaining trustees or depositaries with respect to those securities;

(e) Selling through independent contractors;

(f) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where the orders require acceptance outside this state before becoming binding contracts and where the contracts do not involve any local performance other than delivery and installation;

(g) Making loans or creating or acquiring evidences of debt, mortgages, or liens on real or personal property, or recording same;

(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;

(i) Owning, without more, real or personal property;

(j) Conducting an isolated transaction that is completed within thirty days and that is not one in the course of repeated transactions of a like nature;

(k) Transacting business in interstate commerce;

(l) Owning and controlling a subsidiary corporation incorporated in or transacting business within this state; or

(m) Operating an approved branch campus of a foreign degree-granting institution in compliance with chapter 28B.90 RCW and in accordance with RCW 23B.15.015.

(3) The list of activities in subsection (2) of this section is not exhaustive. [1993 c 181 § 11; 1990 c 178 § 7; 1989 c 165 § 169.]

Effective date—1990 c 178: See note following RCW 23B.01.220.

23B.15.015 Foreign degree-granting institution branch campus—Acts not deemed transacting business in state. In addition to those acts that are specified in RCW 23B.15.010(2), a foreign degree-granting institution that establishes an approved branch campus in the state under chapter 28B.90 RCW shall not be deemed to transact business in the state solely because it:

(1) Owns and controls an incorporated branch campus in this state;

(2) Pays the expenses of tuition, or room and board charged by the incorporated branch campus for its students enrolled at the branch campus or contributes to the capital thereof; or

(3) Provides personnel who furnish assistance and counsel to its students while in the state but who have no authority to enter into any transactions for or on behalf of the foreign degree-granting institution. [1993 c 181 § 5.]

Chapter 23B.16
RECORDS AND REPORTS

Sections

23B.16.220 Initial and annual reports for secretary of state. (1) Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall deliver to the secretary of state for filing initial and annual reports that set forth:

(a) The name of the corporation and the state or country under whose law it is incorporated;

(b) The street address of its registered office and the name of its registered agent at that office in this state;

(c) In the case of a foreign corporation, the address of its principal office in the state or country under the laws of which it is incorporated;

(d) The address of the principal place of business of the corporation in this state;

(e) The names and addresses of its directors, if the corporation has dispensed with or limited the authority of its board of directors pursuant to RCW 23B.08.010, in an agreement authorized under RCW 23B.07.320, or analogous authority, the names and addresses of persons who will perform some or all of the duties of the board of directors;

(f) A brief description of the nature of its business; and

(g) The names and addresses of its chairperson of the board of directors, if any, president, secretary, and treasurer, or of individuals, however designated, performing the functions of such officers.

(2) Information in an initial report or an annual report must be current as of the date the report is executed on behalf of the corporation.

(3) A corporation's initial report must be delivered to the secretary of state within one hundred twenty days of the date on which the articles of incorporation for a domestic corporation were filed, or on which a foreign corporation's certificate of authority was filed. Subsequent annual reports must be delivered to the secretary of state on, or prior to, the date on which the domestic or foreign corporation is required to pay its annual corporate license fee, and at such additional times as the corporation elects. [1993 c 290 § 5; 1991 c 72 § 41; 1989 c 165 § 187.]

Title 24

CORPORATIONS AND ASSOCIATIONS (NONPROFIT)

Chapters

Chapter 24.03

WASHINGTON NONPROFIT CORPORATION ACT

Sections

24.03.046 Reservation of exclusive right to use a corporate name. The exclusive right to the use of a corporate name may be reserved by:

(1) Any person intending to organize a corporation under this title.

(2) Any domestic corporation intending to change its name.

(3) Any foreign corporation intending to make application for a certificate of authority to transact business in this state.

(4) Any foreign corporation authorized to transact business in this state and intending to change its name.

(5) Any person intending to organize a foreign corporation and intending to have such corporation make application for a certificate of authority to transact business in this state.

The reservation shall be made by filing with the secretary of state an application to reserve a specified corporate name, executed by or on behalf of the applicant. If the secretary of state finds that the name is available for corporate use, the secretary of state shall reserve the same for the exclusive use of the applicant for a period of one hundred and eighty days. Such reservation shall be limited to one filing.

The right to the exclusive use of a specified corporate name so reserved may be transferred to any other person or corporation by filing in the office of the secretary of state, a notice of such transfer, executed by the applicant for whom the name was reserved, and specifying the name and address of the transferee. [1993 c 356 § 1; 1982 c 35 § 77.]

Effective date—1993 c 356: "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, 1993." [1993 c 356 § 25.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.047 Registration of corporate name. Any corporation, organized and existing under the laws of any state or territory of the United States may register its corporate name under this title, provided its corporate name is not the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state, the name of any foreign corporation authorized to transact business in this state, the name of any limited partnership on file with the secretary, or any corporate name reserved or registered under this title.

Such registration shall be made by:

(1) Filing with the secretary of state: (a) An application for registration executed by the corporation by an officer thereof, setting forth the name of the corporation, the state or country under the laws of which it is incorporated, [and]

the date of its incorporation, and (b) a certificate setting forth that such corporation is in good standing under the laws of the state or territory wherein it is organized, executed by the secretary of state of such state or country or by such other official as may have custody of the records pertaining to corporations, and

(2) Paying to the secretary of state the applicable registration fee.

The registration shall be effective until the close of the calendar year in which the application for registration is filed. [1993 c 356 § 2; 1987 c 55 § 40; 1986 c 240 § 7; 1982 c 35 § 78.]

Effective date—1993 c 356: See note following RCW 24.03.046.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.055 Change of registered office or registered agent. A corporation may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state in the form prescribed by the secretary of state a statement setting forth:

(1) The name of the corporation.

(2) If the current registered office is to be changed, the street address to which the registered office is to be changed.

(3) If the current registered agent is to be changed, the name of the new registered agent.

(4) That the address of its registered office and the address of the office of its registered agent, as changed, will be identical.

Such statement shall be executed by the corporation by an officer of the corporation, and delivered to the secretary of state, together with a written consent of the registered agent to his or its appointment, if applicable. If the secretary of state finds that such statement conforms to the provisions of this chapter, the secretary of state shall endorse thereon the word "Filed," and the month, day, and year of the filing thereof, and file the statement. The change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective upon filing unless a later date is specified.

Any registered agent of a corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state, who shall forthwith mail a copy thereof to the corporation in care of an officer, who is not the resigning registered agent, at the address of such officer as shown by the most recent annual report of the corporation. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state.

If a registered agent changes the agent's business address to another place within the state, the agent may change such address and the address of the registered office of any corporation of which the agent is a registered agent, by filing a statement as required by this section except that it need be signed only by the registered agent, it need not be responsive to subsection (3) of this section, and it must recite that a copy of the statement has been mailed to the secretary of the corporation. [1993 c 356 § 3; 1986 c 240 § 10; 1982 c 35 § 81; 1967 c 235 § 12.]

Effective date—1993 c 356: See note following RCW 24.03.046.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.240 Articles of dissolution. If voluntary dissolution proceedings have not been revoked, then when all debts, liabilities and obligations of the corporation shall have been paid and discharged, or adequate provision shall have been made therefor, and all of the remaining property and assets of the corporation shall have been transferred, conveyed or distributed in accordance with the provisions of this chapter, articles of dissolution shall be executed in duplicate by the corporation by an officer of the corporation and shall set forth:

(1) The name of the corporation.

(2) Where there are members having voting rights, (a) a statement setting forth the date of the meeting of members at which the resolution to dissolve was adopted, that a quorum was present at such meeting, and that such resolution received at least two-thirds of the votes which members present at such meeting or represented by proxy were entitled to cast, or (b) a statement that such resolution was adopted by a consent in writing signed by all members entitled to vote with respect thereto.

(3) Where there are no members, or no members having voting rights, a statement of such fact, the date of the meeting of the board of directors at which the resolution to dissolve was adopted and a statement of the fact that such resolution received the vote of a majority of the directors in office.

(4) That all debts, obligations, and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefor.

(5) A copy of a revenue clearance certificate issued pursuant to chapter 82.32 RCW.

(6) That all the remaining property and assets of the corporation have been transferred, conveyed or distributed in accordance with the provisions of this chapter.

(7) That there are no suits pending against the corporation in any court, or that adequate provision has been made for the satisfaction of any judgment, order or decree which may be entered against it in any pending suit. [1993 c 356 § 4; 1982 c 35 § 93; 1967 c 235 § 49.]

Effective date—1993 c 356: See note following RCW 24.03.046.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.302 Administrative dissolution—Grounds—Notice—Reinstatement—Corporate name—Survival of actions. A corporation shall be administratively dissolved by the secretary of state upon the conditions prescribed in this section when the corporation:

(1) Has failed to file or complete its annual report within the time required by law; or

(2) Has failed for thirty days to appoint or maintain a registered agent in this state; or

(3) Has failed for thirty days, after change of its registered agent or registered office, to file in the office of the secretary of state a statement of such change.

A corporation shall not be dissolved under this section unless the secretary of state has given the corporation not less than sixty days' notice of its delinquency or omission, by first class mail, postage prepaid, addressed to the registered office, or, if there is no registered office, to the last known address of any officer or director as shown by the

records of the secretary of state, and unless the corporation has failed to correct the omission or delinquency before expiration of the sixty-day period.

When a corporation has given cause for dissolution under this section, and has failed to correct the delinquency or omission as provided in this section, the secretary of the state shall dissolve the corporation by issuing a certificate of administrative dissolution containing a statement that the corporation has been dissolved and the date and reason for which it was dissolved. The original certificate of administrative dissolution shall be filed in the records of the secretary of state, and a copy of the certificate shall forthwith be mailed to the corporation at its registered office or, if there is no registered office, to the last known address of the corporation or any officer, director, or incorporator of the corporation, as shown by the records of the secretary of state. Upon the filing of the certificate of administrative dissolution, the existence of the corporation shall cease, except as otherwise provided in this chapter, and its name shall be available to and may be adopted by another corporation after the dissolution.

Any notice provided by the secretary of state under this section shall be designed to clearly identify and warn the recipient of the contents thereof. A delinquency notice shall provide a succinct and readable description of the delinquency or omission, the date on which dissolution will occur, and the action necessary to cure the delinquency or omission prior to dissolution.

A corporation which has been dissolved by operation of this section may be reinstated within a period of three years following its administrative dissolution if it completes and files a current annual report for the reinstatement year or if it appoints or maintains a registered agent, or if it files with the secretary of state a required statement of change of registered agent or registered office and in addition, if it pays a reinstatement fee of twenty-five dollars plus the full amount of all annual fees that would have been assessed for the years of administrative dissolution had the corporation been in active status, including the reinstatement year. If, during the period of dissolution, another person or corporation has reserved or adopted a corporate name which is identical to or deceptively similar to the dissolved corporation's name, the dissolved corporation seeking reinstatement shall be required to adopt another name consistent with the requirements of this chapter and to amend its articles of incorporation accordingly. When a corporation has been dissolved by operation of this section, remedies available to or against it shall survive in the manner provided in RCW 24.03.300 and the directors of the corporation shall hold the title to the property of the corporation as trustees for the benefit of its creditors and members. [1993 c 356 § 5; 1987 c 117 § 3; 1986 c 240 § 42; 1982 c 35 § 97; 1971 ex.s. c 128 § 1; 1969 ex.s. c 163 § 9.]

Effective date—1993 c 356: See note following RCW 24.03.046.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.305 Admission of foreign corporation. No foreign corporation shall have the right to conduct affairs in this state until it shall have procured a certificate of authority so to do from the secretary of state. No foreign corporation shall be entitled to procure a certificate of authority under this chapter to conduct in this state any affairs which a corporation organized under this chapter is not permitted to conduct. A foreign corporation shall not be denied a certificate of authority by reason of the fact that the laws of the state or country under which such corporation is organized governing its organization and internal affairs differ from the laws of this state, and nothing in this chapter contained shall be construed to authorize this state to regulate the organization or the internal affairs of such corporation.

Without excluding other activities which may not constitute conducting affairs in this state, a foreign corporation shall not be considered to be conducting affairs in this state, for the purposes of this chapter, by reason of carrying on in this state any one or more of the following activities:

(1) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes.

(2) Holding meetings of its directors or members or carrying on other activities concerning its internal affairs.

(3) Maintaining bank accounts.

(4) Creating evidences of debt, mortgages or liens on real or personal property.

(5) Securing or collecting debts due to it or enforcing any rights in property securing the same.

(6) Effecting sales through independent contractors.

(7) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where such orders require acceptance without this state before becoming binding contracts.

(8) Creating as borrower or lender, or acquiring, indebtedness or mortgages or other security interests in real or personal property.

(9) Securing or collecting debts or enforcing any rights in property securing the same.

(10) Transacting any business in interstate commerce.

(11) Conducting an isolated transaction completed within a period of thirty days and not in the course of a number of repeated transactions of like nature.

(12) Operating an approved branch campus of a foreign degree-granting institution in compliance with chapter 28B.90 RCW and in accordance with RCW 24.03.307. [1993 c 181 § 12; 1986 c 240 § 43; 1967 c 235 § 62.]

24.03.307 Foreign degree-granting institution branch campus—Acts not deemed transacting business in state. In addition to those acts that are specified in RCW 24.03.305 (1) through (11), a foreign degree-granting institution that establishes an approved branch campus in the state under chapter 28B.90 RCW shall not be deemed to transact business in the state solely because it:

(1) Owns and controls an incorporated branch campus in this state;

(2) Pays the expenses of tuition, or room and board charged by the incorporated branch campus for its students enrolled at the branch campus or contributes to the capital thereof; or

(3) Provides personnel who furnish assistance and counsel to its students while in the state but who have no

authority to enter into any transactions for or on behalf of the foreign degree-granting institution. [1993 c 181 § 6.]

24.03.345 Change of registered office or registered agent of foreign corporation. A foreign corporation authorized to conduct affairs in this state may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state in a form approved by the secretary of state a statement setting forth:

(1) The name of the corporation.

(2) If the current registered office is to be changed, the street address to which the registered office is to be changed.

(3) If the current registered agent is to be changed, the name of the new registered agent.

(4) That the address of its registered office and the address of the office of its registered agent, as changed, will be identical.

Such statement shall be executed by the corporation by an officer of the corporation, and delivered to the secretary of state, together with a written consent of the registered agent to his or its appointment, if applicable. If the secretary of state finds that such statement conforms to the provisions of this chapter, the secretary of state shall endorse thereon the word "Filed," and the month, day, and year of the filing thereof, and file the statement. The change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective upon filing unless a later date is specified.

Any registered agent in this state appointed by a foreign corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state who shall forthwith mail a copy thereof to the secretary of the foreign corporation at its principal office as shown by its most recent annual report. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state.

If a registered agent changes his business address to another place within the state, the registered agent may change such address and the address of the registered office of any corporation of which the registered agent is a registered agent by filing a statement as required by this section, except that it need be signed only by the registered agent, it need not be responsive to subsection (3) of this section, and it must recite that a copy of the statement has been mailed to the corporation. [1993 c 356 § 6; 1986 c 240 § 47; 1982 c 35 § 102; 1967 c 235 § 70.]

Effective date—1993 c 356: See note following RCW 24.03.046.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.370 Withdrawal of foreign corporation. A foreign corporation authorized to conduct affairs in this state may withdraw from this state upon procuring from the secretary of state a certificate of withdrawal. In order to procure such certificate of withdrawal, such foreign corporation shall deliver to the secretary of state an application for withdrawal, which shall set forth:

(1) The name of the corporation and the state or country under the laws of which it is incorporated.

(2) That the corporation is not conducting affairs in this state.

(3) That the corporation surrenders its authority to conduct affairs in this state.

(4) That the corporation revokes the authority of its registered agent in this state to accept service of process and consents that service of process in any action, suit or proceeding based upon any cause of action arising in this state during the time the corporation was authorized to conduct affairs in this state may thereafter be made on such corporation by service thereof on the secretary of state.

(5) A copy of a revenue clearance certificate issued pursuant to chapter 82.32 RCW.

(6) A post office address to which the secretary of state may mail a copy of any process against the corporation that may be served on the secretary of state.

The application for withdrawal shall be made on forms prescribed and furnished by the secretary of state and shall be executed by the corporation by an officer of the corporation, or, if the corporation is in the hands of a receiver or trustee, shall be executed on behalf of the corporation by such receiver or trustee. [1993 c 356 § 7; 1982 c 35 § 104; 1967 c 235 § 75.]

Effective date—1993 c 356: See note following RCW 24.03.046.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.386 Foreign corporations—Application for reinstatement. (1) A corporation revoked under RCW 24.03.380 may apply to the secretary of state for reinstatement within three years after the effective date of revocation. An application filed within such three-year period may be amended or supplemented and any such amendment or supplement shall be effective as of the date of original filing. The application filed under this section shall be filed under and by authority of an officer of the corporation.

(2) The application shall:

(a) State the name of the corporation and, if applicable, the name the corporation had elected to use in this state at the time of revocation, and the effective date of its revocation;

(b) Provide an explanation to show that the grounds for revocation either did not exist or have been eliminated;

(c) State the name of the corporation at the time of reinstatement and, if applicable, the name the corporation elects to use in this state at the time of reinstatement which may be reserved under RCW 24.03.046;

(d) Appoint a registered agent and state the registered office address under RCW 24.03.340; and

(e) Be accompanied by payment of applicable fees and penalties.

(3) If the secretary of state determines that the application conforms to law, and that all applicable fees have been paid, the secretary of state shall cancel the certificate of revocation, prepare and file a certificate of reinstatement, and mail a copy of the certificate of reinstatement to the corporation.

(4) Reinstatement under this section relates back to and takes effect as of the date of revocation. The corporate authority shall be deemed to have continued without interruption from that date.

(5) In the event the application for reinstatement states a corporate name which the secretary of state finds to be

contrary to the requirements of RCW 24.03.046, the application, amended application, or supplemental application shall be amended to adopt another corporate name which is in compliance with RCW 24.03.046. In the event the reinstatement application so adopts a new corporate name for use in Washington, the application for authority shall be deemed to have been amended to change the corporation's name to the name so adopted for use in Washington, effective as of the effective date of the certificate of reinstatement. [1993 c 356 § 8; 1987 c 117 § 1; 1986 c 240 § 57.]

Effective date—1993 c 356: See note following RCW 24.03.046.

24.03.388 Foreign corporations—Fees for application for reinstatement—Filing current annual report. (1) An application processing fee as provided in RCW 24.03.405 shall be charged for an application for reinstatement under RCW 24.03.386.

(2) An application processing fee as provided in RCW 24.03.405 shall be charged for each amendment or supplement to an application for reinstatement.

(3) The corporation seeking reinstatement shall file a current annual report and pay the full amount of all annual corporation fees which would have been assessed for the years of the period of administrative revocation, had the corporation been in active status, including the reinstatement year. [1993 c 356 § 9; 1991 c 223 § 3; 1987 c 117 § 2; 1986 c 240 § 58.]

Effective date—1993 c 356: See note following RCW 24.03.046.

Effective date—1991 c 223: See note following RCW 24.03.405.

24.03.395 Annual report of domestic and foreign corporations—Biennial filing may be authorized. Each domestic corporation, and each foreign corporation authorized to conduct affairs in this state, shall file, within the time prescribed by this chapter, an annual report in the form prescribed by the secretary of state. The secretary may by rule provide that a biennial filing meets this requirement. The report shall set forth:

(1) The name of the corporation and the state or country under the laws of which it is incorporated;

(2) The address of the registered office of the corporation in this state including street and number and the name of its registered agent in this state at such address, and, in the case of a foreign corporation, the address of its principal office;

(3) A brief statement of the character of the affairs which the corporation is actually conducting, or, in the case of a foreign corporation, which the corporation is actually conducting in this state;

(4) The names and respective addresses of the directors and officers of the corporation; and

(5) The corporation's unified business identifier number.

The information shall be given as of the date of the execution of the report. It shall be executed by the corporation by an officer of the corporation, or, if the corporation is in the hands of a receiver or trustee, it shall be executed on behalf of the corporation by such receiver or trustee.

The secretary of state may provide that correction or updating of information appearing on previous annual or biennial filings is sufficient to constitute the current filing. [1993 c 356 § 10; 1989 c 291 § 2; 1987 c 117 § 4; 1986 c 240 § 53; 1982 c 35 § 108; 1967 c 235 § 80.]

Effective date—1993 c 356: See note following RCW 24.03.046.

Finding—Severability—1989 c 291: See notes following RCW 24.03.490.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.400 Filing of annual or biennial report of domestic and foreign corporations—Notice—Reporting dates. Not less than thirty days prior to a corporation's renewal date, or by December 1 of each year for a nonstaggered renewal, the secretary of state shall mail to each domestic and foreign corporation, by first class mail addressed to its registered office, a notice that its annual or biennial report must be filed as required by this chapter, and stating that if it fails to file its annual or biennial report it shall be dissolved or its certificate of authority revoked, as the case may be. Failure of the secretary of state to mail any such notice shall not relieve a corporation from its obligation to file the annual or biennial reports required by this chapter.

Such report of a domestic or foreign corporation shall be delivered to the secretary of state between the first day of January and the first day of March of each year, or on an annual or biennial renewal date as the secretary of state may establish. The secretary of state may adopt rules to establish biennial reporting dates and to stagger reporting dates.

If the secretary of state finds that such report substantially conforms to the requirements of this chapter, the secretary of state shall file the same. [1993 c 356 § 11; 1986 c 240 § 54; 1982 c 35 § 109; 1973 c 90 § 1; 1967 c 235 § 81.]

Effective date—1993 c 356: See note following RCW 24.03.046.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.405 Fees for filing documents and issuing certificates. (1) The secretary of state shall charge and collect for:

(a) Filing articles of incorporation, thirty dollars.

(b) Filing an annual report of a domestic or foreign corporation, ten dollars.

(c) Filing an application of a foreign corporation for a certificate of authority to conduct affairs in this state, thirty dollars.

(2) The secretary of state shall establish by rule, fees for the following:

(a) An application for reinstatement under RCW 24.03.386.

(b) Filing articles of amendment or restatement or an amendment or supplement to an application for reinstatement.

(c) Filing articles of merger or consolidation.

(d) Filing a statement of change of address of registered office or change of registered agent, or revocation, resignation, or any combination of these. A separate fee for filing such statement shall not be charged if the statement appears in an amendment to articles of incorporation or in conjunction with the filing of the annual report.

(e) Filing articles of dissolution, no fee.

(f) Filing an application of a foreign corporation for an amended certificate of authority to conduct affairs in this state.

(g) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, no fee.

(h) Filing a certificate by a foreign corporation of the appointment of a registered agent. A separate fee for filing such certificate shall not be charged if the statement appears in conjunction with the filing of the annual report.

(i) Filing a certificate of election adopting the provisions of chapter 24.03 RCW.

(j) Filing an application to reserve a corporate name.

(k) Filing a notice of transfer of a reserved corporate name.

(l) Filing a name registration.

(m) Filing any other statement or report authorized for filing under this chapter.

(3) Fees shall be adjusted by rule only in an amount that does not exceed the average biennial increase in the cost of providing service. This shall be determined in a biannual [biennial] cost study performed by the secretary. [1993 c 269 § 5; 1991 c 223 § 1; 1987 c 117 § 5; 1986 c 240 § 55; 1982 c 35 § 110; 1981 c 230 § 5; 1969 ex.s. c 163 § 5; 1967 c 235 § 82.]

Effective date—1993 c 269: See note following RCW 23.86.070.

Effective date—1991 c 223: "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 on July 1, 1991." [1991 c 223 § 4.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.410 Miscellaneous fees. The secretary of state shall establish fees by rule and collect:

(1) For furnishing a certified copy of any charter document or any other document, instrument, or paper relating to a corporation.

(2) For furnishing a certificate, under seal, attesting to the status of a corporation or any other certificate.

(3) For furnishing copies of any document, instrument or paper relating to a corporation.

(4) At the time of any service of process on him or her as registered agent of a corporation an amount that may be recovered as taxable costs by the party to the suit or action causing such service to be made if such party prevails in the suit or action. [1993 c 269 § 6; 1982 c 35 § 111; 1979 ex.s. c 133 § 2; 1969 ex.s. c 163 § 6; 1967 c 235 § 83.]

Effective date—1993 c 269: See note following RCW 23.86.070.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Deposit of certain fees recovered under this section in secretary of state's revolving fund: RCW 43.07.130.

Chapter 24.06

NONPROFIT MISCELLANEOUS AND MUTUAL CORPORATIONS ACT

Sections

24.06.046 Reservation of exclusive right to use corporate name. The exclusive right to the use of a corporate name may be reserved by:

(1) Any person intending to organize a corporation under this title.

(2) Any domestic corporation intending to change its name.

(3) Any foreign corporation intending to make application for a certificate of authority to transact business in this state.

(4) Any foreign corporation authorized to transact business in this state and intending to change its name.

(5) Any person intending to organize a foreign corporation and intending to have such corporation make application for a certificate of authority to transact business in this state.

The reservation shall be made by filing with the secretary of state an application to reserve a specified corporate name, executed by or on behalf of the applicant. If the secretary of state finds that the name is available for corporate use, the secretary of state shall reserve the same for the exclusive use of the applicant for a period of one hundred and eighty days. Such reservation shall be limited to one filing.

The right to the exclusive use of a specified corporate name so reserved may be transferred to any other person or corporation by filing in the office of the secretary of state, a notice of such transfer, executed by the applicant for whom the name was reserved, and specifying the name and address of the transferee. [1993 c 356 § 13; 1982 c 35 § 122.]

Effective date—1993 c 356: See note following RCW 24.03.046.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.047 Registration of corporate name. Any corporation, organized and existing under the laws of any state or territory of the United States may register its corporate name under this title, provided its corporate name is not the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state, or the name of any foreign corporation authorized to transact business in this state, the name of any domestic or foreign limited partnership on file with the secretary, or any corporate name reserved or registered under this title.

Such registration shall be made by:

(1) Filing with the secretary of state: (a) An application for registration executed by the corporation by an officer thereof, setting forth the name of the corporation, the state or country under the laws of which it is incorporated, and

the date of its incorporation, and (b) a certificate setting forth that such corporation is in good standing under the laws of the state or country wherein it is organized, executed by the secretary of state of such state or territory or by such other official as may have custody of the records pertaining to corporations, and

(2) Paying to the secretary of state the applicable annual registration fee.

The registration shall be effective until the close of the calendar year in which the application for registration is filed. [1993 c 356 § 14; 1987 c 55 § 42; 1982 c 35 § 123.]

Effective date—1993 c 356: See note following RCW 24.03.046.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.050 Registered office and registered agent. Each domestic corporation and foreign corporation authorized to do business in this state shall have and continuously maintain in this state:

(1) A registered office which may be, but need not be, the same as its principal office. The registered office shall be at a specific geographic location in this state, and be identified by number, if any, and street, or building address or rural route, or, if a commonly known street or rural route address does not exist, by legal description. A registered office may not be identified by post office box number or other nongeographic address. For purposes of communicating by mail, the secretary of state may permit the use of a post office address in conjunction with the registered office address if the corporation also maintains on file the specific geographic address of the registered office where personal service of process may be made.

(2) A registered agent, which agent may be either an individual resident in this state whose business office is identical with such registered office, or a domestic corporation existing under any act of this state or a foreign corporation authorized to transact business or conduct affairs in this state under any act of this state having an office identical with such registered office. The resident agent and registered office shall be designated by duly adopted resolution of the board of directors; and a statement of such designation, executed by an officer of the corporation, shall be filed with the secretary of state. A registered agent shall not be appointed without having given prior written consent to the appointment. The written consent shall be filed with the secretary of state in such form as the secretary may prescribe. The written consent shall be filed with or as a part of the document first appointing a registered agent. In the event any individual or corporation has been appointed agent without consent, that person or corporation may file a notarized statement attesting to that fact, and the name shall forthwith be removed from the records of the secretary of state.

No Washington corporation or foreign corporation authorized to transact business in this state may be permitted to maintain any action in any court in this state until the corporation complies with the requirements of this section. [1993 c 356 § 15; 1982 c 35 § 125; 1969 ex.s. c 120 § 10.]

Effective date—1993 c 356: See note following RCW 24.03.046.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.055 Change of registered office or registered agent. A corporation may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state a statement in the form prescribed by the secretary of state setting forth:

(1) The name of the corporation.

(2) If the address of its registered office is to be changed, the address to which the registered office is to be changed, including street and number.

(3) If the current registered agent is to be changed, the name of its successor registered agent.

(4) That the address of its registered office and the address of the office of its registered agent, as changed, will be identical.

Such statement shall be executed by the corporation by an officer of the corporation, and delivered to the secretary of state, together with a written consent of the registered office to his or its appointment, if applicable. If the secretary of state finds that such statement conforms to the provisions of this chapter, the secretary of state shall file such statement, and upon such filing, the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

Any registered agent of a corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state, who shall forthwith mail a copy thereof to the corporation in care of an officer, who is not the resigning registered agent, at the address of such officer as shown by the most recent annual report of the corporation. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state. [1993 c 356 § 16; 1982 c 35 § 126; 1969 ex.s. c 120 § 11.]

Effective date—1993 c 356: See note following RCW 24.03.046.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.275 Articles of dissolution. If voluntary dissolution proceedings have not been revoked, then after all debts, liabilities and obligations of the corporation shall have been paid and discharged, or adequate provision shall have been made therefor, and all of the remaining property and assets of the corporation shall have been transferred, conveyed or distributed in accordance with the provisions of this chapter, articles of dissolution shall be executed in duplicate by the corporation, by an officer of the corporation; and such statement shall set forth:

(1) The name of the corporation.

(2) The date of the meeting of members or shareholders at which the resolution to dissolve was adopted, certifying that:

(a) A quorum was present at such meeting;

(b) Such resolution received at least two-thirds of the votes which members and shareholders present in person or by mail at such meeting or represented by proxy were entitled to cast or was adopted by a consent in writing signed by all members and shareholders;

(c) All debts, obligations, and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefor;

(d) All the remaining property and assets of the corporation have been transferred, conveyed or distributed in accordance with the provisions of this chapter;

(e) There are no suits pending against the corporation in any court or, if any suits are pending against it, that adequate provision has been made for the satisfaction of any judgment, order or decree which may be entered; and

(f) A copy of a revenue clearance certificate issued pursuant to chapter 82.32 RCW. [1993 c 356 § 17; 1982 c 35 § 138; 1969 ex.s. c 120 § 55.]

Effective date—1993 c 356: See note following RCW 24.03.046.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.290 Proceedings for involuntary dissolution—Rights, duties, and remedies. Failure of the corporation to file its annual report within the time required shall not derogate from the rights of its creditors, or prevent the corporation from being sued and from defending lawsuits, nor shall it release the corporation from any of the duties or liabilities of a corporation under law.

A corporation shall be dissolved by the secretary of state upon the conditions prescribed in this section when the corporation:

(1) Has failed to file or complete its annual report within the time required by law;

(2) Has failed for thirty days to appoint or maintain a registered agent in this state; or

(3) Has failed for thirty days, after change of its registered agent or registered office, to file in the office of the secretary of state a statement of such change.

A corporation shall not be dissolved under this section unless the secretary of state has given the corporation not less than sixty days' notice of its delinquency or omission, by first class mail, postage prepaid, addressed to the registered office, or, if there is no registered office, to the last known address of any officer or director as shown by the records of the secretary of state, and unless the corporation has failed to correct the omission or delinquency before expiration of the sixty-day period.

When a corporation has given cause for dissolution under this section, and has failed to correct the delinquency or omission as provided in this section, the secretary of state shall dissolve the corporation by issuing a certificate of involuntary dissolution containing a statement that the corporation has been dissolved and the date and reason for which it was dissolved. The original certificate of involuntary dissolution shall be filed in the records of the secretary of state, and a copy of the certificate shall forthwith be mailed to the corporation at its registered office or, if there is no registered office, to the last known address of the corporation or any officer, director, or incorporator of the corporation, as shown by the records of the secretary of state. Upon the filing of the certificate of involuntary dissolution, the existence of the corporation shall cease, except as otherwise provided in this chapter, and its name shall be available to and may be adopted by another corporation after the dissolution.

A corporation which has been dissolved by operation of this section may be reinstated within a period of three years following its dissolution if it shall file or complete a current annual report, appoint and maintain a registered agent, or file a required statement of change of registered agent or registered office and in addition pay the reinstatement fee of twenty-five dollars plus any other fees that may be due or owing the secretary of state including the full amount of all annual fees that would have been assessed for the years of administrative dissolution had the corporation been in active status, including the reinstatement year. If during the period of dissolution another person or corporation has reserved or adopted a corporate name which is identical or deceptively similar to the dissolved corporation's name, the dissolved corporation seeking reinstatement shall be required to adopt another name consistent with the requirements of this chapter and to amend its articles accordingly. When a corporation has been dissolved by operation of this section, remedies available to or against it shall survive in the manner provided by RCW 24.06.335 and thereafter the directors of the corporation shall hold title to the property of the corporation as trustees for the benefit of its creditors and shareholders. [1993 c 356 § 18; 1982 c 35 § 141; 1973 c 70 § 1; 1969 ex.s. c 120 § 58.]

Effective date—1993 c 356: See note following RCW 24.03.046.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.380 Change of registered office or registered agent of foreign corporation. A foreign corporation authorized to conduct affairs in this state may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state in a form approved by the secretary of state a statement setting forth:

(1) The name of the corporation.

(2) If the address of the current registered office is to be changed, such new address.

(3) If the current registered agent is to be changed, the name of the new registered agent.

(4) That the address of its registered office and the address of the office of its registered agent, as changed, will be identical.

Such statement shall be executed by the corporation, by an officer of the corporation, and delivered to the secretary of state, together with a written consent of the registered agent to his or its appointment, if applicable. If the secretary of state finds that such statement conforms to the provisions of this chapter, he or she shall file such statement in his or her office, and upon such filing the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

If a registered agent changes his or her business address to another place within the state, the registered agent may change such address and the address of the registered office of any corporation of which the registered agent is registered agent by filing a statement as required by this section, except that it need be signed only by the registered agent, it need not be responsive to subsection (3) of this section, and it shall recite that a copy of the statement has been mailed to the corporation. [1993 c 356 § 19; 1982 c 35 § 146; 1969 ex.s. c 120 § 76.]

Effective date—1993 c 356: See note following RCW 24.03.046.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.415 Withdrawal of foreign corporation. A foreign corporation authorized to conduct affairs in this state may withdraw from this state upon procuring from the secretary of state a certificate of withdrawal. In order to procure such certificate of withdrawal, the foreign corporation shall deliver to the secretary of state an application for withdrawal, which shall set forth:

(1) The name of the corporation and the state or country under whose laws it is incorporated.

(2) A declaration that the corporation is not conducting affairs in this state.

(3) A surrender of its authority to conduct affairs in this state.

(4) A notice that the corporation revokes the authority of its registered agent in this state to accept service of process and consents that service of process in any action, suit or proceeding, based upon any cause of action arising in this state during the time the corporation was authorized to conduct affairs in this state, may thereafter be made upon such corporation by service thereof on the secretary of state.

(5) A copy of the revenue clearance certificate issued pursuant to chapter 82.32 RCW.

(6) A post office address to which the secretary of state may mail a copy of any process that may be served on the secretary of state as agent for the corporation.

The application for withdrawal shall be made on forms prescribed and furnished by the secretary of state and shall be executed by the corporation, by one of the officers of the corporation, or, if the corporation is in the hands of a receiver or trustee, shall be executed on behalf of the corporation by such receiver or trustee. [1993 c 356 § 20; 1982 c 35 § 148; 1969 ex.s. c 120 § 83.]

Effective date—1993 c 356: See note following RCW 24.03.046.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.433 Foreign corporations—Application for reinstatement. (1) A corporation revoked under RCW 24.06.425 may apply to the secretary of state for reinstatement within three years after the effective date of revocation. An application filed within such three-year period may be amended or supplemented and any such amendment or supplement shall be effective as of the date of original filing. The application filed under this section shall be filed under and by authority of an officer of the corporation.

(2) The application shall:

(a) State the name of the corporation and, if applicable, the name the corporation had elected to use in this state at the time of revocation, and the effective date of its revocation;

(b) Provide an explanation to show that the grounds for revocation either did not exist or have been eliminated;

(c) State the name of the corporation at the time of reinstatement and, if applicable, the name the corporation elects to use in this state at the time of reinstatement which may be reserved under RCW 24.06.046;

(d) Appoint a registered agent and state the registered office address under RCW 24.06.375; and

(e) Be accompanied by payment of applicable fees and penalties.

(3) If the secretary of state determines that the application conforms to law, and that all applicable fees have been paid, the secretary of state shall cancel the certificate of revocation, prepare and file a certificate of reinstatement, and mail a copy of the certificate of reinstatement to the corporation.

(4) Reinstatement under this section relates back to and takes effect as of the date of revocation. The corporate authority shall be deemed to have continued without interruption from that date.

(5) In the event the application for reinstatement states a corporate name that the secretary of state finds to be contrary to the requirements of RCW 24.06.046, the application, amended application, or supplemental application shall be amended to adopt another corporate name that is in compliance with RCW 24.06.046. In the event the reinstatement application so adopts a new corporate name for use in Washington, the application for authority shall be deemed to have been amended to change the corporation's name to the name so adopted for use in Washington, effective as of the effective date of the certificate of reinstatement. [1993 c 356 § 21.]

Effective date—1993 c 356: See note following RCW 24.03.046.

24.06.440 Annual or biennial report of domestic and foreign corporations. Each domestic corporation, and each foreign corporation authorized to conduct affairs in this state, shall file, within the time prescribed by this chapter, an annual or biennial report, established by the secretary of state by rule, in the form prescribed by the secretary of state setting forth:

(1) The name of the corporation and the state or country under whose laws it is incorporated.

(2) The address of the registered office of the corporation in this state, including street and number, the name of its registered agent in this state at such address, and, in the case of a foreign corporation, the address of its principal office in the state or country under whose laws it is incorporated.

(3) A brief statement of the character of the affairs in which the corporation is engaged, or, in the case of a foreign corporation, engaged in this state.

(4) The names and respective addresses of the directors and officers of the corporation.

(5) The corporation's unified business identifier number.

The information shall be given as of the date of the execution of the report. It shall be executed by the corporation by an officer of the corporation, or, if the corporation is in the hands of a receiver or trustee, it shall be executed on behalf of the corporation by such receiver or trustee.

The secretary of state may by rule adopted under chapter 34.05 RCW provide that correction or updating of information appearing on previous annual or biennial filings is sufficient to constitute the current filing. [1993 c 356 § 22; 1982 c 35 § 152; 1969 ex.s. c 120 § 88.]

Effective date—1993 c 356: See note following RCW 24.03.046.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.445 Filing of annual or biennial report of domestic and foreign corporations. An annual or biennial report of each domestic or foreign corporation shall be delivered to the secretary of state between the first day of January and the first day of March of each year or on such annual or biennial renewal date as the secretary of state may establish. The secretary of state may adopt rules to establish biennial reporting dates and to stagger reporting dates. Proof to the satisfaction of the secretary of state that the report was deposited in the United States mails, in a sealed envelope, properly addressed to the secretary of state, with postage prepaid thereon, prior to the corporation's annual or biennial renewal date, shall be deemed compliance with this requirement.

If the secretary of state finds that a report substantially conforms to the requirements of this chapter, the secretary of state shall file the same.

Failure of the secretary of state to mail any such notice shall not relieve a corporation from its obligation to file the annual reports required by this chapter. [1993 c 356 § 23; 1982 c 35 § 153; 1973 c 146 § 1; 1969 ex.s. c 120 § 89.]

Effective date—1993 c 356: See note following RCW 24.03.046.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.450 Fees for filing documents and issuing certificates. (1) The secretary of state shall charge and collect for:

(a) Filing articles of incorporation, thirty dollars.

(b) Filing an annual report, ten dollars.

(c) Filing an application of a foreign corporation for a certificate of authority to conduct affairs in this state, thirty dollars.

(2) The secretary of state shall establish by rule, fees for the following:

(a) Filing articles of amendment or restatement.

(b) Filing articles of merger or consolidation.

(c) Filing a statement of change of address of registered office or change of registered agent, or revocation, resignation, or any combination of these. A separate fee for filing such statement shall not be charged if the statement appears in an amendment to the articles of incorporation or in conjunction with the annual report.

(d) Filing articles of dissolution, no fee.

(e) Filing an application of a foreign corporation for an amended certificate of authority to conduct affairs in this state.

(f) Filing a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to conduct affairs in this state.

(g) Filing a copy of articles of merger of a foreign corporation holding a certificate of authority to conduct affairs in this state.

(h) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, no fee.

(i) Filing a certificate by a foreign corporation of the appointment of a registered agent. A separate fee for filing such certificate shall not be charged if the statement appears in an amendment to the articles of incorporation or in conjunction with the annual report.

(j) Filing a certificate by a foreign corporation of the revocation of the appointment of a registered agent. A separate fee for filing such certificate shall not be charged if the statement appears in an amendment to the articles of incorporation or in conjunction with the annual report.

(k) Filing an application to reserve a corporate name.

(l) Filing a notice of transfer of a reserved corporate name.

(m) Filing any other statement or report of a domestic or foreign corporation.

(3) Fees shall be adjusted by rule in an amount that does not exceed the average biennial increase in the cost of providing service. This shall be determined in a biennial cost study performed by the secretary. [1993 c 269 § 7; 1991 c 223 § 2; 1982 c 35 § 154; 1981 c 230 § 6; 1973 c 70 § 2; 1969 ex.s. c 120 § 90.]

Effective date—1993 c 269: See note following RCW 23.86.070.

Effective date—1991 c 223: See note following RCW 24.03.405.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.455 Miscellaneous fees. The secretary of state shall establish by rule, fees for the following:

(1) For furnishing a certified copy of any charter document or any other document, instrument, or paper relating to a corporation;

(2) For furnishing a certificate, under seal, attesting to the status of a corporation; or any other certificate;

(3) For furnishing copies of any document, instrument, or paper relating to a corporation; and

(4) At the time of any service of process on the secretary of state as resident agent of any corporation. This amount may be recovered as taxable costs by the party to the suit or action causing such service to be made if such party prevails in the suit or action. [1993 c 269 § 8; 1982 c 35 § 155; 1979 ex.s. c 133 § 3; 1973 c 70 § 3; 1969 ex.s. c 120 § 91.]

Effective date—1993 c 269: See note following RCW 23.86.070.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Deposit of certain fees recovered under this section in secretary of state's revolving fund: RCW 43.07.130.

24.06.520 Reinstatement and renewal of corporate existence—Fee. If the term of existence of a corporation which was organized under this chapter, or which has availed itself of the privileges thereby provided expires, such corporation shall have the right to renew within two years of the expiration of its term of existence. The corporation may renew the term of its existence for a definite period or perpetually and be reinstated under any name not then in use by or reserved for a domestic corporation organized under any act of this state or a foreign corporation authorized under any act of this state to transact business or conduct affairs in this state. To do so the directors, members and officers shall adopt amended articles of incorporation containing a certification that the purpose thereof is a reinstatement and renewal of the corporate existence. They shall proceed in accordance with the provisions of this

chapter for the adoption and filing of amendments to articles of incorporation. Thereupon such corporation shall be reinstated and its corporate existence renewed as of the date on which its previous term of existence expired and all things done or omitted by it or by its officers, directors, agents and members before such reinstatement shall be as valid and have the same legal effect as if its previous term of existence had not expired.

A corporation reinstating under this section shall pay to the state all fees and penalties which would have been due if the corporate charter had not expired, plus a reinstatement fee established by the secretary of state by rule. [1993 c 269 § 9; 1982 c 35 § 162; 1969 ex.s. c 120 § 106.]

Effective date—1993 c 269: See note following RCW 23.86.070.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Chapter 24.20
FRATERNAL SOCIETIES

Sections

24.20.020 Filing fee. The secretary of state shall file such articles of incorporation in the secretary of state's office and issue a certificate of incorporation to any such lodge or other society upon the payment of the sum of twenty dollars. [1993 c 269 § 10; 1982 c 35 § 165; 1903 c 80 § 2; RRS § 3866.]

Effective date—1993 c 269: See note following RCW 23.86.070.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Chapter 24.24
BUILDING CORPORATIONS COMPOSED OF FRATERNAL SOCIETY MEMBERS

Sections

24.24.100 Fees. The secretary of state shall file such articles of incorporation or amendment thereto in the secretary of state's office and issue a certificate of incorporation or amendment, as the case may be, to such fraternal association upon the payment of a fee in the sum of twenty dollars. [1993 c 269 § 11; 1982 c 35 § 167; 1927 c 190 § 10; RRS § 3887-10.]

Effective date—1993 c 269: See note following RCW 23.86.070.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Title 26
DOMESTIC RELATIONS

Chapters

Chapter 26.04
MARRIAGE

Sections

26.04.160 Application for license—Contents—Oath. (1) Application for a marriage license must be made and filed with the appropriate county auditor upon blanks to be provided by the county auditor for that purpose, which application shall be under the oath of each of the applicants, and each application shall state the name, address at the time of execution of application, age, birthplace, whether single, widowed or divorced, and whether under control of a guardian, residence during the past six months: PROVIDED, That each county may require such other and further information on said application as it shall deem necessary.

(2) The county legislative authority may impose an additional fee up to fifteen dollars on a marriage license for the purpose of funding family services such as family support centers. [1993 c 451 § 1; 1985 c 82 § 2; 1967 c 26 § 7; 1939 c 204 § 4; RRS § 8450-3.]

Effective date—1967 c 26: See note following RCW 43.70.150.

Chapter 26.09
DISSOLUTION OF MARRIAGE—LEGAL SEPARATION—DECLARATIONS CONCERNING VALIDITY OF MARRIAGE

Sections

26.09.220 Parenting arrangements—Investigation and report—Appointment of guardian ad litem. (1) The court may order an investigation and report concerning parenting arrangements for the child, or may appoint a guardian ad litem pursuant to RCW 26.12.175, or both. The investigation and report may be made by the guardian ad litem, the staff of the juvenile court, or other professional social service organization experienced in counseling children and families.

(2) In preparing the report concerning a child, the investigator may consult any person who may have information about the child and the potential parenting or custodian

arrangements. Upon order of the court, the investigator may refer the child to professional personnel for diagnosis. The investigator may consult with and obtain information from medical, psychiatric, or other expert persons who have served the child in the past without obtaining the consent of the parent or the child's custodian; but the child's consent must be obtained if the child has reached the age of twelve, unless the court finds that the child lacks mental capacity to consent. If the requirements of subsection (3) of this section are fulfilled, the investigator's report may be received in evidence at the hearing.

(3) The investigator shall mail the investigator's report to counsel and to any party not represented by counsel at least ten days prior to the hearing unless a shorter time is ordered by the court for good cause shown. The investigator shall make available to counsel and to any party not represented by counsel the investigator's file of underlying data and reports, complete texts of diagnostic reports made to the investigator pursuant to the provisions of subsection (2) of this section, and the names and addresses of all persons whom the investigator has consulted. Any party to the proceeding may call the investigator and any person whom the investigator has consulted for cross-examination. A party may not waive the right of cross-examination prior to the hearing. [1993 c 289 § 1; 1989 c 375 § 12; 1987 c 460 § 16; 1973 1st ex.s. c 157 § 22.]

Authority to make reports to assist courts of other states: RCW 26.27.200.

Chapter 26.10
NONPARENTAL ACTIONS FOR CHILD CUSTODY

Sections

26.10.130 Investigation and report. (1) In contested custody proceedings, and in other custody proceedings if a parent or the child's custodian so requests, the court may order an investigation and report concerning custodian arrangements for the child, or may appoint a guardian ad litem pursuant to RCW 26.12.175, or both. The investigation and report may be made by the guardian ad litem, the staff of the juvenile court, or other professional social service organization experienced in counseling children and families.

(2) In preparing the report concerning a child, the investigator may consult any person who may have information about the child and potential custodian arrangements. Upon order of the court, the investigator may refer the child to professional personnel for diagnosis. The investigator may consult with and obtain information from medical, psychiatric, or other expert persons who have served the child in the past without obtaining the consent of the parent or the child's custodian; but the child's consent must be obtained if the child has reached the age of twelve, unless the court finds that the child lacks mental capacity to consent. If the requirements of subsection (3) of this section are fulfilled, the investigator's report may be received in evidence at the hearing.

(3) The investigator shall mail the investigator's report to counsel and to any party not represented by counsel at least ten days prior to the hearing unless a shorter time is ordered by the court for good cause shown. The investigator shall make available to counsel and to any party not represented by counsel the investigator's file of underlying data and reports, complete texts of diagnostic reports made to the investigator pursuant to the provisions of subsection (2) of this section, and the names and addresses of all persons whom the investigator has consulted. Any party to the proceeding may call the investigator and any person whom the investigator has consulted for cross-examination. A party may not waive the right of cross-examination prior to the hearing. [1993 c 289 § 2; 1987 c 460 § 41.]

Chapter 26.12
FAMILY COURT

Sections

26.12.050 Family courts—Appointment of assistants. (1) Except as provided in subsection (2) of this section, in each county the superior court may appoint the following persons to assist the family court in disposing of its business:

(a) One or more attorneys to act as family court commissioners, and

(b) Such investigators, stenographers and clerks as the court shall find necessary to carry on the work of the family court.

(2) The county legislative authority must approve the creation of family court commissioner positions.

(3) The appointments provided for in this section shall be made by majority vote of the judges of the superior court of the county and may be made in addition to all other appointments of commissioners and other judicial attaches otherwise authorized by law. Family court commissioners and investigators shall serve at the pleasure of the judges appointing them and shall receive such compensation as the county legislative authority shall determine. The appointments may be full or part-time positions. A person appointed as a family court commissioner may also be appointed to any other commissioner position authorized by law. [1993 c 15 § 1; 1991 c 363 § 17; 1989 c 199 § 1; 1965 ex.s. c 83 § 1; 1949 c 50 § 5; Rem. Supp. 1949 § 997-34.]

Effective date—1993 c 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 [April 12, 1993]." [1993 c 15 § 3.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Court
clerks, reporters, and bailiffs: Chapter 2.32 RCW.
commissioners and referees: Chapter 2.24 RCW.

26.12.060 Court commissioners—Duties. The court commissioners shall: (1) Make appropriate referrals to county family court services program if the county has a family court services program or appoint a guardian ad litem pursuant to RCW 26.12.175; (2) order investigation and

reporting of the facts upon which to base warrants, subpoenas, orders or directions in actions or proceedings under this chapter; (3) exercise all the powers and perform all the duties of court commissioners; (4) make written reports of all proceedings had which shall become a part of the record of the family court; (5) provide supervision over the exercise of its jurisdiction as the judge of the family court may order; (6) cause the orders and findings of the family court to be entered in the same manner as orders and findings are entered in cases in the superior court; (7) cause other reports to be made and records kept as will indicate the value and extent of reconciliation, mediation, investigation, and treatment services; and (8) conduct hearings under chapter 13.34 RCW as provided in RCW 13.04.021. [1993 c 289 § 3; 1991 c 367 § 12; 1988 c 232 § 4; 1949 c 50 § 6; Rem. Supp. 1949 § 997-35.]

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

26.12.175 Appointment of guardian ad litem—Court-appointed special advocate program. (1) The court may appoint a guardian ad litem to represent the interests of a minor or dependent child when the court believes the appointment of a guardian ad litem is necessary to protect the best interests of the child in any proceeding under this chapter. The family court services professionals may also make a recommendation to the court regarding whether a guardian ad litem should be appointed for the child. The court may appoint a guardian ad litem from the court-appointed special advocate program, if that program exists in the county. Unless otherwise ordered, the guardian ad litem's role is to investigate and report to the court concerning parenting arrangements for the child, and to represent the child's best interests. The court shall enter an order for costs, fees, and disbursements to cover the costs of the guardian ad litem. The court may order either or both parents to pay for the costs of the guardian ad litem, according to their ability to pay. If both parents are indigent, the county shall bear the cost of the guardian, subject to appropriation for guardians' ad litem services by the county legislative authority.

(2)(a) If the guardian ad litem appointed is from the county court-appointed special advocate program, the program shall supervise any guardian ad litem assigned to the case. The court-appointed special advocate program shall be entitled to notice of all proceedings in the case.

(b) The legislative authority of each county may authorize creation of a court-appointed special advocate program. The county legislative authority may adopt rules of eligibility for court-appointed special advocate program services.

(3) Each guardian ad litem program shall maintain a background information record for each guardian ad litem in the program. The background file shall include, but is not limited to, the following information:

(a) Level of formal education;

(b) Training related to the guardian's duties;

(c) Number of years' experience as a guardian ad litem;

(d) Number of appointments as a guardian ad litem; and

(e) Criminal history, as defined in RCW 9.94A.030.

The background information report shall be updated annually. As a condition of appointment, the guardian ad litem's background information record shall be made available to the court. If the appointed guardian ad litem is not a member of a guardian ad litem program the person shall provide the background information to the court. [1993 c 289 § 4; 1991 c 367 § 17.]

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

26.12.240 Courthouse facilitator program—Fee or surcharge. A county may create a courthouse facilitator program to provide basic services to pro se litigants in family law cases. The legislative authority of any county may impose user fees or may impose a surcharge of up to ten dollars on only those superior court cases filed under Title 26 RCW, or both, to pay for the expenses of the courthouse facilitator program. Fees collected under this section shall be collected and deposited in the same manner as other county funds are collected and deposited, and shall be maintained in a separate account to be used as provided in this section. [1993 c 435 § 2.]

Chapter 26.18
CHILD SUPPORT ENFORCEMENT

Sections

26.18.010 Legislative findings. The legislature finds that there is an urgent need for vigorous enforcement of child support and spousal maintenance obligations, and that stronger and more efficient statutory remedies need to be established to supplement and complement the remedies provided in chapters 26.09, 26.21, 26.26, 74.20, and 74.20A RCW. [1993 c 426 § 1; 1984 c 260 § 1.]

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

(1) "Dependent child" means any child for whom a support order has been established or for whom a duty of support is owed.

(2) "Duty of spousal maintenance" means the duty to provide for the needs of a spouse or former spouse imposed under chapter 26.09 RCW.

(3) "Duty of support" means the duty to provide for the needs of a dependent child, which may include necessary food, clothing, shelter, education, and health care. The duty includes any obligation to make monetary payments, to pay expenses, including spousal maintenance in cases in which there is a dependent child, or to reimburse another person or an agency for the cost of necessary support furnished a dependent child. The duty may be imposed by court order, by operation of law, or otherwise.

(4) "Obligee" means the custodian of a dependent child, the spouse or former spouse, or person or agency, to whom a duty of support or duty of spousal maintenance is owed, or the person or agency to whom the right to receive or collect support or spousal maintenance has been assigned.

(5) "Obligor" means the person owing a duty of support or duty of spousal maintenance.

(6) "Support or maintenance order" means any judgment, decree, or order of support or spousal maintenance issued by the superior court or authorized agency of the state of Washington; or a judgment, decree, or other order of support or spousal maintenance issued by a court or agency of competent jurisdiction in another state or country, which has been registered or otherwise made enforceable in this state.

(7) "Employer" includes the United States government, a state or local unit of government, and any person or entity who pays or owes earnings or remuneration for employment to the obligor.

(8) "Earnings" means compensation paid or payable for personal services or remuneration for employment, whether denominated as wages, salary, commission, bonus, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy support or spousal maintenance obligations, 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.

(9) "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.

(10) "Department" means the department of social and health services.

(11) "Health insurance coverage" includes any coverage under which medical services are provided by an employer or a union whether that coverage is provided through a self-insurance program, under the employee retirement income security act of 1974, a commercial insurer pursuant to chapters 48.20 and 48.21 RCW, a health care service contractor pursuant to chapter 48.44 RCW, or a health maintenance organization pursuant to chapter 48.46 RCW, and the state through chapter 41.05 RCW.

(12) "Insurer" means a commercial insurance company providing disability insurance under chapter 48.20 or 48.21 RCW, a health care service contractor providing health care coverage under chapter 48.44 RCW, a health maintenance organization providing comprehensive health care services under chapter 48.46 RCW, and shall also include any employer or union which is providing health insurance coverage on a self-insured basis.

(13) "Remuneration for employment" means moneys due from or payable by the United States to an individual within the scope of 42 U.S.C. Sec. 659 and 42 U.S.C. Sec. 662(f). [1993 c 426 § 2; 1989 c 416 § 2; 1987 c 435 § 17; 1984 c 260 § 2.]

Effective date—1987 c 435: See RCW 26.23.900.

26.18.030 Application—Liberal construction. (1) The remedies provided in this chapter are in addition to, and not in substitution for, any other remedies provided by law.

(2) This chapter applies to any dependent child, whether born before or after June 7, 1984, and regardless of the past or current marital status of the parents, and to a spouse or former spouse.

(3) This chapter shall be liberally construed to assure that all dependent children are adequately supported. [1993 c 426 § 3; 1984 c 260 § 3.]

26.18.040 Support or spousal maintenance proceedings. (1) A proceeding to enforce a duty of support or spousal maintenance is commenced:

(a) By filing a petition for an original action; or

(b) By motion in an existing action or under an existing cause number.

(2) Venue for the action is in the superior court of the county where the dependent child resides or is present, where the obligor or obligee resides, or where the prior support or maintenance order was entered. The petition or motion may be filed by the obligee, the state, or any agency providing care or support to the dependent child. A filing fee shall not be assessed in cases brought on behalf of the state of Washington.

(3) The court retains continuing jurisdiction under this chapter until all duties of either support or spousal maintenance, or both, of the obligor, including arrearages, have been satisfied. [1993 c 426 § 4; 1984 c 260 § 4.]

26.18.050 Failure to comply with support or spousal maintenance order—Contempt action—Order to show cause—Bench warrant—Continuing jurisdiction. (1) If an obligor fails to comply with a support or spousal maintenance order, a petition or motion may be filed without notice under RCW 26.18.040 to initiate a contempt action as provided in chapter 7.21 RCW. If the court finds there is reasonable cause to believe the obligor has failed to comply with a support or spousal maintenance order, the court may issue an order to show cause requiring the obligor to appear at a certain time and place for a hearing, at which time the obligor may appear to show cause why the relief requested should not be granted. A copy of the petition or motion shall be served on the obligor along with the order to show cause.

(2) Service of the order to show cause shall be by personal service, or in the manner provided in the civil rules of superior court or applicable statute.

(3) If the order to show cause served upon the obligor included a warning that an arrest warrant could be issued for failure to appear, the court may issue a bench warrant for the arrest of the obligor if the obligor fails to appear on the return date provided in the order.

(4) If the obligor contends at the hearing that he or she lacked the means to comply with the support or spousal maintenance order, the obligor shall establish that he or she exercised due diligence in seeking employment, in conserving assets, or otherwise in rendering himself or herself able to comply with the court's order.

(5) As provided in RCW 26.18.040, the court retains continuing jurisdiction under this chapter and may use a contempt action to enforce a support or maintenance order until the obligor satisfies all duties of support, including arrearages, that accrued pursuant to the support or maintenance order. [1993 c 426 § 5; 1989 c 373 § 22; 1984 c 260 § 5.]

Severability—1989 c 373: See RCW 7.21.900.

26.18.070 Mandatory wage assignment—Petition or motion. (1) A petition or motion seeking a mandatory wage assignment in an action under RCW 26.18.040 may be filed by an obligee if the obligor is more than fifteen days past due in child support or spousal maintenance payments in an amount equal to or greater than the obligation payable for one month. The petition or motion shall include a sworn statement by the obligee, stating the facts authorizing the issuance of the wage assignment order, including:

(a) That the obligor, stating his or her name and residence, is more than fifteen days past due in child support or spousal maintenance payments in an amount equal to or greater than the obligation payable for one month;

(b) A description of the terms of the order requiring payment of support or spousal maintenance, and the amount past due;

(c) The name and address of the obligor's employer;

(d) That notice by personal service or any form of mail requiring a return receipt, has been provided to the obligor at least fifteen days prior to the obligee seeking a mandatory wage assignment, unless the order for support or maintenance states that the obligee may seek a mandatory wage assignment without notice to the obligor; and

(e) In cases not filed by the state, whether the obligee has received public assistance from any source and, if the obligee has received public assistance, that the department of social and health services has been notified in writing of the pending action.

(2) If the court in which a mandatory wage assignment is sought does not already have a copy of the support or maintenance order in the court file, then the obligee shall attach a copy of the support or maintenance order to the petition or motion seeking the wage assignment.[1993 c 426 § 6; 1987 c 435 § 18; 1984 c 260 § 7.]

Effective date—1987 c 435: See RCW 26.23.900.

26.18.090 Wage assignment order—Contents—Amounts—Apportionment of disbursements. (1) The wage assignment order in RCW 26.18.080 shall include:

(a) The maximum amount of current support or spousal maintenance, if any, to be withheld from the obligor's earnings each month, or from each earnings disbursement; and

(b) The total amount of the arrearage or reimbursement judgment previously entered by the court, if any, together with interest, if any.

(2) The total amount to be withheld from the obligor's earnings each month, or from each earnings disbursement, shall not exceed fifty percent of the disposable earnings of the obligor. If the amounts to be paid toward the arrearage are specified in the support or spousal maintenance order, then the maximum amount to be withheld is the sum of: Either the current support or spousal maintenance ordered, or both; and the amount ordered to be paid toward the arrearage, or fifty percent of the disposable earnings of the obligor, whichever is less.

(3) The provisions of RCW 6.27.150 do not apply to wage assignments for child support or spousal maintenance authorized under this chapter, but fifty percent of the disposable earnings of the obligor are exempt, and may be disbursed to the obligor.

(4) If an obligor is subject to two or more attachments for child support on account of different obligees, the employer shall, if the nonexempt portion of the obligor's earnings is not sufficient to respond fully to all the attachments, apportion the obligor's nonexempt disposable earnings between or among the various obligees equally. Any obligee may seek a court order reapportioning the obligor's nonexempt disposable earnings upon notice to all interested obligees. Notice shall be by personal service, or in the manner provided by the civil rules of superior court or applicable statute.

(5) If an obligor is subject to two or more attachments for spousal maintenance on account of different obligees, the employer shall, if the nonexempt portion of the obligor's earnings is not sufficient to respond fully to all the attachments, apportion the obligor's nonexempt disposable earnings between or among the various obligees equally. An obligee may seek a court order reapportioning the obligor's nonexempt disposable earnings upon notice to all interested obligees. Notice shall be by personal service, or in the manner provided by the civil rules of superior court or applicable statute. [1993 c 426 § 7; 1984 c 260 § 9.]

26.18.100 Wage assignment order—Form. The wage assignment order shall be substantially in the following form:

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE COUNTY OF .....

..... ,
Obligee
vs.
..... ,
Obligor
..... ,
Employer

No. ....

WAGE ASSIGNMENT ORDER

THE STATE OF WASHINGTON TO: .....
Employer

AND TO: .....
Obligor

The above-named obligee claims that the above-named obligor is more than fifteen days past due in either child support or spousal maintenance payments, or both, in an amount equal to or greater than the child support or spousal

maintenance payable for one month. The amount of the accrued child support or spousal maintenance debt as of this date is . . . . . dollars, the amount of arrearage payments specified in the support or spousal maintenance order (if applicable) is . . . . . dollars per . . . . . ., and the amount of the current and continuing support or spousal maintenance obligation under the order is . . . . . dollars per . . . . . .

You are hereby commanded to answer this order by filling in the attached form according to the instructions, and you must mail or deliver the original of the answer to the court, one copy to the Washington state support registry, one copy to the obligee or obligee's attorney, and one copy to the obligor within twenty days after service of this wage assignment order upon you.

If you possess any earnings or other remuneration for employment due and owing to the obligor, then you shall do as follows:

(1) Withhold from the obligor's earnings or remuneration each month, or from each regular earnings disbursement, the lesser of:

(a) The sum of the accrued support or spousal maintenance debt and the current support or spousal maintenance obligation;

(b) The sum of the specified arrearage payment amount and the current support or spousal maintenance obligation; or

(c) Fifty percent of the disposable earnings or remuneration of the obligor.

(2) The total amount withheld above is subject to the wage assignment order, and all other sums may be disbursed to the obligor.

(3) Upon receipt of this wage assignment order you shall make immediate deductions from the obligor's earnings or remuneration and remit to the Washington state support registry or other address specified below the proper amounts at each regular pay interval.

You shall continue to withhold the ordered amounts from nonexempt earnings or remuneration of the obligor until notified by:

(a) The court that the wage assignment has been modified or terminated;

(b) The Washington state support registry, office of support enforcement that the accrued child support debt has been paid; or

(c) The court that has entered an order delaying, modifying, or terminating the wage assignment order and has approved an alternate payment plan as provided in RCW 26.23.050(2).

You shall promptly notify the court and the Washington state support registry if and when the employee is no longer employed by you, or if the obligor no longer receives earnings or remuneration from you. If you no longer employ the employee, the wage assignment order shall remain in effect for one year after the employee has left your employment or you are no longer in possession of any earnings or remuneration owed to the employee, whichever is later. You shall continue to hold the wage assignment order during that period. If the employee returns to your employment during the one-year period you shall immediately begin to withhold the employee's earnings according to the terms of the wage assignment order. If the employee has not returned to your employment within one year, the wage assignment will cease to have effect at the expiration of the one-year period, unless you still owe the employee earnings or other remuneration.

You shall deliver the withheld earnings or remuneration to the Washington state support registry or other address stated below at each regular pay interval.

You shall deliver a copy of this order to the obligor as soon as is reasonably possible. This wage assignment order has priority over any other wage assignment or garnishment, except for another wage assignment or garnishment for child support or spousal maintenance, or order to withhold or deliver under chapter 74.20A RCW.

WHETHER OR NOT YOU OWE ANYTHING TO THE OBLIGOR, YOUR FAILURE TO ANSWER AS REQUIRED MAY MAKE YOU LIABLE FOR OBLIGOR'S CLAIMED SUPPORT OR SPOUSAL MAINTENANCE DEBT TO THE OBLIGEE OR SUBJECT TO CONTEMPT OF COURT.

NOTICE TO OBLIGOR: YOU HAVE A RIGHT TO REQUEST A HEARING IN THE SUPERIOR COURT THAT ISSUED THIS WAGE ASSIGNMENT ORDER, TO REQUEST THAT THE COURT QUASH, MODIFY, OR TERMINATE THE WAGE ASSIGNMENT ORDER.

DATED THIS . . . . day of . . . ., 19. . .

. . . . .	. . . . .
Obligee,	Judge/Court Commissioner
or obligee's attorney	
Send withheld payments to:	. . . . .
	. . . . .
	. . . . .
	. . . . .

[1993 c 426 § 8; 1991 c 367 § 20; 1989 c 416 § 10; 1987 c 435 § 20; 1984 c 260 § 10.]

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

Effective date—1987 c 435: See RCW 26.23.900.

26.18.110 Wage assignment order—Employer's answer, duties, and liability—Priorities. (1) An employer upon whom service of a wage assignment order has been made shall answer the order by sworn affidavit within twenty days after the date of service. The answer shall state whether the obligor is employed by or receives earnings or other remuneration from the employer, whether the employer will honor the wage assignment order, and whether there are either multiple child support or spousal maintenance attachments, or both, against the obligor.

(2) If the employer possesses any earnings or remuneration due and owing to the obligor, the earnings subject to the wage assignment order shall be withheld immediately upon receipt of the wage assignment order. The withheld earnings shall be delivered to the Washington state support registry or, if the wage assignment order is to satisfy a duty of spousal maintenance, to the addressee specified in the assignment at each regular pay interval.

(3) The employer shall continue to withhold the ordered amounts from nonexempt earnings or remuneration of the obligor until notified by:

(a) The court that the wage assignment has been modified or terminated;

(b) The Washington state support registry or obligee that the accrued child support or spousal maintenance debt has been paid, provided the wage assignment order contains the language set forth under RCW 26.18.100(3)(b). The employer shall promptly notify the Washington state support registry when the employee is no longer employed. If the employer no longer employs the employee, the wage assignment order shall remain in effect for one year after the employee has left the employment or the employer has been in possession of any earnings or remuneration owed to the employee, whichever is later. The employer shall continue to hold the wage assignment order during that period. If the employee returns to the employer's employment during the one-year period the employer shall immediately begin to withhold the employee's earnings or remuneration according to the terms of the wage assignment order. If the employee has not returned within one year, the wage assignment shall cease to have effect at the expiration of the one-year period, unless the employer continues to owe remuneration for employment to the obligor; or

(c) The court that has entered an order delaying, modifying, or terminating the wage assignment order and has approved an alternate payment plan as provided in RCW 26.23.050(2).

(4) The employer may deduct a processing fee from the remainder of the employee's earnings after withholding under the wage assignment order, even if the remainder is exempt under RCW 26.18.090. The processing fee may not exceed (a) ten dollars for the first disbursement made by the employer to the Washington state support registry; and (b) one dollar for each subsequent disbursement to the clerk.

(5) An order for wage assignment for support for a dependent child entered under this chapter shall have priority over any other wage assignment or garnishment, except for another wage assignment or garnishment for child support, or order to withhold and deliver under chapter 74.20A RCW. An order for wage assignment for spousal maintenance entered under this chapter shall have priority over any other wage assignment or garnishment, except for a wage assignment, garnishment, or order to withhold and deliver under chapter 74.20A RCW for support of a dependent child, and except for another wage assignment or garnishment for spousal maintenance.

(6) An employer who fails to withhold earnings as required by a wage assignment issued under this chapter may be held liable to the obligee for one hundred percent of the support or spousal maintenance debt, or the amount of support or spousal maintenance moneys that should have been withheld from the employee's earnings whichever is the lesser amount, if the employer:

(a) Fails or refuses, after being served with a wage assignment order, to deduct and promptly remit from the unpaid earnings the amounts of money required in the order;

(b) Fails or refuses to submit an answer to the notice of wage assignment after being served; or

(c) Is unwilling to comply with the other requirements of this section.

Liability may be established in superior court. Awards in superior court shall include costs, interest under RCW 19.52.020 and 4.56.110, and reasonable attorneys' fees.

(7) No employer who complies with a wage assignment issued under this chapter may be liable to the employee for wrongful withholding.

(8) No employer may discharge, discipline, or refuse to hire an employee because of the entry or service of a wage assignment issued and executed under this chapter. If an employer discharges, disciplines, or refuses to hire an employee in violation of this section, the employee or person shall have a cause of action against the employer. The employer shall be liable for double the amount of damages suffered as a result of the violation and for costs and reasonable attorneys' fees, and shall be subject to a civil penalty of not more than two thousand five hundred dollars for each violation. The employer may also be ordered to hire, rehire, or reinstate the aggrieved individual.

(9) For wage assignments payable to the Washington state support registry, an employer may combine amounts withheld from various employees into a single payment to the Washington state support registry, if the payment includes a listing of the amounts attributable to each employee and other information as required by the registry.

(10) An employer shall deliver a copy of the wage assignment order to the obligor as soon as is reasonably possible. [1993 c 426 § 9; 1991 c 367 § 21; 1989 c 416 § 11; 1987 c 435 § 21; 1984 c 260 § 11.]

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

Effective date—1987 c 435: See RCW 26.23.900.

26.18.120 Wage assignment order—Employer's answer—Form. The answer of the employer shall be made on forms, served on the employer with the wage assignment order, substantially as follows:

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE COUNTY OF . . . . . .

. . . . .	No. . . . .
Obligee	
vs.	ANSWER
. . . . .	TO WAGE
Obligor	ASSIGNMENT ORDER
. . . . .	
Employer	

1. At the time of the service of the wage assignment order on the employer, was the above-named obligor employed by or receiving earnings or other remuneration for employment from the employer?

Yes . . . . . No . . . . . (check one).

2. Are there any other attachments for child support or spousal maintenance currently in effect against the obligor?

Yes . . . . . No . . . . . (check one).

3. If the answer to question one is yes and the employer cannot comply with the wage assignment order, provide an explanation:

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

. . . . .	. . . . .
Signature of employer	Date and place
	. . . . .
. . . . .	. . . . .
Signature of person answering for employer	Address for future notice to employer
. . . . .	
Connection with employer	

[1993 c 426 § 10; 1984 c 260 § 12.]

26.18.140 Hearing to quash, modify, or terminate wage assignment order—Grounds—Alternate payment plan. (1) Except as provided in subsection (2) of this section, in a hearing to quash, modify, or terminate the wage assignment order, the court may grant relief only upon a showing that the wage assignment order causes extreme hardship or substantial injustice. Satisfaction by the obligor of all past due payments subsequent to the issuance of the wage assignment order is not grounds to quash, modify, or terminate the wage assignment order. If a wage assignment order has been in operation for twelve consecutive months and the obligor's support or spousal maintenance obligation is current, the court may terminate the order upon motion of the obligor unless the obligee can show good cause as to why the wage assignment order should remain in effect.

(2) The court may enter an order delaying, modifying, or terminating the wage assignment order and order the obligor to make payments directly to the obligee if the court approves an alternate payment plan as provided in RCW 26.23.050(2). [1993 c 426 § 11; 1991 c 367 § 22; 1984 c 260 § 14.]

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

26.18.150 Bond or other security. (1) In any action to enforce a support or spousal maintenance order under Title 26 RCW, the court may, in its discretion, order a parent obligated to pay support for a minor child or person owing a duty of spousal maintenance to post a bond or other security with the court. The bond or other security shall be in the amount of support or spousal maintenance due for a two-year period. The bond or other security is subject to approval by the court. The bond shall include the name and address of the issuer. If the bond is canceled, any person issuing a bond under this section shall notify the court and the person entitled to receive payment under the order.

(2) If the obligor fails to make payments as required under the court order, the person entitled to receive payment may recover on the bond or other security in the existing proceeding. The court may, after notice and hearing, increase the amount of the bond or other security. Failure to comply with the court's order to obtain and maintain a bond or other security may be treated as contempt of court. [1993 c 426 § 12; 1984 c 260 § 15.]

26.18.160 Costs. In any action to enforce a support or maintenance order under this chapter, the prevailing party is entitled to a recovery of costs, including an award for reasonable attorney fees. An obligor may not be considered a prevailing party under this section unless the obligee has acted in bad faith in connection with the proceeding in question. [1993 c 426 § 13; 1984 c 260 § 25.]

26.18.170 Health insurance coverage—Enforcement. (1) Whenever an obligor parent who has been ordered to provide health insurance coverage for a dependent child fails to provide such coverage or lets it lapse, the department or the obligee may seek enforcement of the coverage order as provided under this section.

(2)(a) If the obligor parent's order to provide health insurance coverage contains language notifying the obligor that failure to provide such coverage may result in direct enforcement of the order and orders payments through, or has been submitted to, the Washington state support registry for enforcement, then the department may, without further notice to the obligor, send a notice of enrollment to the obligor's employer or union by certified mail, return receipt requested.

The notice shall require the employer or union to enroll the child in the health insurance plan as provided in subsection (3) of this section.

(b) If the obligor parent's order to provide health insurance coverage does not order payments through, and has not been submitted to, the Washington state support registry for enforcement:

(i) The obligee may, without further notice to the obligor send a certified copy of the order requiring health insurance coverage to the obligor's employer or union by certified mail, return receipt requested; and

(ii) The obligee shall attach a notarized statement to the order declaring that the order is the latest order addressing coverage entered by the court and require the employer or union to enroll the child in the health insurance plan as provided in subsection (3) of this section.

(3) Upon receipt of an order that provides for health insurance coverage, or a notice of enrollment:

(a) The obligor's employer or union shall answer the party who sent the order or notice within thirty-five days and confirm that the child:

(i) Has been enrolled in the health insurance plan;

(ii) Will be enrolled in the next open enrollment period; or

(iii) Cannot be covered, stating the reasons why such coverage cannot be provided;

(b) The employer or union shall withhold any required premium from the obligor's income or wages;

(c) If more than one plan is offered by the employer or union, and each plan may be extended to cover the child, then the child shall be enrolled in the obligor's plan. If the obligor's plan does not provide coverage which is accessible to the child, the child shall be enrolled in the least expensive plan otherwise available to the obligor parent;

(d) The employer or union shall provide information about the name of the health insurance coverage provider or insurer and the extent of coverage available to the obligee or the department and shall make available any necessary claim forms or enrollment membership cards.

(4) If the order for coverage contains no language notifying the obligor that failure to provide health insurance coverage may result in direct enforcement of the order, the department or the obligee may serve a written notice of intent to enforce the order on the obligor by certified mail, return receipt requested, or by personal service. If the obligor fails to provide written proof that such coverage has been obtained or applied for within twenty days of service of the notice, or within twenty days of coverage becoming available the department or the obligee may proceed to enforce the order directly as provided in subsection (2) of this section.

(5) If the obligor ordered to provide health insurance coverage elects to provide coverage that will not be accessible to the child because of geographic or other limitations when accessible coverage is otherwise available, the department or the obligee may serve a written notice of intent to purchase health insurance coverage on the obligor by certified mail, return receipt requested. The notice shall also specify the type and cost of coverage.

(6) If the department serves a notice under subsection (5) of this section the obligor shall, within twenty days of the date of service:

(a) File an application for an adjudicative proceeding; or

(b) Provide written proof to the department that the obligor has either applied for, or obtained, coverage accessible to the child.

(7) If the obligee serves a notice under subsection (5) of this section, within twenty days of the date of service the obligor shall provide written proof to the obligee that the obligor has either applied for, or obtained, coverage accessible to the child.

(8) If the obligor fails to respond to a notice served under subsection (5) of this section to the party who served the notice, the party who served the notice may purchase the health insurance coverage specified in the notice directly. The amount of the monthly premium shall be added to the support debt and be collectible without further notice. The amount of the monthly premium may be collected or accrued until the obligor provides proof of the required coverage.

(9) The signature of the obligee or of a department employee shall be a valid authorization to the coverage provider or insurer for purposes of processing a payment to the child's health services provider. An order for health insurance coverage shall operate as an assignment of all benefit rights to the obligee or to the child's health services provider, and in any claim against the coverage provider or insurer, the obligee or the obligee's assignee shall be subrogated to the rights of the obligor. Notwithstanding the provisions of this section regarding assignment of benefits, this section shall not require a health care service contractor authorized under chapter 48.44 RCW or a health maintenance organization authorized under chapter 48.46 RCW to deviate from their contractual provisions and restrictions regarding reimbursement for covered services. If the coverage is terminated, the employer shall mail a notice of termination to the department or the obligee at the obligee's last known address within thirty days of the termination date.

(10) This section shall not be construed to limit the right of the obligor or the obligee to bring an action in superior court at any time to enforce, modify, or clarify the original support order.

(11) Nothing in this section shall be construed to require a health maintenance organization, or health care service contractor, to extend coverage to a child who resides outside its service area.

(12) If an obligor fails to pay his or her portion of any deductible required under the health insurance coverage or fails to pay his or her portion of medical expenses incurred in excess of the coverage provided under the plan, the department or the obligee may enforce collection of the obligor's portion of the deductible or the additional medical expenses through a wage assignment order. The amount of the deductible or additional medical expenses shall be added to the support debt and be collectible without further notice if the obligor's share of the amount of the deductible or additional expenses is reduced to a sum certain in a court order. [1993 c 426 § 14; 1989 c 416 § 5.]

Chapter 26.19
CHILD SUPPORT SCHEDULE

Sections

26.19.071 Standards for determination of income. (1) **Consideration of all income.** All income and resources of each parent's household shall be disclosed and considered by the court when the court determines the child support obligation of each parent. Only the income of the parents of the children whose support is at issue shall be calculated for purposes of calculating the basic support obligation. Income and resources of any other person shall not be included in calculating the basic support obligation.

(2) **Verification of income.** Tax returns for the preceding two years and current paystubs shall be provided to verify income and deductions. Other sufficient verification shall be required for income and deductions which do not appear on tax returns or paystubs.

(3) **Income sources included in gross monthly income.** Except as specifically excluded in subsection (4) of this section, monthly gross income shall include income from any source, including:

(a) Salaries;
(b) Wages;
(c) Commissions;
(d) Deferred compensation;
(e) Overtime;
(f) Contract-related benefits;
(g) Income from second jobs;
(h) Dividends;
(i) Interest;
(j) Trust income;
(k) Severance pay;
(l) Annuities;
(m) Capital gains;
(n) Pension retirement benefits;
(o) Workers' compensation;
(p) Unemployment benefits;
(q) Spousal maintenance actually received;

(r) Bonuses;

(s) Social security benefits; and

(t) Disability insurance benefits.

(4) **Income sources excluded from gross monthly income.** The following income and resources shall be disclosed but shall not be included in gross income:

(a) Income of a new spouse or income of other adults in the household;

(b) Child support received from other relationships;

(c) Gifts and prizes;

(d) Aid to families with dependent children;

(e) Supplemental security income;

(f) General assistance; and

(g) Food stamps.

Receipt of income and resources from aid to families with dependent children, supplemental security income, general assistance, and food stamps shall not be a reason to deviate from the standard calculation.

(5) **Determination of net income.** The following expenses shall be disclosed and deducted from gross monthly income to calculate net monthly income:

(a) Federal and state income taxes;

(b) Federal insurance contributions act deductions;

(c) Mandatory pension plan payments;

(d) Mandatory union or professional dues;

(e) State industrial insurance premiums;

(f) Court-ordered spousal maintenance to the extent actually paid;

(g) Up to two thousand dollars per year in voluntary pension payments actually made if the contributions were made for the two tax years preceding the earlier of the (i) tax year in which the parties separated with intent to live separate and apart or (ii) tax year in which the parties filed for dissolution; and

(h) Normal business expenses and self-employment taxes for self-employed persons. Justification shall be required for any business expense deduction about which there is disagreement.

Items deducted from gross income under this subsection shall not be a reason to deviate from the standard calculation.

(6) **Imputation of income.** The court shall impute income to a parent when the parent is voluntarily unemployed or voluntarily underemployed. The court shall determine whether the parent is voluntarily underemployed or voluntarily unemployed based upon that parent's work history, education, health, and age, or any other relevant factors. A court shall not impute income to a parent who is gainfully employed on a full-time basis, unless the court finds that the parent is voluntarily underemployed and finds that the parent is purposely underemployed to reduce the parent's child support obligation. Income shall not be imputed for an unemployable parent. Income shall not be imputed to a parent to the extent the parent is unemployed or significantly underemployed due to the parent's efforts to comply with court-ordered reunification efforts under chapter 13.34 RCW or under a voluntary placement agreement with an agency supervising the child. In the absence of information to the contrary, a parent's imputed income shall be based on the median income of year-round full-time workers as derived from the United States bureau of census, current populations reports, or such replacement report as published by the bureau of census. [1993 c 358 § 4; 1991 sp.s. c 28 § 5.]

Severability—Effective date—Captions not law—1991 sp.s. c 28: See notes following RCW 26.09.100.

26.19.075 Standards for deviation from the standard calculation. (1) Reasons for deviation from the standard calculation include but are not limited to the following:

(a) **Sources of income and tax planning.** The court may deviate from the standard calculation after consideration of the following:

(i) Income of a new spouse if the parent who is married to the new spouse is asking for a deviation based on any other reason. Income of a new spouse is not, by itself, a sufficient reason for deviation;

(ii) Income of other adults in the household if the parent who is living with the other adult is asking for a deviation based on any other reason. Income of the other adults in the household is not, by itself, a sufficient reason for deviation;

(iii) Child support actually received from other relationships;

(iv) Gifts;

(v) Prizes;

(vi) Possession of wealth, including but not limited to savings, investments, real estate holdings and business interests, vehicles, boats, pensions, bank accounts, insurance plans, or other assets;

(vii) Extraordinary income of a child; or

(viii) Tax planning considerations. A deviation for tax planning may be granted only if the child would not receive a lesser economic benefit due to the tax planning.

(b) **Nonrecurring income.** The court may deviate from the standard calculation based on a finding that a particular source of income included in the calculation of the basic support obligation is not a recurring source of income. Depending on the circumstances, nonrecurring income may include overtime, contract-related benefits, bonuses, or income from second jobs. Deviations for nonrecurring income shall be based on a review of the nonrecurring income received in the previous two calendar years.

(c) **Debt and high expenses.** The court may deviate from the standard calculation after consideration of the following expenses:

(i) Extraordinary debt not voluntarily incurred;

(ii) A significant disparity in the living costs of the parents due to conditions beyond their control;

(iii) Special needs of disabled children;

(iv) Special medical, educational, or psychological needs of the children; or

(v) Costs incurred or anticipated to be incurred by the parents in compliance with court-ordered reunification efforts under chapter 13.34 RCW or under a voluntary placement agreement with an agency supervising the child.

(d) **Residential schedule.** The court may deviate from the standard calculation if the child spends a significant amount of time with the parent who is obligated to make a support transfer payment. The court may not deviate on that basis if the deviation will result in insufficient funds in the household receiving the support to meet the basic needs of the child or if the child is receiving aid to families with dependent children. When determining the amount of the

deviation, the court shall consider evidence concerning the increased expenses to a parent making support transfer payments resulting from the significant amount of time spent with that parent and shall consider the decreased expenses, if any, to the party receiving the support resulting from the significant amount of time the child spends with the parent making the support transfer payment.

(e) **Children from other relationships.** The court may deviate from the standard calculation when either or both of the parents before the court have children from other relationships to whom the parent owes a duty of support.

(i) The child support schedule shall be applied to the mother, father, and children of the family before the court to determine the presumptive amount of support.

(ii) Children from other relationships shall not be counted in the number of children for purposes of determining the basic support obligation and the standard calculation.

(iii) When considering a deviation from the standard calculation for children from other relationships, the court may consider only other children to whom the parent owes a duty of support. The court may consider court-ordered payments of child support for children from other relationships only to the extent that the support is actually paid.

(iv) When the court has determined that either or both parents have children from other relationships, deviations under this section shall be based on consideration of the total circumstances of both households. All child support obligations paid, received, and owed for all children shall be disclosed and considered.

(2) All income and resources of the parties before the court, new spouses, and other adults in the households shall be disclosed and considered as provided in this section. The presumptive amount of support shall be determined according to the child support schedule. Unless specific reasons for deviation are set forth in the written findings of fact and are supported by the evidence, the court shall order each parent to pay the amount of support determined by using the standard calculation.

(3) The court shall enter findings that specify reasons for any deviation or any denial of a party's request for any deviation from the standard calculation made by the court. The court shall not consider reasons for deviation until the court determines the standard calculation for each parent.

(4) When reasons exist for deviation, the court shall exercise discretion in considering the extent to which the factors would affect the support obligation.

(5) Agreement of the parties is not by itself adequate reason for any deviations from the standard calculation. [1993 c 358 § 5; 1991 sp.s. c 28 § 6.]

Severability—Effective date—Captions not law—1991 sp.s. c 28: See notes following RCW 26.09.100.

Chapter 26.21

UNIFORM INTERSTATE FAMILY SUPPORT ACT

(Formerly: Uniform reciprocal enforcement of support act)

Sections

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ARTICLE 1
GENERAL PROVISIONS

26.21.005 Definitions. (Effective July 1, 1994.) In this chapter:

(1) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

(2) "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state.

(3) "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

(4) "Home state" means the state in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.

(5) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.

(6) "Income-withholding order" means an order or other legal process directed to an obligor's employer or other debtor, as defined by chapter 6.27 RCW, to withhold support from the income of the obligor.

(7) "Initiating state" means a state in which a proceeding under this chapter or a law substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act is filed for forwarding to a responding state.

(8) "Initiating tribunal" means the authorized tribunal in an initiating state.

(9) "Issuing state" means the state in which a tribunal issues a support order or renders a judgment determining parentage.

(10) "Issuing tribunal" means the tribunal that issues a support order or renders a judgment determining parentage.

(11) "Law" includes decisional and statutory law and rules and regulations having the force of law.

(12) "Obligee" means:

(a) An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered;

(b) A state or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee; or

(c) An individual seeking a judgment determining parentage of the individual's child.

(13) "Obligor" means an individual, or the estate of a decedent:

(a) Who owes or is alleged to owe a duty of support;

(b) Who is alleged but has not been adjudicated to be a parent of a child; or

(c) Who is liable under a support order.

(14) "Register" means to record or file in the appropriate location for the recording or filing of foreign judgments generally or foreign support orders specifically, a support order or judgment determining parentage.

(15) "Registering tribunal" means a tribunal in which a support order is registered.

(16) "Responding state" means a state to which a proceeding is forwarded under this chapter or a law substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act.

(17) "Responding tribunal" means the authorized tribunal in a responding state.

(18) "Spousal support order" means a support order for a spouse or former spouse of the obligor.

(19) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States. The term "state" includes an Indian tribe and includes a foreign jurisdiction that has established procedures for issuance and enforcement of support orders that are substantially similar to the procedures under this chapter.

(20) "Support enforcement agency" means a public official or agency authorized to seek:

(a) Enforcement of support orders or laws relating to the duty of support;

(b) Establishment or modification of child support;

(c) Determination of parentage; or

(d) Location of obligors or their assets.

(21) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, for the benefit of a child, a spouse, or a former spouse, that provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorneys' fees, and other relief.

(22) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage. [1993 c 318 § 101.]

26.21.010 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.21.015 Tribunal of this state. (Effective July 1, 1994.) The superior court is the state tribunal for judicial proceedings and the department of social and health services office of support enforcement is the state tribunal for administrative proceedings. [1993 c 318 § 102.]

26.21.020 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.21.025 Remedies cumulative. (Effective July 1, 1994.) Remedies provided by this chapter are cumulative and do not affect the availability of remedies under other law. [1993 c 318 § 103.]

26.21.030 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.21.040 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.21.050 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.21.060 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.21.070 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

ARTICLE 2
JURISDICTION
PART A
EXTENDED PERSONAL JURISDICTION

26.21.075 Bases for jurisdiction over nonresident. (Effective July 1, 1994.) In a proceeding to establish, enforce, or modify a support order or to determine parentage, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

(1) The individual is personally served with summons within this state;

(2) The individual submits to the jurisdiction of this state by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;

(3) The individual resided with the child in this state;

(4) The individual resided in this state and provided prenatal expenses or support for the child;

(5) The child resides in this state as a result of the acts or directives of the individual;

(6) The individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse; or

(7) There is any other basis consistent with the Constitutions of this state and the United States for the exercise of personal jurisdiction. [1993 c 318 § 201.]

26.21.080 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.21.085 Procedure when exercising jurisdiction over nonresident. (Effective July 1, 1994.) A tribunal of this state exercising personal jurisdiction over a nonresident under RCW 26.21.075 may apply RCW 26.21.355 to receive evidence from another state, and RCW 26.21.375 to obtain discovery through a tribunal of another state. In all other respects, Articles 3 through 7 do not apply and the tribunal shall apply the procedural and substantive law of this state, including the rules on choice of law other than those established by this chapter. [1993 c 318 § 202.]

26.21.090 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.21.092 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.21.094 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

PART B
PROCEEDINGS INVOLVING TWO OR MORE STATES

26.21.095 Initiating and responding tribunal of this state. (Effective July 1, 1994.) Under this chapter, a tribunal of this state may serve as an initiating tribunal to forward proceedings to another state and as a responding tribunal for proceedings initiated in another state. [1993 c 318 § 203.]

26.21.100 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.21.102 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.21.104 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.21.105 Simultaneous proceedings in another state. (Effective July 1, 1994.) (1) A tribunal of this state may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a petition or comparable pleading is filed in another state only if:

(a) The petition or comparable pleading in this state is filed before the expiration of the time allowed in the other state for filing a responsive pleading challenging the exercise of jurisdiction by the other state;

(b) The contesting party timely challenges the exercise of jurisdiction in the other state; and

(c) If relevant, this state is the home state of the child.

(2) A tribunal of this state may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state if:

(a) The petition or comparable pleading in the other state is filed before the expiration of the time allowed in this state for filing a responsive pleading challenging the exercise of jurisdiction by this state;

(b) The contesting party timely challenges the exercise of jurisdiction in this state; and

(c) If relevant, the other state is the home state of the child. [1993 c 318 § 204.]

26.21.106 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.21.110 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.21.112 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.21.114 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.21.115 Continuing, exclusive jurisdiction. (Effective July 1, 1994.) (1) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a child support order:

(a) As long as this state remains the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(b) Until each individual party has filed written consent with the tribunal of this state for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction.

(2) A tribunal of this state issuing a child support order consistent with the law of this state may not exercise its continuing jurisdiction to modify the order if the order has been modified by a tribunal of another state pursuant to a law substantially similar to this chapter.

(3) If a child support order of this state is modified by a tribunal of another state pursuant to a law substantially similar to this chapter, a tribunal of this state loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this state, and may only:

(a) Enforce the order that was modified as to amounts accruing before the modification;

(b) Enforce nonmodifiable aspects of that order; and

(c) Provide other appropriate relief for violations of that order which occurred before the effective date of the modification.

(4) A tribunal of this state shall recognize the continuing, exclusive jurisdiction of a tribunal of another state that has issued a child support order pursuant to a law substantially similar to this chapter.

(5) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

(6) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. A tribunal of this state may not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state. [1993 c 318 § 205.]

26.21.116 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.21.120 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.21.127 Enforcement and modification of support order by tribunal having continuing jurisdiction. (Effective July 1, 1994.) (1) A tribunal of this state may serve as an initiating tribunal to request a tribunal of another state to enforce or modify a support order issued in that state.

(2) A tribunal of this state having continuing, exclusive jurisdiction over a support order may act as a responding tribunal to enforce or modify the order. If a party subject to the continuing, exclusive jurisdiction of the tribunal no longer resides in the issuing state, in subsequent proceedings the tribunal may apply RCW 26.21.355 to receive evidence from another state and RCW 26.21.375 to obtain discovery through a tribunal of another state.

(3) A tribunal of this state that lacks continuing, exclusive jurisdiction over a spousal support order may not serve as a responding tribunal to modify a spousal support order of another state. [1993 c 318 § 206.]

26.21.130 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

PART C
RECONCILIATION WITH ORDERS OF OTHER STATES

26.21.135 Recognition of child support orders. (Effective July 1, 1994.) (1) If a proceeding is brought under this chapter, and one or more child support orders have been issued in this or another state with regard to an obligor and a child, a tribunal of this state shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:

(a) If only one tribunal has issued a child support order, the order of that tribunal must be recognized.

(b) If two or more tribunals have issued child support orders for the same obligor and child, and only one of the tribunals would have continuing, exclusive jurisdiction under this chapter, the order of that tribunal must be recognized.

(c) If two or more tribunals have issued child support orders for the same obligor and child, and more than one of the tribunals would have continuing, exclusive jurisdiction under this chapter, an order issued by a tribunal in the current home state of the child must be recognized, but if an order has not been issued in the current home state of the child, the order most recently issued must be recognized.

(d) If two or more tribunals have issued child support orders for the same obligor and child, and none of the tribunals would have continuing, exclusive jurisdiction under this chapter, the tribunal of this state may issue a child support order, which must be recognized.

(2) The tribunal that has issued an order recognized under subsection (1) of this section is the tribunal having continuing, exclusive jurisdiction. [1993 c 318 § 207.]

26.21.140 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.21.145 Multiple child support orders for two or more obligees. (Effective July 1, 1994.) In responding to multiple registrations or petitions for enforcement of two or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state, a tribunal of this state shall enforce those orders in the same manner as if the multiple orders had been issued by a tribunal of this state. [1993 c 318 § 208.]

26.21.150 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.21.155 Credit for payments. (Effective July 1, 1994.) Amounts collected and credited for a particular period pursuant to a support order issued by a tribunal of another state must be credited against the amounts accruing or accrued for the same period under a support order issued by the tribunal of this state. [1993 c 318 § 209.]

26.21.160 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.21.170 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.21.180 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.21.190 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.21.200 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

ARTICLE 3
CIVIL PROVISIONS OF GENERAL APPLICATION

26.21.205 Proceedings under this chapter. (Effective July 1, 1994.) (1) Except as otherwise provided in this chapter, this article applies to all proceedings under this chapter.

(2) This chapter provides for the following proceedings:

(a) Establishment of an order for spousal support or child support pursuant to Article 4;

(b) Enforcement of a support order and income-withholding order of another state without registration pursuant to Article 5;

(c) Registration of an order for spousal support or child support of another state for enforcement pursuant to Article 6;

(d) Modification of an order for child support or spousal support issued by a tribunal of this state pursuant to Article 2, Part B;

(e) Registration of an order for child support of another state for modification pursuant to Article 6;

(f) Determination of parentage pursuant to Article 7; and

(g) Assertion of jurisdiction over nonresidents pursuant to Article 2, Part A.

(3) An individual petitioner or a support enforcement agency may commence a proceeding authorized under this chapter by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state which has or can obtain personal jurisdiction over the respondent. [1993 c 318 § 301.]

26.21.210 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.21.215 Action by minor parent. (Effective July 1, 1994.) A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child. [1993 c 318 § 302.]

26.21.220 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.21.225 Application of law of this state. (Effective July 1, 1994.) Except as otherwise provided by this chapter, a responding tribunal of this state:

(1) Shall apply the procedural and substantive law, including the rules on choice of law, generally applicable to similar proceedings originating in this state and may exercise all powers and provide all remedies available in those proceedings; and

(2) Shall determine the duty of support and the amount payable in accordance with the law and support guidelines of this state. [1993 c 318 § 303.]

26.21.230 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.21.235 Duties of initiating tribunal. (Effective July 1, 1994.) Upon the filing of a petition authorized by this chapter, an initiating tribunal of this state shall forward three copies of the petition and its accompanying documents:

(1) To the responding tribunal or appropriate support enforcement agency in the responding state; or

(2) If the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged. [1993 c 318 § 304.]

26.21.240 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.21.245 Duties and powers of responding tribunal. (Effective July 1, 1994.) (1) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to RCW 26.21.205(3), it shall cause the petition or pleading to be filed and notify the petitioner by first class mail where and when it was filed.

(2) A responding tribunal of this state, to the extent otherwise authorized by law, may do one or more of the following:

(a) Issue or enforce a support order, modify a child support order, or render a judgment to determine parentage;

(b) Order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(c) Order income withholding;

(d) Determine the amount of any arrearages, and specify a method of payment;

(e) Enforce orders by civil or criminal contempt, or both;

(f) Set aside property for satisfaction of the support order;

(g) Place liens and order execution on the obligor's property;

(h) Order an obligor to keep the tribunal informed of the obligor's current residential address, telephone number, employer, address of employment, and telephone number at the place of employment;

(i) Issue a bench warrant or writ of arrest for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant or writ

of arrest in any local and state computer systems for criminal warrants;

(j) Order the obligor to seek appropriate employment by specified methods;

(k) Award reasonable attorneys' fees and other fees and costs; and

(l) Grant any other available remedy.

(3) A responding tribunal of this state shall include in a support order issued under this chapter, or in the documents accompanying the order, the calculations on which the support order is based.

(4) A responding tribunal of this state may not condition the payment of a support order issued under this chapter upon compliance by a party with provisions for visitation.

(5) If a responding tribunal of this state issues an order under this chapter, the tribunal shall send a copy of the order by first class mail to the petitioner and the respondent and to the initiating tribunal, if any. [1993 c 318 § 305.]

26.21.250 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.21.255 Inappropriate tribunal. (Effective July 1, 1994.) If a petition or comparable pleading is received by an inappropriate tribunal of this state, it shall forward the pleading and accompanying documents to an appropriate tribunal in this state or another state and notify the petitioner by first class mail where and when the pleading was sent. [1993 c 318 § 306.]

26.21.260 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.21.265 Duties of support enforcement agency. (Effective July 1, 1994.) (1) A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under this chapter.

(2) A support enforcement agency that is providing services to the petitioner as appropriate shall:

(a) Take all steps necessary to enable an appropriate tribunal in this state or another state to obtain jurisdiction over the respondent;

(b) Request an appropriate tribunal to set a date, time, and place for a hearing;

(c) Make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(d) Within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written notice from an initiating, responding, or registering tribunal, send a copy of the notice by first class mail to the petitioner;

(e) Within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written communication from the respondent or the respondent's attorney, send a copy of the communication by first class mail to the petitioner; and

(f) Notify the petitioner if jurisdiction over the respondent cannot be obtained.

(3) This chapter does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency. [1993 c 318 § 307.]

26.21.270 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.21.275 Duty of attorney general. (Effective July 1, 1994.) If the attorney general determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the attorney general may order the agency to perform its duties under this chapter or may provide those services directly to the individual. [1993 c 318 § 308.]

26.21.285 Private counsel. (Effective July 1, 1994.) An individual may employ private counsel to represent the individual in proceedings authorized by this chapter. [1993 c 318 § 309.]

26.21.295 Duties of department as state information agency. (Effective July 1, 1994.) (1) The department of social and health services office of support enforcement is the state information agency under this chapter.

(2) The state information agency shall:

(a) Compile and maintain a current list, including addresses, of the tribunals in this state that have jurisdiction under this chapter and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state;

(b) Maintain a register of tribunals and support enforcement agencies received from other states;

(c) Forward to the appropriate tribunal in the place in this state in which the individual obligee or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this chapter received from an initiating tribunal or the state information agency of the initiating state; and

(d) Obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security. [1993 c 318 § 310.]

26.21.305 Pleadings and accompanying documents. (Effective July 1, 1994.) (1) A petitioner seeking to establish or modify a support order or to determine parentage in a proceeding under this chapter must verify the petition. Unless otherwise ordered under RCW 26.21.315, the petition or accompanying documents must provide, so far as known, the name, residential address, and social security numbers of the obligor and the obligee, and the name, sex, residential

address, social security number, and date of birth of each child for whom support is sought. The petition must be accompanied by a certified copy of any support order in effect. The petition may include any other information that may assist in locating or identifying the respondent.

(2) The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency. [1993 c 318 § 311.]

26.21.315 Nondisclosure of information—Circumstances. (Effective July 1, 1994.) Upon a finding, which may be made ex parte, that the health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information, or if an existing order so provides, a tribunal shall order that the address of the child or party or other identifying information not be disclosed in a pleading or other document filed in a proceeding under this chapter. [1993 c 318 § 312.]

26.21.325 Costs—Fees. (Effective July 1, 1994.) (1) The petitioner may not be required to pay a filing fee or other costs.

(2) If an obligee prevails in a support enforcement proceeding, a responding tribunal may assess against an obligor filing fees, reasonable attorneys' fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal in a support enforcement proceeding may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or the responding state, except as provided by RCW 4.84.080, civil rule 11 or, if the obligee or the support enforcement agency has acted in bad faith.

(3) A responding tribunal may assess filing fees, reasonable attorneys' fees, and other costs to either party, and necessary travel and other reasonable costs incurred by the obligee and the obligee's witnesses to the obligee, in a proceeding to establish or modify support. Assessments under this section shall be made in accordance with RCW 4.84.080 and 26.09.140 and civil rule 11.

(4) Attorneys' fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs, and expenses.

(5) The tribunal shall order the payment of costs and reasonable attorneys' fees if it determines that a hearing was requested primarily for delay. [1993 c 318 § 313.]

26.21.335 Limited immunity of petitioner. (Effective July 1, 1994.) (1) Participation by a petitioner in a proceeding before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.

(2) A petitioner is not amenable to service of civil process while physically present in this state to participate in a proceeding under this chapter.

(3) The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under this chapter committed by a party while present in this state to participate in the proceeding. [1993 c 318 § 314.]

26.21.345 Nonparentage as defense. (Effective July 1, 1994.) A party whose parentage of a child has been previously determined by order of a tribunal may not plead nonparentage as a defense to a proceeding under this chapter. [1993 c 318 § 315.]

26.21.355 Special rules of evidence and procedure. (Effective July 1, 1994.) (1) The physical presence of the petitioner in a responding tribunal of this state is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage.

(2) A verified petition, affidavit, document substantially complying with federally mandated forms, and a document incorporated by reference in any of them, not excluded under the hearsay rule if given in person, is admissible in evidence if given under oath by a party or witness residing in another state.

(3) A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.

(4) Copies of bills for testing for parentage, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least ten days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

(5) Documentary evidence transmitted from another state to a tribunal of this state by telephone, telecopier, or other means that do not provide an original writing may not be excluded from evidence on an objection based on the means of transmission.

(6) In a proceeding under this chapter, a tribunal of this state may permit a party or witness residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means at a designated tribunal or other location in that state. A tribunal of this state shall cooperate with tribunals of other states in designating an appropriate location for the deposition or testimony.

(7) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(8) A privilege against disclosure of communications between spouses does not apply in a proceeding under this chapter.

(9) The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this chapter. [1993 c 318 § 316.]

26.21.365 Communications between tribunals. (Effective July 1, 1994.) A tribunal of this state may communicate with a tribunal of another state in writing, or by telephone or other means, to obtain information concerning the laws of that state, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceed-

ing in the other state. A tribunal of this state may furnish similar information by similar means to a tribunal of another state. [1993 c 318 § 317.]

26.21.375 Assistance with discovery. (Effective July 1, 1994.) A tribunal of this state may:

(1) Request a tribunal of another state to assist in obtaining discovery; and

(2) Upon request, compel a person over whom it has jurisdiction to respond to a discovery order issued by a tribunal of another state. [1993 c 318 § 318.]

26.21.385 Receipt and disbursement of payments. (Effective July 1, 1994.) A support enforcement agency or tribunal of this state shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state a certified statement by the custodian of the record of the amounts and dates of all payments received. [1993 c 318 § 319.]

ARTICLE 4
ESTABLISHMENT OF SUPPORT ORDER

26.21.420 Petition to establish support order—Notice—Hearing—Orders. (Effective July 1, 1994.) (1) If a support order entitled to recognition under this chapter has not been issued, a responding tribunal of this state may issue a support order if:

(a) The individual seeking the order resides in another state; or

(b) The support enforcement agency seeking the order is located in another state.

(2) The tribunal may issue a temporary child support order if:

(a) The respondent has signed a verified statement acknowledging parentage;

(b) The respondent has been determined by order of a tribunal to be the parent; or

(c) There is other clear, cogent, and convincing evidence that the respondent is the child's parent.

(3) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to RCW 26.21.245. [1993 c 318 § 401.]

ARTICLE 5
DIRECT ENFORCEMENT OF ORDER OF ANOTHER STATE WITHOUT REGISTRATION

26.21.450 Recognition of income-withholding order of another state. (Effective July 1, 1994.) (1) An income-withholding order issued in another state may be sent by first class mail to the person or entity defined as the obligor's employer under chapter 6.27 RCW without first filing a petition or comparable pleading or registering the order with a tribunal of this state. Upon receipt of the order, the employer shall:

(a) Treat an income-withholding order issued in another state that appears regular on its face as if it had been issued by a tribunal of this state;

(b) Immediately provide a copy of the order to the obligor; and

(c) Distribute the funds as directed in the income-withholding order.

(2) An obligor may contest the validity or enforcement of an income-withholding order issued in another state in the same manner as if the order had been issued by a tribunal of this state. RCW 26.21.510 applies to the contest. The obligor shall give notice of the contest to any support enforcement agency providing services to the obligee and to:

(a) The person or agency designated to receive payments in the income-withholding order; or

(b) If no person or agency is designated, the obligee. [1993 c 318 § 501.]

26.21.460 Administrative enforcement of orders. (Effective July 1, 1994.) (1) A party seeking to enforce a support order or an income-withholding order, or both, issued by a tribunal of another state may send the documents required for registering the order to a support enforcement agency of this state.

(2) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this state to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to this chapter. [1993 c 318 § 502.]

ARTICLE 6
ENFORCEMENT AND MODIFICATION OF SUPPORT ORDER AFTER REGISTRATION
PART A
REGISTRATION AND ENFORCEMENT OF SUPPORT ORDER

26.21.480 Registration of order for enforcement. (Effective July 1, 1994.) A support order or an income-withholding order issued by a tribunal of another state may be registered in this state for enforcement. [1993 c 318 § 601.]

26.21.490 Procedure to register order for enforcement. (Effective July 1, 1994.) (1) A support order or income-withholding order of another state may be registered in this state by sending the following documents and information to the superior court of any county in this state where the obligor resides, works, or has property:

(a) A letter of transmittal to the tribunal requesting registration and enforcement;

(b) Two copies, including one certified copy, of all orders to be registered, including any modification of an order;

(c) A sworn statement by the party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearage;

(d) The name of the obligor and, if known:

(i) The obligor's address and social security number;

(ii) The name and address of the obligor's employer and any other source of income of the obligor; and

(iii) A description and the location of property of the obligor in this state not exempt from execution; and

(e) The name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.

(2) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as a foreign judgment, together with one copy of the documents and information, regardless of their form.

(3) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought. [1993 c 318 § 602.]

26.21.500 Effect of registration for enforcement. (Effective July 1, 1994.) (1) A support order or income-withholding order issued in another state is registered when the order is filed in the registering tribunal of this state.

(2) A registered order issued in another state is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.

(3) Except as otherwise provided in this article, a tribunal of this state shall recognize and enforce, but may not modify, a registered order if the issuing tribunal had jurisdiction. [1993 c 318 § 603.]

26.21.510 Choice of law—Statute of limitations for arrearages. (Effective July 1, 1994.) (1) The law of the issuing state governs the nature, extent, amount, and duration of current payments and other obligations of support and the payment of arrearages under the order.

(2) In a proceeding for arrearages, the statute of limitation under the laws of this state or of the issuing state, whichever is longer, applies. [1993 c 318 § 604.]

PART B
CONTEST OF VALIDITY OR ENFORCEMENT

26.21.520 Notice of registration of order. (Effective July 1, 1994.) (1) When a support order or income-withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party. Notice must be given by certified or registered mail or by any means of personal service authorized by the law of this state. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(2) The notice must inform the nonregistering party:

(a) That a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(b) That a hearing to contest the validity or enforcement of the registered order must be requested within twenty days after the date of receipt by certified or registered mail or personal service of the notice given to a nonregistering party within the state and within sixty days after the date of receipt by certified or registered mail or personal service of the notice on a nonregistering party outside of the state;

(c) That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted; and

(d) Of the amount of any alleged arrearages.

(3) Upon registration of an income-withholding order for enforcement, the registering tribunal shall notify the obligor's employer pursuant to the income-withholding law of this state. [1993 c 318 § 605.]

26.21.530 Procedure to contest validity or enforcement of registered order. (Effective July 1, 1994.) (1) A nonregistering party seeking to contest the validity or enforcement of a registered order in this state shall request a hearing within twenty days after the date of receipt of certified or registered mail or the date of personal service of notice of the registration on the nonmoving party within this state, or, within sixty days after the receipt of certified or registered mail or personal service of the notice on the nonmoving party outside of the state. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to RCW 26.21.540.

(2) If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.

(3) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties by first class mail of the date, time, and place of the hearing. [1993 c 318 § 606.]

26.21.540 Contest of registration or enforcement. (Effective July 1, 1994.) (1) A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

(a) The issuing tribunal lacked personal jurisdiction over the contesting party;

(b) The order was obtained by fraud;

(c) The order has been vacated, suspended, or modified by a later order;

(d) The issuing tribunal has stayed the order pending appeal;

(e) There is a defense under the law of this state to the remedy sought;

(f) Full or partial payment has been made; or

(g) The statute of limitation under RCW 26.21.510 precludes enforcement of some or all of the arrearages.

(2) If a party presents evidence establishing a full or partial defense under subsection (1) of this section, a tribunal may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant

evidence, and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available under the law of this state.

(3) If the contesting party does not establish a defense under subsection (1) of this section to the validity or enforcement of the order, the registering tribunal shall issue an order confirming the order. [1993 c 318 § 607.]

26.21.550 Confirmed order. (Effective July 1, 1994.) Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration. [1993 c 318 § 608.]

PART C
REGISTRATION AND MODIFICATION OF CHILD SUPPORT ORDER

26.21.560 Procedure to register child support order of another state for modification. (Effective July 1, 1994.) A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state shall register that order in this state in the same manner provided in Part A of this article if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification. [1993 c 318 § 609.]

26.21.570 Effect of registration for modification—Authority to enforce registered order. (Effective July 1, 1994.) A tribunal of this state may enforce a child support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state, but the registered order may be modified only if the requirements of RCW 26.21.580 have been met. [1993 c 318 § 610.]

26.21.580 Modification of child support order of another state. (Effective July 1, 1994.) (1) After a child support order issued in another state has been registered in this state, the responding tribunal of this state may modify that order only if, after notice and hearing, it finds that:

(a) The following requirements are met:

(i) The child, the individual obligee, and the obligor do not reside in the issuing state;

(ii) A petitioner who is a nonresident of this state seeks modification; and

(iii) The respondent is subject to the personal jurisdiction of the tribunal of this state; or

(b) An individual party or the child is subject to the personal jurisdiction of the tribunal and all of the individual parties have filed a written consent in the issuing tribunal providing that a tribunal of this state may modify the support order and assume continuing, exclusive jurisdiction over the order.

(2) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this state and the order may be enforced and satisfied in the same manner.

(3) A tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing state.

(4) On issuance of an order modifying a child support order issued in another state, a tribunal of this state becomes the tribunal of continuing, exclusive jurisdiction.

(5) Within thirty days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal which had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows that earlier order has been registered. [1993 c 318 § 611.]

26.21.590 Recognition of order modified in another state—Enforcement. (Effective July 1, 1994.) A tribunal of this state shall recognize a modification of its earlier child support order by a tribunal of another state that assumed jurisdiction pursuant to a law substantially similar to this chapter and, upon request, except as otherwise provided in this chapter, shall:

(1) Enforce the order that was modified only as to amounts accruing before the modification;

(2) Enforce only nonmodifiable aspects of that order;

(3) Provide other appropriate relief only for violations of that order which occurred before the effective date of the modification; and

(4) Recognize the modifying order of the other state, upon registration, for the purpose of enforcement. [1993 c 318 § 612.]

ARTICLE 7
DETERMINATION OF PARENTAGE

26.21.620 Proceeding to determine parentage. (Effective July 1, 1994.) (1) A tribunal of this state may serve as an initiating or responding tribunal in a proceeding brought under this chapter or a law substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act to determine that the petitioner is a parent of a particular child or to determine that a respondent is a parent of that child.

(2) In a proceeding to determine parentage, a responding tribunal of this state shall apply the Uniform Parentage Act, chapter 26.26 RCW, procedural and substantive law of this state, and the rules of this state on choice of law. [1993 c 318 § 701.]

ARTICLE 8
INTERSTATE RENDITION

26.21.640 Grounds for rendition. (Effective July 1, 1994.) (1) For purposes of this article, "governor" includes an individual performing the functions of governor or the executive authority of a state covered by this chapter.

(2) The governor of this state may:

(a) Demand that the governor of another state surrender an individual found in the other state who is charged

criminally in this state with having failed to provide for the support of an obligee; or

(b) On the demand by the governor of another state, surrender an individual found in this state who is charged criminally in the other state with having failed to provide for the support of an obligee.

(3) A provision for extradition of individuals not inconsistent with this chapter applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled from the demanding state. [1993 c 318 § 801.]

26.21.650 Surrender of individual charged criminally with failure to support an obligee—Conditions of rendition. (Effective July 1, 1994.) (1) Before making demand that the governor of another state surrender an individual charged criminally in this state with having failed to provide for the support of an obligee, the governor of this state may require a prosecutor of this state to demonstrate that at least sixty days previously the obligee had initiated proceedings for support pursuant to this chapter or that the proceeding would be of no avail.

(2) If, under this chapter or a law substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act, the governor of another state makes a demand that the governor of this state surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(3) If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the governor may decline to honor the demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the governor may decline to honor the demand if the individual is complying with the support order. [1993 c 318 § 802.]

26.21.900 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

ARTICLE 9
MISCELLANEOUS PROVISIONS

26.21.912 Uniformity of application and construction. This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it. [1993 c 318 § 901.]

26.21.913 Short title. This chapter may be cited as the uniform interstate family support act. [1993 c 318 § 902.]

26.21.914 Severability—1993 c 318. 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. [1993 c 318 § 903.]

26.21.915 Captions, part headings, articles not law—1993 c 318. Captions, part headings, and article designations as used in this act constitute no part of the law. [1993 c 318 § 906.]

26.21.916 Effective date—1993 c 318. This act shall take effect July 1, 1994. [1993 c 318 § 907.]

Chapter 26.23
STATE SUPPORT REGISTRY

Sections

26.23.040 Employment reporting requirements—Exceptions—Penalties—Retention of records. (1) Except as provided in subsection (3) of this section, all employers doing business in the state of Washington, and to whom the department of employment security has assigned the standard industrial classification sic codes listed in subsection (2) of this section, shall report to the Washington state support registry:

(a) The hiring of any person who resides or works in this state to whom the employer anticipates paying earnings; and

(b) The rehiring or return to work of any employee who was laid off, furloughed, separated, granted a leave without pay, or terminated from employment.

(2) Employers in the standard industrial classifications that shall report to the Washington state support registry include:

(a) Construction industry sic codes: 15, building; and 16, other than building;

(b) Manufacturing industry sic code 37, transportation equipment;

(c) Wholesale trade industry sic codes: 73, business services, except sic code 7362 (temporary help supply services); and 80, health services.

(3) Employers are not required to report the hiring of any person who:

(a) Will be employed for less than one months duration;

(b) Will be employed sporadically so that the employee will be paid for less than three hundred fifty hours during a continuous six-month period; or

(c) Will have gross earnings less than three hundred dollars in every month.

The secretary of the department of social and health services may adopt rules to establish additional exemptions if needed to reduce unnecessary or burdensome reporting.

(4) Employers may report by mailing the employee's copy of the W-4 form, or other means authorized by the registry which will result in timely reporting.

(5) Employers shall submit reports within thirty-five days of the hiring, rehiring, or return to work of the employee. The report shall contain:

(a) The employee's name, address, social security number, and date of birth; and

(b) The employer's name, address, and employment security reference number or unified business identifier number.

(6) An employer who fails to report as required under this section shall be given a written warning for the first violation and shall be subject to a civil penalty of up to two hundred dollars per month for each subsequent violation after the warning has been given. All violations within a single month shall be considered a single violation for purposes of assessing the penalty. The penalty may be imposed and collected by the office of support enforcement under RCW 74.20A.270.

(7) The registry shall retain the information for a particular employee only if the registry is responsible for establishing, enforcing, or collecting a support obligation or debt of the employee. If the employee does not owe such an obligation or a debt, the registry shall not create a record regarding the employee and the information contained in the notice shall be promptly destroyed. [1993 c 480 § 1; 1989 c 360 § 39; 1987 c 435 § 4.]

Effective date—1993 c 480: "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 [May 17, 1993]." [1993 c 480 § 2.]

Effective dates—1989 c 360 §§ 9, 10, 16, and 39: See note following RCW 74.20A.060.

26.23.050 Support orders—Notice—Payments—Enforcement. (1) Except as provided in subsection (2) of this section, the superior court shall include in all superior court orders which establish or modify a support obligation:

(a) A provision which orders and directs that the responsible parent make all support payments to the Washington state support registry;

(b) A statement that a notice of payroll deduction may be issued or other income withholding action under chapter 26.18 RCW or chapter 74.20A RCW may be taken, without further notice to the responsible parent at any time after entry of the court order, unless:

(i) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding; or

(ii) The parties reach a written agreement that is approved by the court that provides for an alternate arrangement; and

(c) A statement that the receiving parent may be required to submit an accounting of how the support is being spent to benefit the child.

(2) The court may order the responsible parent to make payments directly to the person entitled to receive the payments or, for orders entered on or after July 1, 1990, direct that the issuance of a notice of payroll deduction or other income withholding actions be delayed until a support payment is past due if the court approves an alternate payment plan. The parties to the order must agree to such a plan and the plan must contain reasonable assurances that payments will be made in a regular and timely manner. The court may approve such a plan and modify or terminate the payroll deduction or other income withholding action at the time of entry of the order or at a later date upon motion and agreement of the parties. If the order directs payment to the person entitled to receive the payments instead of to the Washington state support registry, the order shall include a statement that the order may be submitted to the registry if a support payment is past due. If the order directs delayed issuance of the notice of payroll deduction or other income withholding action, the order shall include a statement that such action may be taken, without further notice, at any time after a support payment is past due. The provisions of this subsection do not apply if the department is providing public assistance under Title 74 RCW.

(3) The office of administrative hearings and the department of social and health services shall require that all support obligations established as administrative orders include a provision which orders and directs that the responsible parent shall make all support payments to the Washington state support registry. All administrative orders shall also state that a notice of payroll deduction may be issued, or other income withholding action taken without further notice to the responsible parent at any time after entry of the order, unless:

(a) One of the parties demonstrates, and the presiding officer finds, that there is good cause not to require immediate income withholding; or

(b) The parties reach a written agreement that is approved by the presiding officer that provides for an alternate agreement.

(4) If the support order does not include the provision ordering and directing that all payments be made to the Washington state support registry and a statement that a notice of payroll deduction may be issued if a support payment is past due or at any time after the entry of the order, the office of support enforcement may serve a notice on the responsible parent stating such requirements and authorizations. Service may be by personal service or any form of mail requiring a return receipt.

(5) Every support order shall state:

(a) That payment shall be made to the Washington state support registry or in accordance with the alternate payment plan approved by the court;

(b) That a notice of payroll deduction may be issued or other income withholding action under chapter 26.18 RCW or chapter 74.20A RCW may be taken, without further notice to the responsible parent at any time after entry of an order by the court, unless:

(i) The court approves an alternate payment plan under subsection (2) of this section;

(ii) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding; or

(iii) The parties reach an alternate agreement that is approved by the court that provides for an alternate arrangement;

(c) The income of the parties, if known, or that their income is unknown and the income upon which the support award is based;

(d) The support award as a sum certain amount;

(e) The specific day or date on which the support payment is due;

(f) The social security number, residence address, and name and address of the employer of the responsible parent;

(g) The social security number and residence address of the physical custodian except as provided in subsection (6) of this section;

(h) The names, dates of birth, and social security numbers, if any, of the dependent children;

(i) In cases requiring payment to the Washington state support registry, that the parties are to notify the Washington state support registry of any change in residence address. The responsible parent shall notify the registry of the name and address of his or her current employer, whether he or she has access to health insurance coverage at reasonable cost and, if so, the health insurance policy information;

(j) That any parent owing a duty of child support shall be obligated to provide health insurance coverage for his or her child if coverage that can be extended to cover the child is or becomes available to that parent through employment or is union-related as provided under RCW 26.09.105;

(k) That if proof of health insurance coverage is not provided within twenty days, the obligee or the department may seek direct enforcement of the coverage through the obligor's employer or union without further notice to the obligor as provided under chapter 26.18 RCW; and

(l) The reasons for not ordering health insurance coverage if the order fails to require such coverage.

(6) The physical custodian's address shall be omitted from an order entered under the administrative procedure act. A responsible parent whose support obligation has been determined by such administrative order may request the physical custodian's residence address by submission of a request for disclosure under RCW 26.23.120.

(7) The superior court clerk, the office of administrative hearings, and the department of social and health services shall, within five days of entry, forward to the Washington state support registry, a true and correct copy of all superior court orders or administrative orders establishing or modifying a support obligation which provide that support payments shall be made to the support registry. If a superior court order entered prior to January 1, 1988, directs the responsible parent to make support payments to the clerk, the clerk shall send a true and correct copy of the support order and the payment record to the registry for enforcement action when the clerk identifies that a payment is more than fifteen days past due. The office of support enforcement shall reimburse the clerk for the reasonable costs of copying and sending copies of court orders to the registry at the reimbursement rate provided in Title IV-D of the social security act.

(8) Receipt of a support order by the registry or other action under this section on behalf of a person or persons who are not recipients of public assistance is deemed to be a request for support enforcement services under RCW 74.20.040 to the fullest extent permitted under federal law.

(9) After the responsible parent has been ordered or notified to make payments to the Washington state support registry in accordance with subsection (1), (3), or (4) of this section, the responsible parent shall be fully responsible for making all payments to the Washington state support registry and shall be subject to payroll deduction or other income withholding action. The responsible parent shall not be entitled to credit against a support obligation for any payments made to a person or agency other than to the Washington state support registry. A civil action may be brought by the payor to recover payments made to persons or agencies who have received and retained support moneys paid contrary to the provisions of this section.

(10) As used in this section, "good cause not to require immediate income withholding" means a written determination of why implementing immediate income withholding would not be in the child's best interests and, in modification cases, proof of timely payment of previously ordered support. [1993 c 207 § 1; 1991 c 367 § 39; 1989 c 360 § 15; 1987 c 435 § 5.]

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

26.23.110 Procedures when amount of support obligation needs to be determined—Notice—Adjudicative proceeding. (1) The department may serve a notice of support owed on a responsible parent when a support order:

(a) Does not state the current and future support obligation as a fixed dollar amount; or

(b) Contains an escalation clause or adjustment provision for which additional information not contained in the support order is needed to determine the fixed dollar amount of the support debt or the fixed dollar amount of the current and future support obligation, or both.

(2) The notice of support owed shall facilitate enforcement of the support order and implement and effectuate the terms of the support order, rather than modify those terms. When the office of support enforcement issues a notice of support owed, the office shall inform the payee under the support order.

(3) The notice of support owed shall be served on a responsible parent by personal service or any form of mailing requiring a return receipt. The notice of support owed shall contain an initial finding of the fixed dollar amount of current and future support obligation that should be paid or the fixed dollar amount of the support debt owed under the support order, or both.

(4) A responsible parent who objects to the fixed dollar amounts stated in the notice of support owed has twenty days from the date of the service of the notice of support owed to file an application for an adjudicative proceeding or initiate an action in superior court.

(5) The notice of support owed shall state that the responsible parent may:

(a) File an application for an adjudicative proceeding governed by chapter 34.05 RCW, the administrative procedure act, in which the responsible parent will be required to appear and show cause why the fixed dollar amount of support debt or current and future support obligation, or both, stated in the notice of support owed is incorrect and should not be ordered; or

(b) Initiate an action in superior court.

(6) If the responsible parent does not file an application for an adjudicative proceeding or initiate an action in

superior court, the fixed dollar amount of current and future support obligation or support debt, or both, stated in the notice of support owed shall become final and subject to collection action.

(7) If an adjudicative proceeding is requested, the department shall mail a copy of the notice of adjudicative proceeding to the payee under the support order at the payee's last known address. A payee who appears for the adjudicative proceeding is entitled to participate. Participation includes, but is not limited to, giving testimony, presenting evidence, being present for or listening to other testimony offered in the adjudicative proceeding, and offering rebuttal to other testimony. Nothing in this section shall preclude the administrative law judge from limiting participation to preserve the confidentiality of information protected by law.

(8) If the responsible parent does not initiate an action in superior court, and serve notice of the action on the department within the twenty-day period, the responsible parent shall be deemed to have made an election of remedies and shall be required to exhaust administrative remedies under this chapter with judicial review available as provided for in RCW 34.05.510 through 34.05.598.

(9) An adjudicative order entered in accordance with this section shall state the basis, rationale, or formula upon which the fixed dollar amounts established in the adjudicative order were based. The fixed dollar amount of current and future support obligation or the amount of the support debt, or both, determined under this section shall be subject to collection under this chapter and other applicable state statutes.

(10) The department shall also provide for:

(a) An annual review of the support order if either the office of support enforcement or the responsible parent requests such a review; and

(b) A late adjudicative proceeding if the responsible parent fails to file an application for an adjudicative proceeding in a timely manner under this section.

(11) If an annual review or late adjudicative proceeding is requested under subsection (10) of this section, the department shall mail a copy of the notice of adjudicative proceeding to the payee at the payee's last known address. A payee who appears for the adjudicative proceeding is entitled to participate. Participation includes, but is not limited to, giving testimony, presenting evidence, being present for or listening to other testimony offered in the adjudicative proceeding, and offering rebuttal to other testimony. The administrative law judge may limit participation to preserve the confidentiality of information protected by law. [1993 c 12 § 1. Prior: 1989 c 360 § 16; 1989 c 175 § 77; 1987 c 435 § 11.]

Effective dates—1989 c 360 §§ 9, 10, 16, and 39: See note following RCW 74.20A.060.

Effective date—1989 c 175: See note following RCW 34.05.010.

Chapter 26.33
ADOPTION

Sections

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

(1) "Alleged father" means a person whose parent-child relationship has not been terminated, who is not a presumed father under chapter 26.26 RCW, and who alleges himself or whom a party alleges to be the father of the child. It includes a person whose marriage to the mother was terminated more than three hundred days before the birth of the child or who was separated from the mother more than three hundred days before the birth of the child.

(2) "Child" means a person under eighteen years of age.

(3) "Adoptee" means a person who is to be adopted or who has been adopted.

(4) "Adoptive parent" means the person or persons who seek to adopt or have adopted an adoptee.

(5) "Court" means the superior court.

(6) "Department" means the department of social and health services.

(7) "Agency" means any public or private association, corporation, or individual licensed or certified by the department as a child placing agency under chapter 74.15 RCW or as an adoption agency.

(8) "Parent" means the natural or adoptive mother or father of a child, including a presumed father under chapter 26.26 RCW. It does not include any person whose parent-child relationship has been terminated by a court of competent jurisdiction.

(9) "Legal guardian" means the department, an agency, or a person, other than a parent or stepparent, appointed by the court to promote the child's general welfare, with the authority and duty to make decisions affecting the child's development.

(10) "Guardian ad litem" means a person, not related to a party to the action, appointed by the court to represent the best interests of a party who is under a legal disability.

(11) "Relinquish or relinquishment" means the voluntary surrender of custody of a child to the department, an agency, or prospective adoptive parents.

(12) "Individual approved by the court" or "qualified salaried court employee" means a person who has a master's degree in social work or a related field and one year of experience in social work, or a bachelor's degree and two years of experience in social work, and includes a person not having such qualifications only if the court makes specific findings of fact that are entered of record establishing that the person has reasonably equivalent experience.

(13) "Birth parent" means the biological mother or biological or alleged father of a child, including a presumed father under chapter 26.26 RCW, whether or not any such person's parent-child relationship has been terminated by a court of competent jurisdiction. "Birth parent" does not include a biological mother or biological or alleged father, including a presumed father under chapter 26.26 RCW, if the parent-child relationship was terminated because of an act

for which the person was found guilty under chapter 9A.42 or 9A.44 RCW.

(14) "Nonidentifying information" includes, but is not limited to, the following information about the birth parents, adoptive parents, and adoptee:

(a) Age in years at the time of adoption;

(b) Heritage, including nationality, ethnic background, and race;

(c) Education, including number of years of school completed at the time of adoption, but not name or location of school;

(d) General physical appearance, including height, weight, color of hair, eyes, and skin, or other information of a similar nature;

(e) Religion;

(f) Occupation, but not specific titles or places of employment;

(g) Talents, hobbies, and special interests;

(h) Circumstances leading to the adoption;

(i) Medical and genetic history of birth parents;

(j) First names;

(k) Other children of birth parents by age, sex, and medical history;

(l) Extended family of birth parents by age, sex, and medical history;

(m) The fact of the death, and age and cause, if known;

(n) Photographs;

(o) Name of agency or individual that facilitated the adoption. [1993 c 81 § 1; 1990 c 146 § 1; 1984 c 155 § 2.]

26.33.340 Department, agency, and court files confidential—Limited disclosure of information. Department, agency, and court files regarding an adoption shall be confidential except that reasonably available nonidentifying information may be disclosed upon the written request for the information from the adoptive parent, the adoptee, or the birth parent. If the adoption facilitator refuses to disclose nonidentifying information, the individual may petition the superior court. Identifying information may also be disclosed through the procedure described in RCW 26.33.343. [1993 c 81 § 2; 1990 c 145 § 4; 1984 c 155 § 34.]

26.33.345 Search for birth parent or adopted child—Limited release of information—Noncertified copies of original birth certificate. (1) The department of social and health services, adoption agencies, and independent adoption facilitators shall release the name and location of the court where a relinquishment of parental rights or finalization of an adoption took place to an adult adoptee, a birth parent of an adult adoptee, an adoptive parent, a birth or adoptive grandparent of an adult adoptee, or an adult sibling of an adult adoptee, or the legal guardian of any of these.

(2) The department of health shall make available a noncertified copy of the original birth certificate of a child to the child's birth parents upon request.

(3) For adoptions finalized after October 1, 1993, the department of health shall make available a noncertified copy of the original birth certificate to the adoptee after the adoptee's eighteenth birthday unless the birth parent has filed an affidavit of nondisclosure. [1993 c 81 § 3; 1990 c 145 § 2.]

26.33.380 Family and social history report required—Identity of birth parents confidential. Every person, firm, society, association, or corporation receiving, securing a home for, or otherwise caring for a minor child shall transmit to the prospective adopting parent prior to placement and shall make available to all persons with whom a child has been placed by adoption, a family background and child and family social history report, which includes a chronological history of the circumstances surrounding the adoptive placement and any available psychiatric reports, psychological reports, court reports pertaining to dependency or custody, or school reports. Such reports or information shall not reveal the identity of the birth parents of the child but shall contain reasonably available nonidentifying information. [1993 c 81 § 4; 1989 c 281 § 2.]

Chapter 26.44

ABUSE OF CHILDREN AND ADULT DEPENDENT OR DEVELOPMENTALLY DISABLED PERSONS—PROTECTION—PROCEDURE

Sections

Shaken baby syndrome: RCW 43.121.140.

26.44.015 Limitations of chapter—Application to children and adult dependent persons. (1) This chapter shall not be construed to authorize interference with child-raising practices, including reasonable parental discipline, which are not injurious to the child's health, welfare, and safety.

(2) Nothing in this chapter may be used to prohibit the reasonable use of corporal punishment as a means of discipline.

(3) No parent or guardian may be deemed abusive or neglectful solely by reason of the parent's or child's blindness, deafness, developmental disability, or other handicap.

(4) A person reporting injury, abuse, or neglect to an adult dependent person shall not suffer negative consequenc-

es if the person reporting believes in good faith that the adult dependent person has been found legally incompetent or disabled. [1993 c 412 § 11.]

26.44.020 Definitions. For the purpose of and as used in this chapter:

(1) "Court" means the superior court of the state of Washington, juvenile department.

(2) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

(3) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatric medicine and surgery, optometry, chiropractic, nursing, dentistry, osteopathy and surgery, or medicine and surgery or to provide other health services. The term "practitioner" shall include a duly accredited Christian Science practitioner: PROVIDED, HOWEVER, That a person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner shall not be considered, for that reason alone, a neglected person for the purposes of this chapter.

(4) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment or care.

(5) "Department" means the state department of social and health services.

(6) "Child" or "children" means any person under the age of eighteen years of age.

(7) "Professional school personnel" shall include, but not be limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

(8) "Social service counselor" shall mean anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support or education of children, or providing social services to adults or families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

(9) "Psychologist" shall mean any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(10) "Pharmacist" shall mean any registered pharmacist under the provisions of chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(11) "Clergy" shall mean any regularly licensed or ordained minister, priest or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(12) "Abuse or neglect" shall mean the injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child, adult dependent, or developmentally disabled person by any person under circumstances which indicate that the child's or adult's health, welfare, and safety is harmed. An abused child is a child who has been subjected to child abuse or neglect as defined herein.

(13) "Child protective services section" shall mean the child protective services section of the department.

(14) "Adult dependent persons" shall be defined as those persons over the age of eighteen years who have been found to be legally incompetent or disabled pursuant to chapter 11.88 RCW.

(15) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.

(16) "Negligent treatment or maltreatment" means an act or omission which evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to the child's health, welfare, and safety.

(17) "Developmentally disabled person" means a person who has a disability defined in RCW 71A.10.020.

(18) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard the general welfare of such children and shall include investigations of child abuse and neglect reports, including reports regarding child care centers and family child care homes, and the development, management, and provision of or referral to services to ameliorate conditions which endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether protective services should be provided, the department shall not decline to provide such services solely because of the child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.

(19) "Malice" or "maliciously" means an evil intent, wish, or design to vex, annoy, or injure another person. Such malice may be inferred from an act done in wilful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a wilful disregard of social duty.

(20) "Sexually aggressive youth" means a child who is defined in RCW 74.13.075(1)(b) as being a "sexually aggressive youth." [1993 c 412 § 12; 1993 c 402 § 1; 1988 c 142 § 1. Prior: 1987 c 524 § 9; 1987 c 206 § 2; 1984 c 97 § 2; 1982 c 129 § 6; 1981 c 164 § 1; 1977 ex.s. c 80 § 25; 1975 1st ex.s. c 217 § 2; 1969 ex.s. c 35 § 2; 1965 c 13 § 2.]

Reviser's note: This section was amended by 1993 c 402 § 1 and by 1993 c 412 § 12, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—1984 c 97: See RCW 74.34.900.

Severability—1982 c 129: See note following RCW 9A.04.080.

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

26.44.030 Reports—Duty and authority to make—Duty of receiving agency—Duty to notify—Case planning and consultation—Penalty for unauthorized exchange of information—Filing dependency petitions—Interviews of children—Records—Risk assessment process—Reports to legislature. (1)(a) When any practitioner, professional

school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, licensed or certified child care providers or their employees, employee of the department, or juvenile probation officer has reasonable cause to believe that a child or adult dependent or developmentally disabled person, has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child or adult dependent or developmentally disabled person, who resides with them, has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, "severe abuse" means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

(c) The report shall be made at the first opportunity, but *; and in no case longer than forty-eight hours after there is reasonable cause to believe that the child or adult has suffered abuse or neglect. The report shall include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children, dependent adults, or developmentally disabled persons are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section shall apply.

(3) Any other person who has reasonable cause to believe that a child or adult dependent or developmentally disabled person has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of abuse or neglect pursuant to this chapter, involving a child or adult dependent or developmentally disabled person who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to sexual abuse, shall report such incident to the proper law enforcement agency. In emergency cases, where the child, adult dependent, or developmentally disabled person's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report shall also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of abuse or neglect pursuant to this chapter, involving a child or adult dependent or developmentally disabled person who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child, adult dependent, or developmentally disabled person's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services or department case services for the developmentally disabled. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child or developmentally disabled person. Information considered privileged by statute and not directly related to reports required by this section shall not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving reports of abuse or neglect, the department or law enforcement agency may interview children. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. Parental notification of the interview shall occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course

of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation.

(11) Upon receiving a report of child abuse and neglect, the department or investigating law enforcement agency shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(12) The department shall maintain investigation records and conduct timely and periodic reviews of all cases constituting abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

(13) The department shall use a risk assessment process when investigating child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. The department shall, within funds appropriated for this purpose, offer enhanced community-based services to persons who are determined not to require further state intervention.

The department shall provide annual reports to the appropriate committees of the senate and house of representatives on the effectiveness of the risk assessment process.

(14) Upon receipt of a report of abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting. [1993 c 412 § 13; 1993 c 237 § 1; 1991 c 111 § 1; 1989 c 22 § 1. Prior: 1988 c 142 § 2; 1988 c 39 § 1; prior: 1987 c 524 § 10; 1987 c 512 § 23; 1987 c 206 § 3; 1986 c 145 § 1; 1985 c 259 § 2; 1984 c 97 § 3; 1982 c 129 § 7; 1981 c 164 § 2; 1977 ex.s. c 80 § 26; 1975 1st ex.s. c 217 § 3; 1971 ex.s. c 167 § 1; 1969 ex.s. c 35 § 3; 1965 c 13 § 3.]

Reviser's note: *(1) The "; and" was apparently added in the Conference Report to Engrossed Substitute House Bill No. 1512, without marks indicating the addition.

(2) This section was amended by 1993 c 237 § 1 and by 1993 c 412 § 13, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—1987 c 512: See RCW 18.19.901.

Legislative findings—1985 c 259: "The Washington state legislature finds and declares:

The children of the state of Washington are the state's greatest resource and the greatest source of wealth to the state of Washington. Children of all ages must be protected from child abuse. Governmental authorities must give the prevention, treatment, and punishment of child abuse the highest priority, and all instances of child abuse must be reported to the proper authorities who should diligently and expeditiously take appropriate action, and child abusers must be held accountable to the people of the state for their actions.

The legislature recognizes the current heavy caseload of governmental authorities responsible for the prevention, treatment, and punishment of child abuse. The information obtained by child abuse reporting requirements, in addition to its use as a law enforcement tool, will be used to determine the need for additional funding to ensure that resources for appropriate governmental response to child abuse are available." [1985 c 259 § 1.]

Severability—1984 c 97: See RCW 74.34.900.

Severability—1982 c 129: See note following RCW 9A.04.080.

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

26.44.040 Reports—Oral, written—Contents. An immediate oral report shall be made by telephone or otherwise to the proper law enforcement agency or the department of social and health services and, upon request, shall be followed by a report in writing. Such reports shall contain the following information, if known:

(1) The name, address, and age of the child or adult dependent or developmentally disabled person;

(2) The name and address of the child's parents, stepparents, guardians, or other persons having custody of the child or the residence of the adult dependent or developmentally disabled person;

(3) The nature and extent of the injury or injuries;

(4) The nature and extent of the neglect;

(5) The nature and extent of the sexual abuse;

(6) Any evidence of previous injuries, including their nature and extent; and

(7) Any other information which may be helpful in establishing the cause of the child's or adult dependent or developmentally disabled person's death, injury, or injuries and the identity of the alleged perpetrator or perpetrators. [1993 c 412 § 14; 1987 c 206 § 4; 1984 c 97 § 4; 1977 ex.s. c 80 § 27; 1975 1st ex.s. c 217 § 4; 1971 ex.s. c 167 § 2; 1969 ex.s. c 35 § 4; 1965 c 13 § 4.]

Severability—1984 c 97: See RCW 74.34.900.

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

26.44.053 Guardian ad litem, appointment—Examination of person having legal custody—Hearing—Procedure. (1) In any contested judicial proceeding in which it is alleged that a child has been subjected to child abuse or neglect, the court shall appoint a guardian ad litem for the child: PROVIDED, That the requirement of a guardian ad litem may be deemed satisfied if the child is represented by counsel in the proceedings.

(2) At any time prior to or during a hearing in such a case, the court may, on its own motion, or the motion of the guardian ad litem, or other parties, order the examination by a physician, psychologist, or psychiatrist, of any parent or child or other person having custody of the child at the time of the alleged child abuse or neglect, if the court finds such an examination is necessary to the proper determination of the case. The hearing may be continued pending the completion of such examination. The physician, psychologist, or psychiatrist conducting such an examination may be required to testify concerning the results of such examination and may be asked to give his or her opinion as to whether the protection of the child requires that he or she not be returned to the custody of his or her parents or other persons having custody of him or her at the time of the alleged child abuse or neglect. Persons so testifying shall be subject to cross-examination as are other witnesses. No information given at any such examination of the parent or any other person having custody of the child may be used against such person in any subsequent criminal proceedings against such person or custodian concerning the abuse or neglect of the child.

(3) A parent or other person having legal custody of a child alleged to be abused or neglected shall be a party to any proceeding that may impair or impede such person's interest in and custody or control of the child. [1993 c 241 § 4. Prior: 1987 c 524 § 11; 1987 c 206 § 7; 1975 1st ex.s. c 217 § 8.]

Conflict with federal requirements—1993 c 241: See note following RCW 13.34.030.

26.44.063 Temporary restraining order or preliminary injunction—Enforcement. (1) It is the intent of the legislature to minimize trauma to a child involved in an allegation of sexual or physical abuse. The legislature declares that removing the child from the home often has the effect of further traumatizing the child. It is, therefore, the legislature's intent that the alleged offender, rather than the child, shall be removed from the home and that this should be done at the earliest possible point of intervention in accordance with RCW 10.31.100, 13.34.130, this section, and RCW 26.44.130.

(2) In any judicial proceeding in which it is alleged that a child has been subjected to sexual or physical abuse, if the court finds reasonable grounds to believe that an incident of sexual or physical abuse has occurred, the court may, on its own motion, or the motion of the guardian ad litem or other parties, issue a temporary restraining order or preliminary injunction restraining or enjoining the person accused of committing the abuse from:

(a) Molesting or disturbing the peace of the alleged victim;

(b) Entering the family home of the alleged victim except as specifically authorized by the court; or

(c) Having any contact with the alleged victim, except as specifically authorized by the court.

(3) In issuing a temporary restraining order or preliminary injunction, the court may impose any additional restrictions that the court in its discretion determines are necessary to protect the child from further abuse or emotional trauma pending final resolution of the abuse allegations.

(4) The court shall issue a temporary restraining order prohibiting a person from entering the family home if the court finds that the order would eliminate the need for an out-of-home placement to protect the child's right to nurturance, health, and safety and is sufficient to protect the child from further sexual or physical abuse or coercion.

(5) The court may issue a temporary restraining order without requiring notice to the party to be restrained or other parties 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.

(6) A 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; and

(b) May be revoked or modified.

(7) The person having physical custody of the child shall have an affirmative duty to assist in the enforcement of the restraining order including but not limited to a duty to notify the court as soon as practicable of any violation of the order, a duty to request the assistance of law enforcement officers to enforce the order, and a duty to notify the department of social and health services of any violation of the order as soon as practicable if the department is a party to the action. Failure by the custodial party to discharge these affirmative duties shall be subject to contempt proceedings.

(8) Willful violation of a court order entered under this section is a misdemeanor. A written order shall contain the court's directive and shall bear the legend: "Violation of this order with actual notice of its terms is a criminal offense under chapter 26.44 RCW, is also subject to contempt proceedings, and will subject a violator to arrest." [1993 c 412 § 15; 1988 c 190 § 3; 1985 c 35 § 1.]

Ex parte temporary order for protection: RCW 26.50.070.

Orders for protection in cases of domestic violence: RCW 26.50.030.

Orders prohibiting contact: RCW 10.99.040.

Temporary restraining order: RCW 26.09.060.

26.44.067 Temporary restraining order or preliminary injunction—Contents—Notice—Noncompliance—Defense—Penalty. (1) Any person having had actual notice of the existence of a restraining order issued by a court of competent jurisdiction pursuant to RCW 26.44.063 who refuses to comply with the provisions of such order shall be guilty of a misdemeanor.

(2) The notice requirements of subsection (1) of this section may be satisfied by the peace officer giving oral or written evidence to the person subject to the order by reading from or handing to that person a copy certified by a notary public or the clerk of the court to be an accurate copy of the original court order which is on file. The copy may be supplied by the court or any party.

(3) The remedies provided in this section shall not apply unless restraining orders subject to this section shall bear this legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.44 RCW AND IS ALSO SUBJECT TO CONTEMPT PROCEEDINGS.

(4) It is a defense to prosecution under subsection (1) of this section that the court order was issued contrary to law or court rule. No right of action shall accrue against any peace officer acting upon a properly certified copy of a court order lawful on its face if such officer employs otherwise lawful means to effect the arrest. [1993 c 412 § 16; 1989 c 373 § 23; 1985 c 35 § 2.]

Severability—1989 c 373: See RCW 7.21.900.

26.44.100 Information about rights—Legislative purpose. The legislature finds parents and children often are not aware of their due process rights when agencies are investigating allegations of child abuse and neglect. The legislature reaffirms that all citizens, including parents, shall be afforded due process, that protection of children remains the priority of the legislature, and that this protection includes protecting the family unit from unnecessary disruption. To facilitate this goal, the legislature wishes to ensure that parents and children be advised in writing and orally, if feasible, of their basic rights and other specific information as set forth in this chapter, provided that nothing contained in this chapter shall cause any delay in protective custody action. [1993 c 412 § 17; 1985 c 183 § 1.]

26.44.150 Temporary restraining order restricting visitation for persons accused of sexually or physically abusing a child—Penalty for violating court order. (1) If a person who has unsupervised visitation rights with a minor child pursuant to a court order is accused of sexually or physically abusing a child and the alleged abuse has been reported to the proper authorities for investigation, the law enforcement officer conducting the investigation may file an affidavit with the prosecuting attorney stating that the person is currently under investigation for sexual or physical abuse of a child and that there is a risk of harm to the child if a temporary restraining order is not entered. Upon receipt of the affidavit, the prosecuting attorney shall determine whether there is a risk of harm to the child if a temporary restraining order is not entered. If the prosecutor determines there is a risk of harm, the prosecutor shall immediately file a motion for an order to show cause seeking to restrict visitation with the child, and seek a temporary restraining order. The restraining order shall be issued for up to ninety days or until the investigation has been concluded in favor of the alleged abuser, whichever is shorter.

(2) Willful violation of a court order entered under this section is a misdemeanor. The court order shall state: "Violation of this order is a criminal offense under chapter 26.44 RCW and will subject the violator to arrest." [1993 c 412 § 18.]

26.44.160 Allegations that child under twelve committed sex offense—Investigation—Referral to prosecuting attorney—Referral to department—Referral for treatment. (1) If a law enforcement agency receives a complaint that alleges that a child under age twelve has committed a sex offense as defined in RCW 9.94A.030, the agency shall investigate the complaint. If the investigation reveals that probable cause exists to believe that the youth may have committed a sex offense and the child is at least eight years of age, the agency shall refer the case to the proper county prosecuting attorney for appropriate action to determine whether the child may be prosecuted or is a sexually aggressive youth. If the child is less than eight years old, the law enforcement agency shall refer the case to the department.

(2) If the prosecutor or a judge determines the child cannot be prosecuted for the alleged sex offense because the child is incapable of committing a crime as provided in RCW 9A.04.050 and the prosecutor believes that probable cause exists to believe that the child engaged in acts that would constitute a sex offense, the prosecutor shall refer the child as a sexually aggressive youth to the department. The prosecutor shall provide the department with an affidavit stating that the prosecutor has determined that probable cause exists to believe that the juvenile has committed acts that could be prosecuted as a sex offense but the case is not being prosecuted because the juvenile is incapable of committing a crime as provided in RCW 9A.04.050.

(3) The department shall investigate any referrals that allege that a child is a sexually aggressive youth. The purpose of the investigation shall be to determine whether the child is abused or neglected, as defined in this chapter, and whether the child or the child's parents are in need of services or treatment. The department may offer appropriate available services and treatment to a sexually aggressive youth and his or her parents or legal guardians as provided in RCW 74.13.075 and may refer the child and his or her parents to appropriate treatment and services available within the community. If the parents refuse to accept or fail to obtain appropriate treatment or services under circumstances that indicate that the refusal or failure is child abuse or neglect, as defined in this chapter, the department may pursue a dependency action as provided in chapter 13.34 RCW.

(4) Nothing in this section shall affect the responsibility of a law enforcement agency to report incidents of abuse or neglect as required in RCW 26.44.030(5). [1993 c 402 § 2.]

Chapter 26.50
DOMESTIC VIOLENCE PREVENTION

Sections

26.50.035 Development of instructions, informational brochures, forms, and handbook by the administrator for the courts—Community resource list—Distribution of master copy. (1) By July 1, 1994, the administrator for the courts shall develop and prepare instructions and informational brochures required under RCW 26.50.030(4), standard petition and order for protection forms, and a court staff handbook on domestic violence and the protection order process. The standard petition and order for protection forms must be used after September 1, 1994, for all petitions filed and orders issued under this chapter. The instructions, brochures, forms, and handbook shall be prepared in consultation with interested persons, including a representative of the state domestic violence coalition, judges, and law enforcement personnel.

(a) The instructions shall be designed to assist petitioners in completing the petition, and shall include a sample of standard petition and order for protection forms.

(b) 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.

(c) The order for protection form shall include, in a conspicuous location, notice of criminal penalties resulting from violation of the order, and the following statement: "You can be arrested even if the person or persons who obtained the order invite or allow you to violate the order's prohibitions. The respondent has the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order upon written application."

(d) The court staff handbook shall allow for the addition of a community resource list by the court clerk.

(2) All court clerks shall obtain a community resource list from a domestic violence program, defined in RCW 70.123.020, serving the county in which the court is located. The community resource list shall include the names and telephone numbers of domestic violence programs serving the community in which the court is located, including law

enforcement agencies, domestic violence agencies, sexual assault agencies, legal assistance programs, interpreters, multicultural programs, and batterers' treatment programs. The court shall make the community resource list available as part of or in addition to the informational brochures described in subsection (1) of this section.

(3) The administrator for the courts shall distribute a master copy of the petition and order forms, instructions, and informational brochures to all court clerks and shall distribute a master copy of the petition and order forms to all superior, district, and municipal courts.

(4) For purposes of this section, "court clerks" means court administrators in courts of limited jurisdiction and elected court clerks.

*(5) The administrator for the courts shall arrange for translation of the instructions and informational brochures required by this section, which shall contain a sample of the standard petition and order for protection forms, 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 January 1, 1995. [1993 c 350 § 2; 1985 c 303 § 3; 1984 c 263 § 31.]

Contingency—1993 c 350 § 2(5): "If specific funding for section 2 subsection (5) of this act, referencing this act by bill, section and subsection number, is not provided by June 30, 1993, in the omnibus appropriations act, section 2 subsection (5) is null and void." [1993 c 350 § 4.]

*The omnibus appropriations act, 1993 1st sp.s. c 24, did not reference section 2(5) of Substitute Senate Bill No. 5360 ("this act"), therefore subsection (5) is null and void.

Findings—1993 c 350: "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 including child abuse, crimes of violence against person or property, juvenile delinquency, and alcohol and drug abuse. Domestic violence costs include the loss of lives as well as millions of dollars each year in the state of Washington for health care, absence from work, and services to children. 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; 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.

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." [1993 c 350 § 1.]

Severability—1993 c 350: "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." [1993 c 350 § 9.]

Title 27

LIBRARIES, MUSEUMS, AND HISTORICAL ACTIVITIES

Chapters

Chapter 27.12
PUBLIC LIBRARIES

Sections

27.12.010 Definitions. As used in this chapter, unless the context requires a different meaning:

(1) "Governmental unit" means any county, city, town, rural county library district, intercounty rural library district, rural partial-county library district, or island library district;

(2) "Legislative body" means the body authorized to determine the amount of taxes to be levied in a governmental unit; in rural county library districts, in intercounty rural library districts, and in island library districts, the legislative body shall be the board of library trustees of the district;

(3) "Library" means a free public library supported in whole or in part with money derived from taxation;

(4) "Regional library" means a free public library maintained by two or more counties or other governmental units as provided in RCW 27.12.080;

(5) "Rural county library district" means a library serving all the area of a county not included within the area of incorporated cities and towns: PROVIDED, That any city or town with a population of one hundred thousand or less at the time of annexation may be included therein as provided in RCW 27.12.360 through 27.12.390;

(6) "Intercounty rural library district" means a municipal corporation organized to provide library service for all areas outside of incorporated cities and towns within two or more counties: PROVIDED, That any city or town with a population of one hundred thousand or less at the time of annexation may be included therein as provided in RCW 27.12.360 through 27.12.390;

(7) "Island library district" means a municipal corporation organized to provide library service for all areas outside of incorporated cities and towns on a single island only, and not all of the area of the county, in counties composed entirely of islands and having a population of less than twenty-five thousand at the time the island library district was created: PROVIDED, That any city or town with a population of one hundred thousand or less at the time of annexation may be included therein as provided in RCW 27.12.360 through 27.12.390; and

(8) "Rural partial-county library district" means a municipal corporation organized to provide library service for a portion of the unincorporated area of a county that has an assessed valuation of at least fifty million dollars. Any city or town located in the same county as a rural partial-county library district may annex to the district if the city or town has a population of one hundred thousand or less at the time of annexation. [1993 c 284 § 2; 1982 c 123 § 1; 1981 c 26 § 1; 1977 ex.s. c 353 § 5; 1965 c 122 § 1; 1947 c 75 § 10; 1941 c 65 § 1; 1935 c 119 § 2; Rem. Supp. 1947 § 8226-2.]

27.12.070 Rural county library districts or rural partial-county library districts—Disbursement of revenues and collection of taxes. The county treasurer of the county in which any rural county library district or rural partial-county library district is created shall receive and disburse all district revenues and collect all taxes levied under this chapter. [1993 c 284 § 3; 1984 c 186 § 7; 1973 1st ex.s. c 195 § 6; 1970 ex.s. c 42 § 2; 1955 c 59 § 7. Prior: 1947 c 75 § 11, part; 1943 c 251 § 1, part; 1941 c 65 § 4, part; Rem. Supp. 1947 § 8226-4a, part.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

Annual appropriations—Control of expenditures: RCW 27.12.240.

Capital outlays—General obligation bonds—Excess levies: RCW 27.12.222.

27.12.470 Rural partial-county library districts. A rural partial-county library district may be created in a portion of the unincorporated area of a county as provided in this section if a rural county library district, intercounty rural library district, or island library district has not been created in the county and the area proposed to be included in a rural partial-county library district has an assessed valuation of at least fifty million dollars.

The procedure to create a rural partial-county library district is initiated by the filing of petitions with the county auditor proposing the creation of the district that have been signed by at least ten percent of the registered voters residing in the area proposed to be included in the rural partial-county library district. The county auditor shall review the petitions and certify the sufficiency or insufficiency of the signatures to the county legislative authority.

If the petitions are certified as having sufficient valid signatures, the county legislative authority shall hold a public hearing on the proposed rural partial-county library district, may adjust the boundaries of the proposed district, and may cause a ballot proposition to be submitted to the voters of the proposed rural partial-county library district authorizing its creation if the county legislative authority finds that the creation of the rural partial-county library district is in the public interest. A subsequent public hearing shall be held if additional territory is added to the proposed rural partial-county library district by action of the county legislative authority.

The rural partial-county library district shall be created if the ballot proposition authorizing the creation of the district is approved by a simple majority vote of the voters voting on the proposition. Immediately after creation of the rural partial-county library district the county legislative authority shall appoint a board of library trustees for the district as provided under RCW 27.12.190.

Except as provided in this section, a rural partial-county library district is subject to all the provisions of law applicable to a rural county library district and shall have all the powers, duties, and authorities of a rural county library district, including, but not limited to, the authority to impose property taxes, incur debt, and annex a city or town with a population of less than one hundred thousand at the time of the annexation that is located in the same county as the rural partial-county library district.

Adjacent unincorporated territory in the county may be annexed to a rural partial-county library district in the same manner as territory is annexed to a sewer district, except that an annexation is not subject to potential review by a boundary review board.

If a ballot proposition is approved creating a rural county library district in the county, every rural partial-county library district in that county shall be dissolved and its assets and liabilities transferred to the rural county library district. Where a rural partial-county library district has annexed a city or town, the voters of the city or town shall be allowed to vote on the proposed creation of a rural county library district and, if created, the rural county library district shall include each city and town that was annexed to the rural partial-county library district.

Nothing in this section authorizes the consolidation of a rural partial-county library district with any rural county library district; island library district; city, county, or regional library; intercounty library district; or other rural partial-county library district, unless, in addition to any other requirements imposed by statute, the boards of all library districts involved approve the consolidation. [1993 c 284 § 1.]

Chapter 27.34

STATE HISTORICAL SOCIETIES—HERITAGE COUNCIL—ARCHAEOLOGY AND HISTORIC PRESERVATION

Sections

27.34.010 Purpose. The legislature finds that those articles and properties which illustrate the history of the state of Washington should be maintained and preserved for the use and benefit of the people of the state. It is the purpose of this chapter to designate the two state historical societies as trustees of the state for these purposes, and to establish:

(1) A comprehensive and consistent state-wide policy pertaining to archaeology, history, historic preservation, and other historical matters;

(2) State-wide coordination of historical programs; and

(3) A coordinated budget for all state historical agencies. [1993 c 101 § 9; 1983 c 91 § 1.]

Findings—1993 c 101: "The legislature finds that:

(1) There is a strong community of interest between the Washington state historical society and the state capital historical association. This community of interest is expressed through many common goals, missions, and heritage programs, as well as a close geographic proximity between these two state historical agencies.

(2) The capacity to preserve our state's rich and diverse heritage and the unique political and cultural history of the state capital will be

strengthened if the programs of both agencies are combined into a single, cohesive entity.

(3) In a time of limited state resources, operational efficiencies and savings can be achieved if the programs and personnel of both agencies are managed by a single entity.

It is, therefore, the purpose of this act to transfer the powers and duties of the state historical agency known as the state capital historical association to the Washington state historical society. However, it is the intent of the legislature that as the consolidation of these two agencies occurs, the unique missions and programs of the state capital historical association and the state capital historical museum be preserved." [1993 c 101 § 1.]

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

(1) "Advisory council" means the advisory council on historic preservation.

(2) "Department" means the department of community development.

(3) "Director" means the director of community development.

(4) "Federal act" means the national historic preservation act of 1966 (Public Law 89-655; 80 Stat. 915).

(5) "Heritage council" means the Washington state heritage council.

(6) "Historic preservation" includes the protection, rehabilitation, restoration, identification, scientific excavation, and reconstruction of districts, sites, buildings, structures, and objects significant in American and Washington state history, architecture, archaeology, or culture.

(7) "Office" means the office of archaeology and historic preservation within the department of community development.

(8) "Preservation officer" means the state historic preservation officer as provided for in RCW 27.34.210.

(9) "Project" means programs leading to the preservation for public benefit of historical properties, whether by state and local governments or other public bodies, or private organizations or individuals, including the acquisition of title or interests in, and the development of, any district, site, building, structure, or object that is significant in American and Washington state history, architecture, archaeology, or culture, and property used in connection therewith, or for its development.

(10) "State historical agencies" means the state historical societies and the office of archaeology and historic preservation within the department of community development.

(11) "State historical societies" means the Washington state historical society and the eastern Washington state historical society.

(12) "Cultural resource management plan" means a comprehensive plan which identifies and organizes information on the state of Washington's historic, archaeological, and architectural resources into a set of management criteria, and which is to be used for producing reliable decisions, recommendations, and advice relative to the identification, evaluation, and protection of these resources. [1993 c 101 § 10; 1986 c 266 § 9; 1983 c 91 § 2.]

Findings—1993 c 101: See note following RCW 27.34.010.

Severability—1986 c 266: See note following RCW 38.52.005.

Transfer of powers and duties of office of archaeology and historic preservation—Construction of statutory references: See note following RCW 38.52.005.

27.34.040 Heritage council—Members—Terms—Compensation—Meetings. The heritage council shall consist of:

(1) A member of the Washington state historical society nominated by the governing board of the society and confirmed by the governor;

(2) A member of the eastern Washington state historical society nominated by the governing board of the society and confirmed by the governor;

(3) The secretary of state; and

(4) Five persons appointed by the governor who are experienced and knowledgeable in historical and archaeological matters.

The council shall elect a chairperson from among its members. The secretary of state shall serve as an ex officio member of the council. The remaining council members shall serve four-year terms except initial members whose terms shall be as follows: Two members appointed for four years, two members appointed for three years, two members appointed for two years, and two members appointed for one year. Any vacancies shall be filled in the same manner as the original appointments for the balance of the unexpired term. The secretary of state shall serve on the council without additional compensation. All other council members shall serve without compensation but shall be reimbursed for travel expenses incurred in the performance of the duties of the council as provided in RCW 43.03.050 and 43.03.060. The council shall meet at least once a quarter and at the call of the chairperson. Five members of the council shall constitute a quorum. [1993 c 101 § 11; 1983 c 91 § 4.]

Findings—1993 c 101: See note following RCW 27.34.010.

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

27.34.250 Advisory council on historic preservation—Members. (1) There is hereby established an advisory council on historic preservation, which shall be composed of nine members appointed by the governor as follows:

(a) The director of a state historical society or the director's designee to be selected from (i) the director of the Washington state historical society and (ii) the director of the Eastern Washington state historical society, to each serve on the council for one year on a rotating basis, the order of rotation to be determined by the governor;

(b) Six members of the public who are interested and experienced in matters to be considered by the council including the fields of history, architecture, and archaeology;

(c) A representative from the Washington archaeological community; and

(d) A native American.

(2) Each member of the council appointed under subsection (1)(b), (c), and (d) of this section shall serve a four-year term, except that those members first appointed shall serve for terms of from one to four years as designated by the governor at the time of appointment, it being the purpose of this subsection to assure staggered terms of office.

(3) A vacancy in the council shall not affect its powers, but shall be filled in the same manner as the original appointment for the balance of the unexpired term.

(4) The chairperson of the council shall be designated by the governor.

(5) Five members of the council shall constitute a quorum. [1993 c 185 § 1; 1993 c 101 § 12; 1983 c 91 § 15.]

Reviser's note: This section was amended by 1993 c 101 § 12 and by 1993 c 185 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—1993 c 185: "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 30, 1993." [1993 c 185 § 2.]

Findings—1993 c 101: See note following RCW 27.34.010.

27.34.310 Inventory of state-owned properties—Definitions. Unless the context clearly requires otherwise, the following definitions apply throughout RCW 27.34.320.

(1) "Agency" means the state agency, department, or institution that has ownership of historic property.

(2) "Historic properties" means those buildings, sites, objects, structures, and districts that are listed in or eligible for listing in the National Register of Historic Places.

(3) "Office" means the office of archaeology and historic preservation within the department of community development. [1993 c 325 § 3.]

Purpose—1993 c 325 §§ 3, 4: "It is the purpose of sections 3 and 4 of this act to give authority to the office of archaeology and historic preservation to identify and record all state-owned facilities to determine which of these facilities may be considered historically significant and to require the office to provide copies of the inventory to departments, agencies, and institutions that have jurisdiction over the buildings and sites listed." [1993 c 325 § 2.]

27.34.320 Inventory of state-owned properties—Procedure—Grants. (1) By January 2, 1994, the office shall provide each agency with a list of the agency's properties currently listed on the National Register of Historic Places. By January 2, 1995, agencies that own property shall provide to the office a list of those properties that are either at least fifty years old or that may be eligible for listing in the National Register of Historic Places. If funding is available, the office may provide grants to state agencies to assist in the development of the agency's list. By June 30, 1995, the office shall compile and disseminate an inventory of state-owned historic properties.

(2) The office shall provide technical information to agency staff involved with the identification of historic properties, including the criteria for facilities to be placed on the National Register of Historic Places. [1993 c 325 § 4.]

Purpose—1993 c 325 §§ 3, 4: See note following RCW 27.34.310.

27.34.900 State capital historical museum. The building and grounds designated as Block 2, Grainger's Addition to the City of Olympia, County of Thurston, acquired by the state under senate joint resolution No. 18, session of 1939, is hereby designated a part of the state capitol, to be known as the state capital historical museum. This structure is to be used to house and interpret the collection of the Washington state historical society. This section does not limit the society's use of other structures. [1993 c 101 § 13; 1981 c 253 § 3; 1941 c 44 § 3; Rem. Supp. 1941 § 8265-6. Formerly RCW 27.36.020.]

Findings—1993 c 101: See note following RCW 27.34.010.

27.34.915 Severability—1993 c 101. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1993 c 101 § 16.]

27.34.916 Effective date—1993 c 101. 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, 1993. [1993 c 101 § 17.]

Title 28A
COMMON SCHOOL PROVISIONS

Chapters

Labor relations consultants: RCW 43.09.230.

Chapter 28A.150
GENERAL PROVISIONS

Sections

28A.150.205 Definition. (Contingent effective date.)

Contingent effective date—1993 c 336 §§ 502-504, 506, 507; 1992 c 141 §§ 501-507: "Sections 502 through 504, 506, and 507 of this act shall take effect September 1, 2000. However, these sections shall not take effect if, by September 1, 2000, a law is enacted stating that a school accountability and academic assessment system is not in place." [1993 c 336 § 1202; 1992 c 141 § 509.]

28A.150.210 Basic Education Act—Goal. (Effective September 1, 1994.) The goal of the Basic Education Act for the schools of the state of Washington set forth in this chapter shall be to provide students with the opportunity to become responsible citizens, to contribute to their own economic well-being and to that of their families and communities, and to enjoy productive and satisfying lives. To these ends, the goals of each school district, with the involvement of parents and community members, shall be to provide opportunities for all students to develop the knowledge and skills essential to:

(1) Read with comprehension, write with skill, and communicate effectively and responsibly in a variety of ways and settings;

(2) Know and apply the core concepts and principles of mathematics; social, physical, and life sciences; civics and history; geography; arts; and health and fitness;

(3) Think analytically, logically, and creatively, and to integrate experience and knowledge to form reasoned judgments and solve problems; and

(4) Understand the importance of work and how performance, effort, and decisions directly affect future career and educational opportunities. [1993 c 336 § 101; (1992 c 141 § 501 repealed by 1993 c 336 § 1203); 1977 ex.s. c 359 § 2. Formerly RCW 28A.58.752.]

Findings—Intent—1993 c 336: "The legislature finds that student achievement in Washington must be improved to keep pace with societal changes, changes in the workplace, and an increasingly competitive international economy.

To increase student achievement, the legislature finds that the state of Washington needs to develop a public school system that focuses more on the educational performance of students, that includes high expectations for all students, and that provides more flexibility for school boards and educators in how instruction is provided.

The legislature further finds that improving student achievement will require:

(1) Establishing what is expected of students, with standards set at internationally competitive levels;

(2) Parents to be primary partners in the education of their children, and to play a significantly greater role in local school decision making;

(3) Students taking more responsibility for their education;

(4) Time and resources for educators to collaboratively develop and implement strategies for improved student learning;

(5) Making instructional programs more relevant to students' future plans;

(6) All parties responsible for education to focus more on what is best for students; and

(7) An educational environment that fosters mutually respectful interactions in an atmosphere of collaboration and cooperation.

It is the intent of the legislature to provide students the opportunity to achieve at significantly higher levels, and to provide alternative or additional instructional opportunities to help students who are having difficulty meeting the essential academic learning requirements in RCW 28A.630.885.

It is also the intent of the legislature that students who have met or exceeded the essential academic learning requirements be provided with alternative or additional instructional opportunities to help advance their educational experience.

The provisions of chapter 336, Laws of 1993 shall not be construed to change current state requirements for students who receive home-based instruction under chapter 28A.200 RCW, or for students who attend state-approved private schools under chapter 28A.195 RCW." [1993 c 336 § 1.]

Effective date—1993 c 336 § 101: "Section 101 of this act shall take effect September 1, 1994." [1993 c 336 § 102.]

Part headings not law—1993 c 336: "Part headings as used in this act constitute no part of the law." [1993 c 336 § 1204.]

Findings—1993 c 336: See note following RCW 28A.630.879.

Findings—Part headings—Severability—1992 c 141: See notes following RCW 28A.410.040.

Effective date—Severability—1977 ex.s. c 359: See notes following RCW 28A.150.200.

28A.150.220 Basic Education Act—Definitions—Program requirements—Program accessibility—Rules and regulations. (Contingent expiration date.) (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 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 in kindergarten at least a total program offering of four hundred fifty hours. The program shall include reading, arithmetic, language skills and such other subjects and such activities as the school district shall determine to be appropriate for the education of the school district's students enrolled in such program;

(b) Each school district shall make available to students in grades one through three, at least a total program hour offering of two thousand seven hundred hours. A minimum of ninety-five percent of the total program hour offerings shall be in the basic skills areas of reading/language arts (which may include languages other than English, including

American Indian 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 languages other than English, including American Indian 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 languages other than English, including American Indian 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, languages other than English, which may be American Indian languages, mathematics, social studies, science, music, art, health and physical education. A minimum of twenty percent of the total program hour offerings shall be in the area of work skills. The remaining twenty percent of the total program hour offerings may include traffic safety or such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades, with not less than one-half thereof in basic skills and/or work skills: PROVIDED, That each school district shall have the option of including grade nine within the program hour offering requirements of grades seven and eight so long as such requirements for grades seven through nine are increased to two thousand nine hundred seventy hours and such requirements for grades ten through twelve are decreased to three thousand two hundred forty hours.

(3) In order to provide flexibility to the local school districts in the setting of their curricula, and in order to maintain the intent of this legislation, which is to stress the instruction of basic skills and work skills, any local school district may establish minimum course mix percentages that deviate by up to five percentage points above or below those minimums required by subsection (2) of this section, so long as the total program hour requirement is still met.

(4) Nothing contained in subsection (2) of this section shall be construed to require individual students to attend school for any particular number of hours per day or to take any particular courses.

(5) Each school district's kindergarten through twelfth grade basic educational program shall be accessible to all students who are five years of age, as provided by RCW 28A.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) 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. [1993 c 371 § 1; 1990 c 33 § 105; 1982 c 158 § 1; 1979 ex.s. c 250 § 1; 1977 ex.s. c 359 § 3. Formerly RCW 28A.58.754.]

Severability—1982 c 158: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 158 § 8.] For codification of 1982 c 158, see Codification Tables, Volume 0.

Effective date—1979 ex.s. c 250: "This amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the

support of the state government and its existing public institutions, and except as otherwise provided in subsection (5) of section 1, and section 2 of this amendatory act, shall take effect August 15, 1979." [1979 ex.s. c 250 § 10.]

Severability—1979 ex.s. c 250: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 250 § 11.]

The above two annotations apply to 1979 ex.s. c 250. For codification of that act, see Codification Tables, Volume 0.

Effective date—Severability—1977 ex.s. c 359: See notes following RCW 28A.150.200.

28A.150.220 Basic Education Act—Program requirements—Program accessibility—Rules. (Contingent effective date.) (1) Satisfaction of the basic education program requirements identified in RCW 28A.150.210 shall be considered to be implemented by the following program:

(a) Each school district shall make available to students enrolled in kindergarten at least a total instructional offering of four hundred fifty hours. The program shall include instruction in the essential academic learning requirements under RCW 28A.630.885 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 twelve, at least a district-wide annual average total instructional hour offering of one thousand hours. 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 include the essential academic learning requirements under RCW 28A.630.885 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;

(c) If the essential academic learning requirements include a requirement of languages other than English, the requirement may be met by students receiving instruction in one or more American Indian languages.

(2) Nothing contained in subsection (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.

(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.

(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. [1993 c 371 § 2; 1992 c 141 § 503; 1990 c 33 § 105; 1982 c 158 § 1; 1979 ex.s. c 250 § 1; 1977 ex.s. c 359 § 3. Formerly RCW 28A.58.754.]

Contingent effective date—1993 c 371 § 2: "Section 2 of this act shall take effect September 1, 2000. However, section 2 of this act shall not take effect if, by September 1, 2000, a law is enacted stating that a school accountability and academic assessment system is not in place." [1993 c 371 § 5.]

Contingent effective date—1993 c 336 §§ 502-504, 506, 507; 1992 c 141 §§ 501-507: See note following RCW 28A.150.205.

Findings—Part headings—Severability—1992 c 141: See notes following RCW 28A.410.040.

Severability—1982 c 158: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 158 § 8.] For codification of 1982 c 158, see Codification Tables, Volume 0.

Effective date—1979 ex.s. c 250: "This amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and except as otherwise provided in subsection (5) of section 1, and section 2 of this amendatory act, shall take effect August 15, 1979." [1979 ex.s. c 250 § 10.]

Severability—1979 ex.s. c 250: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 250 § 11.]

The above two annotations apply to 1979 ex.s. c 250. For codification of that act, see Codification Tables, Volume 0.

Effective date—Severability—1977 ex.s. c 359: See notes following RCW 28A.150.200.

28A.150.250 Annual basic education allocation of funds according to average FTE student enrollment—Student/teacher ratio standard.

Fiscal study committee—Recommendations for new funding model—1993 c 336: "(1) A legislative fiscal study committee is hereby created. The committee shall be comprised of three members from each caucus of the senate, appointed by the president of the senate, and three members from each caucus of the house of representatives, appointed by the speaker of the house of representatives. In consultation with the office of the superintendent of public instruction, the committee shall study the common school funding system.

(2) By January 16, 1995, the committee shall report to the full legislature on its findings and any recommendations for a new funding model for the common school system.

(3) This section shall expire January 16, 1995." [1993 c 336 § 1007.]

28A.150.275 Annual basic education allocation for students in technical colleges. The basic education allocation, including applicable vocational entitlements and handicapped student program money, generated under this chapter and under state appropriation acts by school districts for students enrolled in a technical college program established by an interlocal agreement under RCW 28B.50.533 shall be allocated in amounts as determined by the superintendent of public instruction to the serving college rather than to the school district, unless the college chooses to continue to receive the allocations through the school

districts. This section does not apply to students enrolled in the running start program established in RCW 28A.600.310. [1993 c 223 § 1.]

28A.150.280 Reimbursement for acquisition of approved transportation equipment—Method. Costs of acquisition of approved transportation equipment purchased prior to September 1, 1982, shall be reimbursed up to one hundred percent of the cost to be reimbursed over the anticipated life of the vehicle, as determined by the state superintendent: PROVIDED, That commencing with the 1980-81 school year, reimbursement shall be at one hundred percent or as close thereto as reasonably possible: PROVIDED FURTHER, That reimbursements for the acquisition of approved transportation equipment received by school districts shall be placed in the transportation vehicle fund for the current or future purchase of approved transportation equipment and for major transportation equipment repairs consistent with rules and regulations authorized in RCW 28A.160.130. [1993 c 111 § 1. Prior: 1990 c 33 § 110; 1990 c 33 § 109; 1981 c 343 § 1; 1981 c 265 § 9; 1981 c 265 § 8; 1977 ex.s. c 359 § 6; 1977 c 80 § 3; 1975 1st ex.s. c 275 § 60; 1972 ex.s. c 85 § 1; 1971 c 48 § 14; 1969 ex.s. c 223 § 28A.41.160; prior: 1965 ex.s. c 154 § 5. Formerly RCW 28A.41.160, 28.41.160.]

Effective date—Severability—1981 c 265: See notes following RCW 28A.160.150.

Effective date—Severability—1977 ex.s. c 359: See notes following RCW 28A.150.200.

Severability—1977 c 80: See note following RCW 28A.160.030.

Severability—1971 c 48: See note following RCW 28A.305.040.

Additional programs for which legislative appropriations must or may be made: RCW 28A.150.370.

Basic Education Act, RCW 28A.150.280 as part of: RCW 28A.150.200.

Transportation vehicle fund—Deposits in—Use—Rules for establishment and use: RCW 28A.160.130.

28A.150.300 Corporal punishment prohibited—Adoption of policy. The use of corporal punishment in the common schools is prohibited. The state board of education, in consultation with the superintendent of public instruction, shall develop and adopt a policy prohibiting the use of corporal punishment in the common schools. The policy shall be adopted by the state board of education no later than February 1, 1994, and shall take effect in all school districts September 1, 1994. [1993 c 68 § 1.]

28A.150.390 Appropriations for handicapped programs. The superintendent of public instruction shall submit to each regular session of the legislature during an odd-numbered year a programmed budget request for handicapped programs. Funding for programs operated by local school districts shall be on an excess cost basis from appropriations provided by the legislature for handicapped programs and shall take account of state funds accruing through RCW 28A.150.250, 28A.150.260, federal medical assistance and private funds accruing under RCW 74.09.5249, and other state and local funds, excluding special excess levies. However, the superintendent of public instruction shall reimburse the department of social and health services from state appropriations for handicapped education programs for the state-funded portion of any medical assistance payment made by the department for services provided under an individualized education program established pursuant to RCW 28A.155.010 through 28A.155.100. The amount of such interagency reimbursement shall be deducted by the superintendent of public instruction in determining additional allocations to districts for handicapped education programs under this section. [1993 c 149 § 9; 1990 c 33 § 116; 1989 c 400 § 2; 1980 c 87 § 5; 1971 ex.s. c 66 § 11. Formerly RCW 28A.41.053.]

Conflict with federal requirements—Severability—Effective dates—1993 c 149: See notes following RCW 74.09.5241.

Intent—1989 c 400: "The legislature finds that there is increasing demand for school districts' special education programs to include medical services necessary for handicapped children's participation and educational progress. In some cases, these services could qualify for federal funding under Title XIX of the social security act. The legislature intends to establish a process for school districts to obtain reimbursement for eligible services from medical assistance funds. In this way, state dollars for handicapped education can be leveraged to generate federal matching funds, thereby increasing the overall level of resources available for school districts' special education programs." [1989 c 400 § 1.]

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.155.010.

Chapter 28A.155
SPECIAL EDUCATION

Sections

28A.155.150 Special education programs—Medical services—Revenue distribution—Reporting. (1) Of the projected federal and private insurance revenue collected under RCW 74.09.5249, the following incentive payments, calculated after deduction of the agent's fees, shall remain with the school districts: Twenty percent of the federal portion of medicaid payments; and twenty percent of payments made by private insurers. The billing agent shall periodically provide the office of the superintendent of public instruction and each educational service district with a report showing for each individual school district the total amount of federal funds, less the billing agent's fee, realized through medicaid billing and the total amount, less the billing agent's fee, realized through the billing of private insurers. The superintendent shall use the report to reduce allocations to the districts by eighty percent of the total amount of medicaid and private insurance payments received by each district, calculated after deduction of the billing agent's fee.

(2) A firm that is a party to a preexisting contract under RCW 74.09.5247(1) shall, at times designated by the superintendent of public instruction, provide the office of the superintendent of public instruction and the appropriate educational service district with a report indicating the total amount of federal money and private insurance money, less the contractor's fee, earned by each district through billing for health services. The superintendent shall reduce allocations to the districts by eighty percent of the total amount of medicaid and private insurance payments received by each district, calculated after deduction of the contractor's fee.

(3) A school district that has elected to act as its own billing agent under RCW 74.09.5247(2) shall, at times designated by the superintendent of public instruction, provide the office of the superintendent of public instruction and the appropriate educational service district with a report indicating the total amount of federal money and private insurance money received by the district. The superintendent shall reduce allocations to the district by eighty percent of the total amount of medicaid and private insurance payments received by the district, calculated after deduction of administrative fees retained by the district.

(4) For the purposes of this section, "medicaid" means medical care provided under Title XIX of the federal social security act. [1993 c 149 § 8.]

Conflict with federal requirements—Severability—Effective dates—1993 c 149: See notes following RCW 74.09.5241.

Chapter 28A.165
LEARNING ASSISTANCE PROGRAM

Sections

28A.165.070 Eligibility for funds—Distribution of funds. Each school district which has established an approved program shall be eligible, as determined by the superintendent of public instruction, for state funds made available for the purposes of such programs.

(1) For the 1993-94 and 1994-95 school years, the superintendent of public instruction shall distribute funds appropriated for the learning assistance program in accordance with the biennial appropriations act.

(2) For the 1995-96 school year and thereafter and unless modified under subsection (4) of this section, the superintendent of public instruction shall make use of data derived from the basic skills tests in determining the amount of funds for which a district may be eligible. Funds shall be distributed according to the district's total full-time equivalent enrollment in kindergarten through grade nine and the percentage of the district's students taking the basic skills tests who scored in the lowest quartile as compared with national norms. In making this calculation, the superintendent of public instruction may use an average over the immediately preceding five or fewer years of the district's percentage scoring in the lowest quartile. The superintendent of public instruction shall also deduct the number of students at these age levels who are identified as specific learning disabled and are generating state funds for special education programs conducted pursuant to RCW 28A.155.010 through 28A.155.100, in distributing state funds for learning assistance.

(3) The distribution formula in this section is for allocation purposes only.

(4) The superintendent of public instruction shall recommend to the legislature a new allocation formula for use in the 1995-97 fiscal biennium that uses additional elements consistent with performance-based education and the new assessment system developed by the commission on student learning. The superintendent may request a delay in development of the new allocation formula if the commission's assessment system is not available for use in the 1995-97 biennium. [1993 1st sp.s. c 24 § 520; 1990 c 33 § 150; 1987 c 478 § 7. Formerly RCW 28A.120.022.]

Severability—1993 1st sp.s. c 24: "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." [1993 1st sp.s. c 24 § 932.]

Effective dates—1993 1st sp.s. c 24: "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, 1993, except for section 308(5) of this act which shall take effect immediately [May 28, 1993]." [1993 1st sp.s. c 24 § 933.]

Chapter 28A.195
PRIVATE SCHOOLS

Sections

28A.195.010 Private schools—Extension programs for parents to teach children in their custody—Scope of state control. The legislature hereby recognizes that private schools should be subject only to those minimum state controls necessary to insure the health and safety of all the students in the state and to insure 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 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) 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), (5), (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) Appropriate measures shall be taken to safeguard all permanent records against loss or damage.

(6) 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. However, the state board shall not require private school students to meet the student learning goals, obtain a certificate of mastery to graduate from high school, to master the essential academic learning requirements, or to be assessed pursuant to RCW 28A.630.885. However, private schools may choose, on a voluntary basis, to have their students master these essential academic learning requirements, take these assessments, and obtain certificates of mastery. 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) of this section.

(7) Private school curriculum shall include instruction of 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 state board of education graduation requirements.

(8) 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 in subsection (7) above provided, 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. [1993 c 336 § 1101; (1992 c 141 § 505 repealed by 1993 c 336 § 1102); 1990 c 33 § 176. Prior: 1985 c 441 § 4; 1985 c 16 § 1; 1983 c 56 § 1; 1977 ex.s. c 359 § 9; 1975 1st ex.s. c 275 § 71; 1974 ex.s. c 92 § 2. Formerly RCW 28A.02.201.]

Findings—Intent—Part headings not law—1993 c 336: See notes following RCW 28A.150.210.

Findings—1993 c 336: See note following RCW 28A.630.879.

Findings—Part headings—Severability—1992 c 141: See notes following RCW 28A.410.040.

Severability—1985 c 441: See note following RCW 28A.225.010.

Severability—1983 c 56: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 c 56 § 18.]

Effective date—Severability—1977 ex.s. c 359: See notes following RCW 28A.150.200.

Authorization for private school students to ride buses—Conditions: RCW 28A.160.020.

Basic Education Act, RCW 28A.195.010 as part of: RCW 28A.150.200.

Commencement exercises—Lip reading instruction—Joint purchasing, including issuing interest bearing warrants—Budgets: RCW 28A.320.080.

Home-based instruction: RCW 28A.200.010.

Immunization program, private schools as affecting: RCW 28A.210.060 through 28A.210.170.

Part-time students—Defined—Enrollment in public schools authorized: RCW 28A.150.350.

Real property—Sale—Notice of and hearing on—Appraisal required—Broker or real estate appraiser services—Real estate sales contracts, limitation: RCW 28A.335.120.

Surplus school property, rental, lease or use of—Authorized—Limitations: RCW 28A.335.040.

Surplus texts and other educational aids, notice of availability—Student priority as to texts: RCW 28A.335.180.

Chapter 28A.200
HOME-BASED INSTRUCTION

Sections

28A.200.010 Home-based instruction—Duties of parents. Each parent whose child is receiving home-based instruction under RCW 28A.225.010(4) shall have the duty to:

(1) File annually a signed declaration of intent that he or she is planning to cause his or her child to receive home-based instruction. The statement shall include the name and age of the child, shall specify whether a certificated person will be supervising the instruction, and shall be written in a format prescribed by the superintendent of public instruction. Each parent shall file the statement by September 15 of the school year or within two weeks of the beginning of any public school quarter, trimester, or semester with the superintendent of the public school district within which the parent resides;

(2) Ensure that test scores or annual academic progress assessments and immunization records, together with any other records that are kept relating to the instructional and educational activities provided, are forwarded to any other public or private school to which the child transfers. At the time of a transfer to a public school, the superintendent of the local school district in which the child enrolls may require a standardized achievement test to be administered and shall have the authority to determine the appropriate grade and course level placement of the child after consultation with parents and review of the child's records; and

(3) Ensure that a standardized achievement test approved by the state board of education is administered annually to the child by a qualified individual or that an

annual assessment of the student's academic progress is written by a certificated person who is currently working in the field of education. The state board of education shall not require these children to meet the student learning goals, master the essential academic learning requirements, to take the assessments, or to obtain a certificate of mastery pursuant to RCW 28A.630.885. The standardized test administered or the annual academic progress assessment written shall be made a part of the child's permanent records. If, as a result of the annual test or assessment, it is determined that the child is not making reasonable progress consistent with his or her age or stage of development, the parent shall make a good faith effort to remedy any deficiency.

Failure of a parent to comply with the duties in this section shall be deemed a failure of such parent's child to attend school without valid justification under RCW 28A.225.020. Parents who do comply with the duties set forth in this section shall be presumed to be providing home-based instruction as set forth in RCW 28A.225.010(4). [1993 c 336 § 1103; 1990 c 33 § 178; 1985 c 441 § 2. Formerly RCW 28A.27.310.]

Findings—Intent—Part headings not law—1993 c 336: See notes following RCW 28A.150.210.

Findings—1993 c 336: See note following RCW 28A.630.879.

Severability—1985 c 441: See note following RCW 28A.225.010.

Part-time students—Defined—Enrollment in public schools authorized: RCW 28A.150.350.

Private schools—Extension programs for parents to teach children in their custody: RCW 28A.195.010.

Chapter 28A.205
EDUCATIONAL CLINICS

Sections

28A.205.010 "Education center," "basic academic skills," defined—Certification as education center and withdrawal thereof. (1) As used in this chapter, unless the context thereof shall clearly indicate to the contrary:

"Education center" means any private school operated on a profit or nonprofit basis which does the following:

(a) Is devoted to the teaching of basic academic skills, including specific attention to improvement of student motivation for achieving, and employment orientation.

(b) Operates on a clinical, client centered basis. This shall include, but not be limited to, performing diagnosis of individual educational abilities, determination and setting of individual goals, prescribing and providing individual courses of instruction therefor, and evaluation of each individual client's progress in his or her educational program.

(c) Conducts courses of instruction by professionally trained personnel certificated by the state board of education according to rules and regulations promulgated for the purposes of this chapter and providing, for certification purposes, that a year's teaching experience in an education center shall be deemed equal to a year's teaching experience in a common or private school.

(2) For purposes of this chapter, basic academic skills shall include the study of mathematics, speech, language, reading and composition, science, history, literature and political science or civics; it shall not include courses of a vocational training nature and shall not include courses deemed nonessential to the accrediting of the common schools or the approval of private schools under RCW 28A.305.130.

(3) The state board of education shall certify an education center only upon application and (a) determination that such school comes within the definition thereof as set forth in subsection (1) above and (b) demonstration on the basis of actual educational performance of such applicants' students which shows after consideration of their students' backgrounds, educational gains that are a direct result of the applicants' educational program. Such certification may be withdrawn if the board finds that a center fails to provide adequate instruction in basic academic skills. No education center certified by the state board of education pursuant to this section shall be deemed a common school under RCW 28A.150.020 or a private school for the purposes of RCW 28A.195.010 through 28A.195.050. [1993 c 211 § 1; 1990 c 33 § 180; 1983 c 3 § 38; 1977 ex.s. c 341 § 1. Formerly RCW 28A.97.010.]

Severability—1977 ex.s. c 341: "If any provision of this 1977 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 341 § 7.]

28A.205.020 Reimbursement only for eligible common school dropouts. Only eligible common school dropouts shall be enrolled in a certified education center for reimbursement by the superintendent of public instruction as provided in RCW 28A.205.040. No person shall be considered an eligible common school dropout who (1) has completed high school, (2) who has not reached his or her thirteenth birthday or has passed his or her twentieth birthday, or (3) shows proficiency beyond the high school level in a test approved by the superintendent of public instruction to be given as part of the initial diagnostic procedure, or (4) until one month has passed after he or she has dropped out of any common school and the education center has received written verification from a school official of the common school last attended in this state that such person is no longer in attendance at such school, unless such center has been requested to admit such person by written communication of the board of directors or its designee, of that common school, or unless such person is unable to attend a particular common school because of disciplinary reasons, including suspension and/or expulsion therefrom. The fact that any person may be subject to RCW

28A.225.010 through 28A.225.150, 28A.200.010, and 28A.200.020 shall not affect his or her qualifications as an eligible common school dropout under this chapter. [1993 c 211 § 2; 1990 c 33 § 181; 1979 ex.s. c 174 § 1; 1977 ex.s. c 341 § 2. Formerly RCW 28A.97.020.]

Severability—1979 ex.s. c 174: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 174 § 4.]

Severability—1977 ex.s. c 341: See note following RCW 28A.205.010.

28A.205.030 Reentry of prior dropouts into common schools, rules—Eligibility for GED test. The superintendent of public instruction shall adopt, by rules, policies and procedures to permit a prior common school dropout to reenter at the grade level appropriate to such individual's ability: PROVIDED, That such individual shall be placed with the class he or she would be in had he or she not dropped out and graduate with that class, if the student's ability so permits notwithstanding any loss of credits prior to reentry and if such student earns credits at the normal rate subsequent to reentry.

Notwithstanding any other provision of law, any certified education center student sixteen years of age or older, upon completion of an individual student program, shall be eligible to take the general educational development test as given throughout the state. [1993 c 218 § 2; 1993 c 211 § 3; 1990 c 33 § 182; 1977 ex.s. c 341 § 3. Formerly RCW 28A.97.030.]

Reviser's note: This section was amended by 1993 c 211 § 3 and by 1993 c 218 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—1977 ex.s. c 341: See note following RCW 28A.205.010.

28A.205.050 Rules and regulations—Legislative review of criteria utilized for reimbursement purposes. In accordance with chapter 34.05 RCW, the administrative procedure act, the state board of education with respect to the matter of certification, and the superintendent of public instruction with respect to all other matters, shall have the power and duty to make the necessary rules and regulations to carry out the purpose and intent of this chapter.

Criteria as promulgated by the state board of education or superintendent of public instruction for determining if any education center is providing adequate instruction in basic academic skills or demonstrating superior performance in student educational gains for funding under RCW 28A.205.040 shall be subject to review by four members of the legislature, one from each caucus of each house, including the chairs of the respective education committees. [1993 c 211 § 4; 1990 c 33 § 184; 1977 ex.s. c 341 § 5. Formerly RCW 28A.97.050.]

Severability—1977 ex.s. c 341: See note following RCW 28A.205.010.

28A.205.060 Report to legislature by superintendent of public instruction—Contents—Update. The superintendent of public instruction shall prepare a report on education centers that:

(1) Identifies a funding level that is adequate to fund the enrollment served by education centers during the previous fiscal year;

(2) Identifies locales in the state which are served by education centers but where demand for education center services will support additional service, and recommends the funding level necessary to serve such demand;

(3) Identifies locales in the state which are not served by education centers but where demand will support operation of centers, and recommends the funding level necessary to serve such demand; and

(4) Identifies locales in the state that are either underserved or not served by existing public school programs for drop-outs or for drop-out prevention, but where demand will support such services and recommends the funding level necessary to serve such demand.

The report shall be submitted to the legislature by January 1 in the year following June 27, 1985, and updates of the report shall be submitted with each biennial budget request until such time as funding levels reach the levels recommended in subsections (2) and (3) of this section. [1993 c 211 § 5; 1985 c 434 § 2. Formerly RCW 28A.97.110.]

Intent—1985 c 434: "It is the intent of this act to provide for an equitable distribution of funds appropriated for educational clinics, to stabilize existing programs, and to provide a system for orderly expansion or retrenchment in the event of future increases or reductions in program appropriations." [1985 c 434 § 1.]

28A.205.070 Allocation of funds—Criteria—Duties of superintendent. In allocating funds appropriated for education centers, the superintendent of public instruction shall:

(1) Place priority upon stability and adequacy of funding for education centers that have demonstrated superior performance as defined in RCW 28A.205.040(2).

(2) Initiate and maintain a competitive review process to select new or expanded center programs in unserved or underserved areas. The criteria for review of competitive proposals for new or expanded education center services shall include but not be limited to:

(a) The proposing organization shall have obtained certification from the state board of education as provided in RCW 28A.205.010;

(b) The cost-effectiveness of the proposal; and

(c) The availability of committed nonstate funds to support, enrich, or otherwise enhance the basic program.

(3) In selecting areas for new or expanded education center programs, the superintendent of public instruction shall consider factors including but not limited to:

(a) The proportion and total number of dropouts unserved by existing center programs, if any;

(b) The availability within the geographic area of programs other than education centers which address the basic educational needs of dropouts; and

(c) Waiting lists or other evidence of demand for expanded education center programs.

(4) In the event of any curtailment of services resulting from lowered legislative appropriations, the superintendent of public instruction shall issue pro rata reductions to all centers funded at the time of the lowered appropriation. Individual centers may be exempted from such pro rata

reductions if the superintendent finds that such reductions would impair the center's ability to operate at minimally acceptable levels of service. In the event of such exceptions, the superintendent shall determine an appropriate rate for reduction to permit the center to continue operation.

(5) In the event that an additional center or centers become certified and apply to the superintendent for funds to be allocated from a legislative appropriation which does not increase from the immediately preceding biennium, or does not increase sufficiently to allow such additional center or centers to operate at minimally acceptable levels of service without reducing the funds available to previously funded centers, the superintendent shall not provide funding for such additional center or centers from such appropriation. [1993 c 211 § 6; 1990 c 33 § 185; 1985 c 434 § 3. Formerly RCW 28A.97.120.]

Intent—1985 c 434: See note following RCW 28A.205.060.

28A.205.080 Legislative findings—Distribution of funds—Cooperation with school districts. The legislature recognizes that education centers provide a necessary and effective service for students who have dropped out of common school programs. Education centers have demonstrated success in preparing such youth for productive roles in society and are an integral part of the state's program to address the needs of students who have dropped out of school. The superintendent of public instruction shall distribute funds, consistent with legislative appropriations, allocated specifically for education centers in accord with chapter 28A.205 RCW. The legislature encourages school districts to explore cooperation with education centers. [1993 c 211 § 7; 1990 c 33 § 186; 1987 c 518 § 220. Formerly RCW 28A.97.125.]

Intent—Severability—1987 c 518: See notes following RCW 28A.215.150.

28A.205.090 Inclusion of education centers program in biennial budget request—Quarterly plans—Funds—Payment. The superintendent shall include the education centers program in the biennial budget request. Contracts between the superintendent of public instruction and the education centers shall include quarterly plans which provide for relatively stable student enrollment but take into consideration anticipated seasonal variations in enrollment in the individual centers. Funds which are not expended by a center during the quarter for which they were planned may be carried forward to subsequent quarters of the fiscal year. The superintendent shall make payments to the centers on a monthly basis pursuant to RCW 28A.205.040. [1993 c 211 § 8; 1990 c 33 § 187; 1985 c 434 § 4. Formerly RCW 28A.97.130.]

Intent—1985 c 434: See note following RCW 28A.205.060.

Chapter 28A.225
COMPULSORY SCHOOL ATTENDANCE AND ADMISSION

Sections

28A.225.220 Adults, children from other districts, agreements for attending school—Tuition—Transfer fees or tuition not permitted by nonresident district. (1) Any board of directors may make agreements with adults choosing to attend school: PROVIDED, That unless such arrangements are approved by the state superintendent of public instruction, a reasonable tuition charge, fixed by the state superintendent of public instruction, shall be paid by such students as best may be accommodated therein.

(2) A district is strongly encouraged to honor the request of a parent or guardian for his or her child to attend a school in another district.

(3) A district shall release a student to a nonresident district that agrees to accept the student if:

(a) A financial, educational, safety, or health condition affecting the student would likely be reasonably improved as a result of the transfer; or

(b) Attendance at the school in the nonresident district is more accessible to the parent's place of work or to the location of child care; or

(c) There is a special hardship or detrimental condition.

(4) A district may deny the request of a resident student to transfer to a nonresident district if the release of the student would adversely affect the district's existing desegregation plan.

(5) For the purpose of helping a district assess the quality of its education program, a resident school district may request an optional exit interview or questionnaire with the parents or guardians of a child transferring to another district. No parent or guardian may be forced to attend such an interview or complete the questionnaire.

(6) Beginning with the 1993-94 school year, school districts may not charge transfer fees or tuition for nonresident students enrolled under subsection (3) of this section and RCW 28A.225.225. Reimbursement of a high school district for cost of educating high school pupils of a nonhigh school district shall not be deemed a transfer fee as affecting the apportionment of current state school funds. [1993 c 336 § 1008; 1990 1st ex.s. c 9 § 201; 1969 c 130 § 10; 1969 ex.s. c 223 § 28A.58.240. Prior: 1963 c 47 § 2; prior: 1921 c 44 § 1, part; 1899 c 142 § 8, part; RRS § 4780, part. Formerly RCW 28A.58.240, 28.58.240.]

Findings—Intent—Part headings not law—1993 c 336: See notes following RCW 28A.150.210.

Findings—1993 c 336: See note following RCW 28A.630.879.

Finding—1990 1st ex.s. c 9: "The legislature finds that academic achievement of Washington students can and should be improved. The legislature further finds that student success depends, in large part, on increased parental involvement in their children's education.

In order to take another step toward improving education in Washington, it is the purpose of this act to enhance the ability of parents to exercise choice in where they prefer their children attend school; inform parents of their options under local policies and state law for the intradistrict and interdistrict enrollment of their children; and provide additional program opportunities for secondary students." [1990 1st ex.s. c 9 § 101.]

Severability—1990 1st ex.s. c 9: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 1st ex.s. c 9 § 502.]

Education of handicapped children: RCW 28A.155.040, 28A.155.050.

Chapter 28A.230
COMPULSORY COURSEWORK AND ACTIVITIES

Sections

28A.230.090 High school graduation requirements or equivalencies—Reevaluation and report by state board of education—Credit for courses taken before attending high school. (1) The state board of education shall establish high school graduation requirements or equivalencies for students. Any course in Washington state history and government used to fulfill high school graduation requirements is encouraged to include information on the culture, history, and government of the American Indian peoples who were the first inhabitants of the state.

(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.

(3) Pursuant to any requirement for instruction in languages other than English 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 or one or more American Indian languages shall be considered to have satisfied the state or local school district graduation requirement for instruction in one or more languages other than English.

(4) If requested by the student and his or her family, a student who has completed high school courses 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.

(5) Students who have taken and successfully completed high school courses under the circumstances in subsection (4) of this section shall not be required to take an additional competency examination or perform any other additional assignment to receive credit. Subsection (4) of this section shall also apply to students enrolled in high school on April 11, 1990, who took the courses before attending high school. [1993 c 371 § 3. Prior: 1992 c 141 § 402; 1992 c 60 § 1; 1990 1st ex.s. c 9 § 301; 1988 c 172 § 1; 1985 c 384 § 2; 1984 c 278 § 6. Formerly RCW 28A.05.060.]

Findings—Part headings—Severability—1992 c 141: See notes following RCW 28A.410.040.

Finding—Severability—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

Severability—1984 c 278: See note following RCW 28A.320.220.

International education program considered social studies offering: RCW 28A.630.320.

Chapter 28A.234
GOVERNOR'S COUNCIL ON ENVIRONMENTAL EDUCATION

Sections

28A.234.010 Fish and wildlife management—Environmental education—Funding—Support. The governor's council on environmental education created in 1990 by executive order 90-06, shall accomplish the following:

(1) Raise and distribute public and private funds for the purpose of providing environmental education programs and projects in fish and wildlife preservation and management to public and private elementary and secondary schools, emphasizing the importance of species conservation and fish and wildlife as indicators of ecosystem health; and

(2) Support interdisciplinary programs that integrate fish and wildlife preservation and management with other areas of environmental education. [1993 1st sp.s. c 4 § 15.]

Findings—Grazing lands—1993 1st sp.s. c 4: See note following RCW 75.28.760.

Chapter 28A.235
FOOD SERVICES

Sections

28A.235.100 Rules. The superintendent of public instruction shall have power to adopt rules as may be necessary to effectuate the purposes of this chapter. [1993 c 333 § 5; 1990 c 33 § 245; 1969 ex.s. c 223 § 28A.30.070. Prior: 1967 ex.s. c 92 § 6. Formerly RCW 28A.30.070, 28.30.070.]

28A.235.140 School breakfast programs. (1) For the purposes of this section:

(a) "Free or reduced-price lunches" means lunches served by a school district that qualify for federal reimbursement as free or reduced-price lunches under the national school lunch program.

(b) "School breakfast program" means a program meeting federal requirements defined in 42 U.S.C. Sec. 1773.

(c) "Severe-need school" means a school that qualifies for a severe-need school reimbursement rate from federal

funds for school breakfasts served to children from low-income families.

(2) School districts shall be required to develop and implement plans for a school breakfast program in severe-need schools, pursuant to the schedule in this section. For the second year prior to the implementation of the district's school breakfast program, and for each subsequent school year, each school district shall submit data enabling the superintendent of public instruction to determine which schools within the district will qualify as severe-need schools. In developing its plan, each school district shall consult with an advisory committee including school staff and community members appointed by the board of directors of the district.

(3) Using district-wide data on school lunch participation during the 1988-89 school year, the superintendent of public instruction shall adopt a schedule for implementation of school breakfast programs in severe-need schools as follows:

(a) School districts where at least forty percent of lunches served to students are free or reduced-price lunches shall submit a plan for implementation of a school breakfast program in severe-need schools to the superintendent of public instruction no later than July 1, 1990. Each such district shall implement a school breakfast program in all severe-need schools no later than the second day of school in the 1990-91 school year and in each school year thereafter.

(b) School districts where at least twenty-five but less than forty percent of lunches served to students are free or reduced-price lunches shall submit a plan for implementation of a school breakfast program in severe-need schools to the superintendent of public instruction no later than July 1, 1991. Each such district shall implement a school breakfast program in all severe-need schools no later than the second day of school in the 1991-92 school year and in each school year thereafter.

(c) School districts where less than twenty-five percent of lunches served to students are free or reduced-price lunches shall submit a plan for implementation of a school breakfast program in severe-need schools to the superintendent of public instruction no later than July 1, 1992. Each such district shall implement a school breakfast program in all severe-need schools no later than the second day of school in the 1992-93 school year and in each school year thereafter.

(d) School districts that did not offer a school lunch program in the 1988-89 school year are encouraged to implement such a program and to provide a school breakfast program in all severe-need schools when eligible.

(4) The requirements in this section shall lapse if the federal reimbursement rate for breakfasts served in severe-need schools is eliminated.

(5) Students who do not meet family-income criteria for free breakfasts shall be eligible to participate in the school breakfast programs established under this section, and school districts may charge for the breakfasts served to these students. Requirements that school districts have school breakfast programs under this section shall not create or imply any state funding obligation for these costs. The legislature does not intend to include these programs within the state's obligation for basic education funding under Article IX of the Constitution. [1993 c 333 § 1; 1989 c 239 § 2. Formerly RCW 28A.29.040.]

Study—1989 c 239: "The superintendent of public instruction shall conduct a study of the costs and feasibility of expanding the school breakfast program to include schools where more than twenty-five but less than forty percent of lunches served are free or reduced-price lunches. The study shall consider the total cost of the program, including but not limited to food costs, staff salaries and benefits, and additional pupil transportation costs. The superintendent of public instruction shall submit to the legislature prior to January 15, 1992, a report on the results of this study, including recommendations on whether to expand the school breakfast program to include these schools." [1989 c 239 § 3.]

28A.235.145 School breakfast and lunch programs—Use of state funds. State funds received by school districts under this chapter for school breakfast and lunch programs shall be used to support the operating costs of the program, including labor, unless specific appropriations for nonoperating costs are provided. [1993 c 333 § 2.]

28A.235.150 School breakfast and lunch programs—Grants to increase participation—Increased state support. (1) To the extent funds are appropriated, the superintendent of public instruction may award grants to school districts to increase participation in school breakfast and lunch programs, to improve program quality, and to improve the equipment and facilities used in the programs. School districts shall demonstrate that they have applied for applicable federal funds before applying for funds under this subsection.

(2) To the extent funds are appropriated, the superintendent of public instruction shall increase the state support for school breakfasts and lunches. [1993 c 333 § 3.]

28A.235.155 Federal summer food service program—Administration of funds—Grants. (1) The superintendent of public instruction shall administer funds for the federal summer food service program.

(2) The superintendent of public instruction may award grants, to the extent funds are appropriated, to eligible organizations to help start new summer food service programs for children or to help expand summer food services for children. [1993 c 333 § 4.]

Chapter 28A.300
SUPERINTENDENT OF PUBLIC INSTRUCTION

Sections

Corporal punishment prohibited—Adoption of policy: RCW 28A.150.300.

28A.300.130 Educational improvement and research—Center for the improvement of student learning—Clearinghouse for commission on student learning and for information regarding educational restructuring

and parental involvement programs. (1) Expanding activity in educational research, educational restructuring, and educational improvement initiatives has produced and continues to produce much valuable information. The legislature finds that such information should be shared with the citizens and educational community of the state as widely as possible. To facilitate access to information and materials on educational improvement and research, the superintendent of public instruction, to the extent funds are appropriated, shall establish the center for the improvement of student learning. The primary purpose of the center is to provide assistance and advice to parents, school board members, educators, and the public regarding strategies for assisting students in learning the essential academic learning requirements pursuant to RCW 28A.630.885. The center shall work in conjunction with the commission on student learning, educational service districts, and institutions of higher education.

(2) The center shall:

(a) Serve as a clearinghouse for the completed work and activities of the commission on student learning;

(b) Serve as a clearinghouse for information regarding successful educational restructuring and parental involvement programs in schools and districts, and information about efforts within institutions of higher education in the state to support educational restructuring initiatives in Washington schools and districts;

(c) Provide best practices research and advice that can be used to help schools develop and implement: School improvement plans; school-based shared decision-making models; programs to promote lifelong learning and community involvement in education; school-to-work transition programs; programs to meet the needs of highly capable students; programs to meet the diverse needs of students based on gender, racial, ethnic, economic, and special needs status; and other programs that will assist educators in helping students learn the essential academic learning requirements;

(d) Develop and distribute, in conjunction with the commission on student learning, parental involvement materials, including instructional guides developed to inform parents of the essential academic learning requirements. The instructional guides also shall contain actions parents may take to assist their children in meeting the requirements, and should focus on reaching parents who have not previously been involved with their children's education;

(e) Identify obstacles to greater parent and community involvement in school shared decision-making processes and recommend strategies for helping parents and community members to participate effectively in school shared decision-making processes, including understanding and respecting the roles of school building administrators and staff;

(f) Take other actions to increase public awareness of the importance of parental and community involvement in education;

(g) Work with appropriate organizations to inform teachers, district and school administrators, and school directors about the waivers available under RCW 28A.305-.140 and the broadened school board powers under RCW 28A.320.015;

(h) Provide training and consultation services;

(i) Address methods for improving the success rates of certain ethnic and racial student groups; and

(j) Perform other functions consistent with the purpose of the center as prescribed in subsection (1) of this section.

(3) The superintendent of public instruction, after consultation with the commission on student learning, shall select and employ a director for the center.

(4) The superintendent may enter into contracts with individuals or organizations including but not limited to: School districts; teachers; higher education faculty; institutions of higher education; state agencies; business or community-based organizations; and other individuals and organizations to accomplish the duties and responsibilities of the center. The superintendent shall contract out with community-based organizations to meet the provisions of subsection (2) (d) and (e) of this section. In carrying out the duties and responsibilities of the center, the superintendent, whenever possible, shall use practitioners to assist agency staff as well as assist educators and others in schools and districts.

(5) The superintendent shall report annually to the commission on student learning on the activities of the center. [1993 c 336 § 501; 1986 c 180 § 1. Formerly RCW 28A.03.510.]

Findings—Intent—Part headings not law—1993 c 336: See notes following RCW 28A.150.210.

Findings—1993 c 336: See note following RCW 28A.630.879.

Definitions: RCW 28A.630.883.

Effective substance abuse programs and penalties—Duties of clearinghouse: RCW 28A.170.060.

Project even start—Adult literacy—Duties of clearinghouse: RCW 28A.610.060.

School involvement programs—Duties of clearinghouse: RCW 28A.615.050.

Student motivation, retention, and retrieval programs—Duties of clearinghouse: RCW 28A.175.070.

28A.300.135 Center for the improvement of student learning account. (1) The center for the improvement of student learning account is hereby established in the custody of the state treasurer. The superintendent of public instruction shall deposit in the account all moneys received from gifts, grants, or endowments for the center for the improvement of student learning. Moneys in the account may be spent only for activities of the center. Disbursements from the account shall be on 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.

(2) The superintendent of public instruction may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the center for the improvement of student learning and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments. [1993 c 336 § 502.]

Findings—Intent—Part headings not law—1993 c 336: See notes following RCW 28A.150.210.

Findings—1993 c 336: See note following RCW 28A.630.879.

28A.300.138 Student learning improvement grants. (1) To the extent funds are appropriated, the office of the

superintendent of public instruction shall provide student learning improvement grants for the 1994-95 through 1996-97 school years. The purpose of the grants is to provide funds for additional time and resources for staff development and planning intended to improve student learning for all students, including students with diverse needs, consistent with the student learning goals in RCW 28A.150.210.

(2) To be eligible for student learning improvement grants, school district boards of directors shall:

(a) Adopt a policy regarding the sharing of instructional decisions with school staff, parents, and community members;

(b) Submit school-based applications that have been developed by school building personnel, parents, and community members. Each application shall:

(i) Enumerate specific activities to be carried out as part of the grant;

(ii) Identify the technical resources desired and availability of those resources;

(iii) Include a proposed budget; and

(iv) Indicate that the application was approved by the school principal and representatives of teachers, parents, and the community.

(3) The school board shall conduct at least one public hearing on schools' plans for using the grants before the board approves the plans. Boards may hear and approve more than one school's plan at a hearing. The board shall only submit applications for grants to the superintendent of public instruction if the board has approved the plans.

(4) If the requirements of subsections (2) and (3) of this section are met, the superintendent of public instruction shall approve the grant application.

(5) To the extent funds are appropriated, and for allocation purposes only, the amount of grants for the 1994-95 school year shall be based on time equivalent to no fewer than three days and not more than five days depending upon the number of grant applications received and on the number of full-time equivalent certificated staff, classified instructional aides, and classified secretaries who work in the school at the time of application. For the 1995-96 and 1996-97 school years, the equivalent of five days annually shall be provided. The allocation per full-time equivalent staff shall be determined in the biennial operating appropriations act. School districts shall use all funds received under this section solely for grants to schools and shall not use any portion of the funds for indirect costs.

(6) The state schools for the deaf and blind may apply for grants under this section.

(7) The superintendent of public instruction shall adopt timelines and rules as necessary under chapter 34.05 RCW to administer the program. The superintendent may modify application requirements for schools that have schools for the twenty-first century projects under RCW 28A.630.100. A copy of the proposed rules shall be submitted to the joint select committee on education restructuring established in RCW 28A.630.950 at least forty-five days prior to adoption of the rules.

(8) Funding under this section shall not become a part of the state's basic program of education obligation as set forth under Article IX of the state Constitution. [1993 c 336 § 301.]

Findings—Intent—Part headings not law—1993 c 336: See notes following RCW 28A.150.210.

Findings—1993 c 336: See note following RCW 28A.630.879.

28A.300.260 Recodified as RCW 28A.415.220. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 28A.305
STATE BOARD OF EDUCATION

Sections

Corporal punishment prohibited—Adoption of policy: RCW 28A.150.300.

28A.305.145 Application process for waivers under RCW 28A.305.140. School districts may use the application process in RCW 28A.300.138 to apply for waivers under RCW 28A.305.140. [1993 c 336 § 302.]

Findings—Intent—Part headings not law—1993 c 336: See notes following RCW 28A.150.210.

Findings—1993 c 336: See note following RCW 28A.630.879.

28A.305.190 Eligibility to take general educational development test. The state board of education shall adopt rules governing the eligibility of a child sixteen years of age and under nineteen years of age to take the general educational development test if the child provides a substantial and warranted reason for leaving the regular high school education program, or if the child was home-schooled. [1993 c 218 § 1; 1991 c 116 § 5; 1973 c 51 § 2. Formerly RCW 28A.04.135.]

Severability—1973 c 51: See note following RCW 28A.225.010.

Waiver of fees or residency requirements at community colleges for students completing a high school education: RCW 28B.15.520.

Chapter 28A.310
EDUCATIONAL SERVICE DISTRICTS

Sections

Regional educational technology support centers—Advisory councils: See RCW 28A.650.020.

Special education medical services: RCW 74.09.5253.

28A.310.020 Changes in number of, boundaries—Initiating, hearings, considerations—Superintendent's duties. The state board of education upon its own initiative, or upon petition of any educational service district board, or upon petition of at least half of the district superintendents within an educational service district, or upon request of the superintendent of public instruction, may make changes in the number and boundaries of the educational service

districts, including an equitable adjustment and transfer of any and all property, assets, and liabilities among the educational service districts whose boundaries and duties and responsibilities are increased and/or decreased by such changes, consistent with the purposes of RCW 28A.310.010. Prior to making any such changes, the state board shall hold at least one public hearing on such proposed action and shall consider any recommendations on such proposed action.

The state board in making any change in boundaries shall give consideration to, but not be limited by, the following factors: (1) Size, population, topography, and climate of the proposed district; and (2) costs associated with the governance, administration, and operation of the educational service district system in whole or part.

The superintendent of public instruction shall furnish personnel, material, supplies, and information necessary to enable educational service district boards and superintendents to consider the proposed changes. [1993 1st sp.s. c 24 § 522; 1990 c 33 § 270; 1977 ex.s. c 283 § 2; 1971 ex.s. c 282 § 2; 1969 ex.s. c 176 § 2. Formerly RCW 28A.21.020, 28.19.505.]

Severability—Effective dates—1993 1st sp.s. c 24: See notes following RCW 28A.165.070.

Severability—1977 ex.s. c 283: See note following RCW 28A.310.010.

Severability—1971 ex.s. c 282: See note following RCW 28A.310.010.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.310.200 ESD board—District budgets—Meetings—Personnel approval—Employee bonds—School district boundary transcripts—Acquisition and disposal of property—Cooperative and informational services—Bylaws, rules—Contractual authority. In addition to other powers and duties as provided by law, every educational service district board shall:

(1) Approve the budgets of the educational service district in accordance with the procedures provided for in this chapter.

(2) Meet regularly according to the schedule adopted at the organization meeting and in special session upon the call of the chair or a majority of the board.

(3) Approve the selection of educational service district personnel and clerical staff as provided in RCW 28A.310.230.

(4) Fix the amount of and approve the bonds for those educational service district employees designated by the board as being in need of bonding.

(5) Keep in the educational service district office a full and correct transcript of the boundaries of each school district within the educational service district.

(6) Acquire by borrowing funds or by purchase, lease, devise, bequest, and gift and otherwise contract for real and personal property necessary for the operation of the educational service district and to the execution of the duties of the board and superintendent thereof and sell, lease, or otherwise dispose of that property not necessary for district purposes. No real property shall be acquired or alienated without the prior approval of the state board of education and the acquisition or alienation of all such property shall be subject to such provisions as the board may establish. When borrowing funds for the purpose of acquiring property, the educational service district board shall pledge as collateral the property to be acquired. Borrowing shall be evidenced by a note or other instrument between the district and the lender. The authority to borrow under this subsection shall be limited to educational service districts serving a minimum of two hundred thousand students in grades kindergarten through twelve.

(7) Under RCW 28A.310.010, upon the written request of the board of directors of a local school district or districts served by the educational service district, the educational service district board of directors may provide cooperative and informational services not in conflict with other law that provide for the development and implementation of programs, activities, services, or practices that support the education of preschool through twelfth grade students in the public schools or that support the effective, efficient, or safe management and operation of the school district or districts served by the educational service district.

(8) Adopt such bylaws and rules and regulations for its own operation as it deems necessary or appropriate.

(9) Enter into contracts, including contracts with common and educational service districts and the school for the deaf and the school for the blind for the joint financing of cooperative service programs conducted pursuant to RCW 28A.310.180(3), and employ consultants and legal counsel relating to any of the duties, functions, and powers of the educational service districts. [1993 c 298 § 1. Prior: 1990 c 159 § 1; 1990 c 33 § 278; 1988 c 65 § 3; 1983 c 56 § 3; 1975 1st ex.s. c 275 § 18; 1971 ex.s. c 282 § 13; 1971 c 53 § 1; 1969 ex.s. c 176 § 9. Formerly RCW 28A.21.090, 28.19.540.]

Severability—1983 c 56: See note following RCW 28A.195.010.

Severability—1971 ex.s. c 282: See note following RCW 28A.310.010.

Severability—1971 c 53: See note following RCW 28A.315.400.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.310.010.

Chapter 28A.315

ORGANIZATION AND REORGANIZATION OF SCHOOL DISTRICTS

Sections

28A.315.030 County regional committee members—Assignment of committee member position numbers. (Effective September 1, 1994.) Notwithstanding any other provision of this chapter to the contrary, the term of office of each regional committee member and position shall expire as of the second Monday of January 1995. Each regional committee member position shall therefore be open for election purposes in 1994. Members of each regional committee shall be elected by majority vote and shall serve for the staggered terms of office set forth in RCW

28A.315.080 and until their successors are certified as elected pursuant to RCW 28A.315.060. Regional committee member position numbers shall be assigned by the educational service district superintendent for purposes of all elections held pursuant to RCW 28A.315.060. [1993 c 416 § 1; 1990 c 33 § 294; 1985 c 385 § 30. Formerly 28A.57.029.]

Effective date—1993 c 416: "This act shall take effect September 1, 1994." [1993 c 416 § 4.]

Severability—1985 c 385: See note following RCW 28A.315.020.

28A.315.060 Regional committees—Election of members—Qualifications. (Effective September 1, 1994.) The members of each regional committee shall be elected in the following manner:

(1) On or before the 25th day of September, 1994, and not later than the 25th day of September of every subsequent even-numbered year, each superintendent of an educational service district shall call an election to be held in each educational service district within which resides a member of a regional committee whose term of office expires on the second Monday of January next following, and shall give written notice thereof to each member of the board of directors of each school district in the educational service district. Such notice shall include instructions, and the rules and regulations established by the state board of education for the conduct of the election. The state board of education is hereby empowered to adopt rules pursuant to chapter 34.05 RCW which establish standards and procedures which the state board deems necessary to conduct elections pursuant to this section; to conduct run-off elections in the event an election for a position is indecisive; and to decide run-off elections which result in tie votes, in a fair and orderly manner.

(2) Candidates for membership on a regional committee shall file a declaration of candidacy with the superintendent of the educational service district wherein they reside. Declarations of candidacy may be filed by person or by mail not earlier than the 1st day of October, and not later than the 15th day of October of each even-numbered year. The superintendent may not accept any declaration of candidacy that is not on file in his or her office or not postmarked before the 16th day of October, or if not postmarked or the postmark is not legible, if received by mail after the 20th day of October of each even-numbered year.

(3) Each member of the regional committee shall be elected by a majority of the votes cast for all candidates for the position by the members of the boards of directors of school districts in the educational service district. All votes shall be cast by mail ballot addressed to the superintendent of the educational service district wherein the school director resides. No votes shall be accepted for counting if postmarked after the 16th day of November or if not postmarked or the postmark is not legible, if received by mail after the 21st day of November of each even-numbered year. An election board comprised of three persons appointed by the board of the educational service district shall count and tally the votes not later than the 25th day of November or the next business day if the 25th falls on a Saturday, Sunday, or legal holiday of each even-numbered year. Each vote cast by a school director shall be recorded as one vote. Within ten days following the count of votes, the educational service district superintendent shall certify to the superintendent of public instruction the name or names of the person(s) elected to be members of the regional committee.

(4) In the event of a change in the number of educational service districts or in the number of educational service district board members pursuant to chapter 28A.310 RCW a new regional committee shall be elected for each affected educational service district at the next election conducted pursuant to this section. Those persons who were serving on a regional committee within an educational service district affected by a change in the number of districts or board members shall continue to constitute the regional committee for the educational service district within which they are registered to vote until the majority of a new board has been elected and certified.

(5) No member of a regional committee shall continue to serve thereon if he or she ceases to be a registered voter of the educational service district board member district or if he or she is absent from three consecutive meetings of the committee without an excuse acceptable to the committee. [1993 c 416 § 2; 1990 c 33 § 295; 1985 c 385 § 4; 1975-'76 2nd ex.s. c 15 § 1. Prior: 1975 1st ex.s. c 275 § 80; 1975 c 43 § 3; 1969 ex.s. c 176 § 116; 1969 ex.s. c 223 § 28A.57.032; prior: 1947 c 226 § 11, part; Rem. Supp. 1947 § 4693-30, part; prior: 1941 c 248 § 3, part; Rem. Supp. 1941 § 4709-3, part. Formerly RCW 28A.57.032, 28.57.030, part.]

Effective date—1993 c 416: See note following RCW 28A.315.030.

Severability—1985 c 385: See note following RCW 28A.315.020.

Effective date—Severability—1975 c 43: See notes following RCW 28A.315.230.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.315.080 Regional committees—Terms of members. (Effective September 1, 1994.) The terms of members of the regional committees shall be for four years and until their successors are certified as elected. For the 1994 election conducted pursuant to RCW 28A.315.030 and the election of a new regional committee following a change in the number of educational service districts or board members, regional committee member positions one, three, five, seven, and nine shall be for a term of two years, positions two, four, six, and eight shall be for a term of four years. [1993 c 416 § 3; 1990 c 33 § 296; 1985 c 385 § 6; 1969 ex.s. c 223 § 28A.57.034. Prior: 1947 c 226 § 11, part; Rem. Supp. 1947 § 4693-30, part; prior: 1941 c 248 § 3, part; Rem. Supp. 1941 § 4709-3, part. Formerly RCW 28A.57.034, 28.57.030, part.]

Effective date—1993 c 416: See note following RCW 28A.315.030.

Severability—1985 c 385: See note following RCW 28A.315.020.

Chapter 28A.320
PROVISIONS APPLICABLE TO ALL DISTRICTS

Sections

28A.320.130 Weapons incidents, reporting. Each school district and each private school approved under chapter 28A.195 RCW shall report to the superintendent of public instruction by January 31st of each year all known incidents involving the possession of weapons on school premises, on transportation systems, or in areas of facilities while being used exclusively by public or private schools, in violation of RCW 9.41.280 in the year preceding the report. The superintendent shall compile the data and report it to the house of representatives, the senate, and the governor. [1993 c 347 § 2.]

28A.320.205 Annual school performance report—Model report form. (1) Beginning with the 1994-95 school year, to provide the local community and electorate with access to information on the educational programs in the schools in the district, each school shall publish annually a school performance report and deliver the report to each parent with children enrolled in the school and make the report available to the community served by the school. The annual performance report shall be in a form that can be easily understood and be used by parents, guardians, and other members of the community who are not professional educators to make informed educational decisions. As data from the assessments in RCW 28A.630.885 becomes available, the annual performance report should enable parents, educators, and school board members to determine whether students in the district's schools are attaining mastery of the student learning goals under RCW 28A.150.210, and other important facts about the schools' performance in assisting students to learn. The annual report shall make comparisons to a school's performance in preceding years and shall project goals in performance categories.

(2) The annual performance report shall include, but not be limited to: A brief statement of the mission of the school and the school district; enrollment statistics including student demographics; expenditures per pupil for the school year; a summary of student scores on all mandated tests; a concise annual budget report; student attendance, graduation, and dropout rates; information regarding the use and condition of the school building or buildings; a brief description of the restructuring plan for the school; and an invitation to all parents and citizens to participate in school activities.

(3) The superintendent of public instruction shall develop by June 30, 1994, a model report form, which shall also be adapted for computers, that schools may use to meet the requirements of subsections (1) and (2) of this section. [1993 c 336 § 1006.]

Findings—Intent—Part headings not law—1993 c 336: See notes following RCW 28A.150.210.

Findings—1993 c 336: See note following RCW 28A.630.879.

Chapter 28A.335
SCHOOL DISTRICTS' PROPERTY ACQUISITION, OPERATION, CLOSURE, AND DISPOSAL

Sections

28A.335.310 Affordable housing—Inventory of suitable property. (1) Every school district shall identify and catalog real property of the district that is no longer required for school purposes and is suitable for the development of affordable housing for very low-income, low-income, and moderate-income households as defined in RCW 43.63A.510. The inventory shall include the location, approximate size, and current zoning classification of the property. Every school district shall provide a copy of the inventory to the department of community development by November 1, 1993, with inventory revisions each November 1 thereafter.

(2) By November 1 of each year, beginning in 1994, every school district shall purge the inventory of real property of sites that are no longer available for the development of affordable housing. The inventory revision shall include an updated listing of real property that has become available since the last update. As used in this section, "real property" means buildings, land, or buildings and land. [1993 c 461 § 3.]

Finding—1993 c 461: See note following RCW 43.63A.510.

Chapter 28A.400
EMPLOYEES

Sections

28A.400.200 Salaries and compensation for employees—Minimum amounts—Limitations—Supplemental contracts. (1) Every school district board of directors shall fix, alter, allow, and order paid salaries and compensation for all district employees in conformance with this section.

(2)(a) Salaries for certificated instructional staff shall not be less than the salary provided in the appropriations act in the state-wide salary allocation schedule for an employee with a baccalaureate degree and zero years of service; and

(b) Salaries for certificated instructional staff with a masters degree shall not be less than the salary provided in the appropriations act in the state-wide salary allocation schedule for an employee with a masters degree and zero years of service;

(3)(a) The actual average salary paid to basic education certificated instructional staff shall not exceed the district's average basic education certificated instructional staff salary used for the state basic education allocations for that school year as determined pursuant to RCW 28A.150.410.

(b) Fringe benefit contributions for basic education certificated instructional staff shall be included as salary under (a) of this subsection only to the extent that the district's actual average benefit contribution exceeds the

amount of the insurance benefits allocation provided per certificated instructional staff unit in the state operating appropriations act in effect at the time the compensation is payable. For purposes of this section, fringe benefits shall not include payment for unused leave for illness or injury under RCW 28A.400.210; employer contributions for old age survivors insurance, workers' compensation, unemployment compensation, and retirement benefits under the Washington state retirement system; or employer contributions for health benefits in excess of the insurance benefits allocation provided per certificated instructional staff unit in the state operating appropriations act in effect at the time the compensation is payable. A school district may not use state funds to provide employer contributions for such excess health benefits.

(c) Salary and benefits for certificated instructional staff in programs other than basic education shall be consistent with the salary and benefits paid to certificated instructional staff in the basic education program.

(4) Salaries and benefits for certificated instructional staff may exceed the limitations in subsection (3) of this section only by separate contract for additional time, additional responsibilities, or incentives. Supplemental contracts shall not cause the state to incur any present or future funding obligation. Supplemental contracts shall be subject to the collective bargaining provisions of chapter 41.59 RCW and the provisions of RCW 28A.405.240, shall not exceed one year, and if not renewed shall not constitute adverse change in accordance with RCW 28A.405.300 through 28A.405.380. No district may enter into a supplemental contract under this subsection for the provision of services which are a part of the basic education program required by Article IX, section 3 of the state Constitution.

(5) Employee benefit plans offered by any district shall comply with RCW 28A.400.350 and 28A.400.275 and 28A.400.280. [1993 c 492 § 225. Prior: 1990 1st ex.s. c 11 § 2; 1990 c 33 § 381; 1987 1st ex.s. c 2 § 205. Formerly RCW 28A.58.0951.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Intent—1990 1st ex.s. c 11: "The legislature recognizes the rising costs of health insurance premiums for school employees, and the increasing need to ensure effective use of state benefit dollars to obtain basic coverage for employees and their dependents. In school districts that do not pool benefit allocations among employees, increases in premium rates create particular hardships for employees with families. For many of these employees, the increases translate directly into larger payroll deductions simply to maintain basic benefits.

The goal of this act is to provide access for school employees to basic coverage, including coverage for dependents, while minimizing employees' out-of-pocket premium costs. Unnecessary utilization of medical services can contribute to rising health insurance costs. Therefore, the legislature intends to encourage plans that promote appropriate utilization without creating major barriers to access to care. The legislature also intends that school districts pool state benefit allocations so as to eliminate major differences in out-of-pocket premium expenses for employees who do and do not need coverage for dependents." [1990 1st ex.s. c 11 § 1.]

Intent—Severability—Effective date—1987 1st ex.s. c 2: See notes following RCW 84.52.0531.

28A.400.212 Employee attendance incentive program—Effect of early retirement. 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, chapter 234, Laws of 1992, section 1 or 3, chapter 86, Laws of 1993, or section 4 or 6, chapter 519, Laws of 1993, 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, chapter 234, Laws of 1992, section 1 or 3, chapter 86, Laws of 1993, or section 4 or 6, chapter 519, Laws of 1993. [1993 c 519 § 14; 1993 c 86 § 8; 1992 c 234 § 13.]

Reviser's note: This section was amended by 1993 c 86 § 8 and by 1993 c 519 § 14, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Part headings not law—Effective date—1993 c 519: See notes following RCW 41.32.4871.

Effective date—1993 c 86: See note following RCW 43.01.170.

28A.400.285 Contracts for services previously performed by classified employees. (1) When a school district or educational service district enters into a contract for services that had been previously performed by classified school employees, the contract shall contain a specific clause requiring the contractor to provide for persons performing such services under the contract, health benefits that are similar to those provided for school employees who would otherwise perform the work, but in no case are such health benefits required to be greater than the benefits provided for basic health care services under chapter 70.47 RCW.

(2) Decisions to enter into contracts for services by a school district or educational service district may only be made: (a) After the affected district has conducted a feasibility study determining the potential costs and benefits, including the impact on district employees who would otherwise perform the work, that would result from contracting for the services; (b) after the decision to contract for the services has been reviewed and approved by the superintendent of public instruction; and (c) subject to any applicable requirements for collective bargaining. The factors to be considered in the feasibility study shall be developed in consultation with representatives of the affected employees

and may include both long-term and short-term effects of the proposal to contract for services.

(3) This section applies only if the contract would be for services that are being performed by classified school employees as of July 25, 1993.

(4) This section does not apply to:

(a) Temporary, nonongoing, or nonrecurring service contracts; or

(b) Contracts for services previously performed by employees in director/supervisor, professional, and technical positions.

(5) For the purposes of subsection (4) of this section:

(a) "Director/supervisor position" means a position in which an employee directs staff members and manages a function, a program, or a support service.

(b) "Professional position" means a position for which an employee is required to have a high degree of knowledge and skills acquired through a baccalaureate degree or its equivalent.

(c) "Technical position" means a position for which an employee is required to have a combination of knowledge and skills that can be obtained through approximately two years of posthigh school education, such as from a community or technical college, or by on-the-job training. [1993 c 349 § 1.]

28A.400.350 Liability, life, health, health care, accident, disability, and salary insurance authorized—When required—Premiums. (1) The board of directors of any of the state's school districts may make available liability, life, health, health care, accident, disability and salary protection or insurance or any one of, or a combination of the enumerated types of insurance, or any other type of insurance or protection, for the members of the boards of directors, the students, and employees of the school district, and their dependents. Such coverage may be provided by contracts with private carriers, with the state health care authority after July 1, 1990, pursuant to the approval of the authority administrator, or through self-insurance or self-funding pursuant to chapter 48.62 RCW, or in any other manner authorized by law. Except for health benefits purchased with nonstate funds as provided in RCW 28A.400.200, effective on and after October 1, 1995, health care coverage, life insurance, liability insurance, accidental death and dismemberment insurance, and disability income insurance shall be provided only by contracts with the state health care authority.

(2) Whenever funds are available for these purposes the board of directors of the school district may contribute all or a part of the cost of such protection or insurance for the employees of their respective school districts and their dependents. The premiums on such liability insurance shall be borne by the school district.

After October 1, 1990, school districts may not contribute to any employee protection or insurance other than liability insurance unless the district's employee benefit plan conforms to RCW 28A.400.275 and 28A.400.280.

(3) For school board members and students, the premiums due on such protection or insurance shall be borne by the assenting school board member or student. The school district may contribute all or part of the costs, including the premiums, of life, health, health care, accident or disability insurance which shall be offered to all students participating in interschool activities on the behalf of or as representative of their school or school district. The school district board of directors may require any student participating in extracurricular interschool activities to, as a condition of participation, document evidence of insurance or purchase insurance that will provide adequate coverage, as determined by the school district board of directors, for medical expenses incurred as a result of injury sustained while participating in the extracurricular activity. In establishing such a requirement, the district shall adopt regulations for waiving or reducing the premiums of such coverage as may be offered through the school district to students participating in extracurricular activities, for those students whose families, by reason of their low income, would have difficulty paying the entire amount of such insurance premiums. The district board shall adopt regulations for waiving or reducing the insurance coverage requirements for low-income students in order to assure such students are not prohibited from participating in extracurricular interschool activities.

(4) All contracts for insurance or protection written to take advantage of the provisions of this section shall provide that the beneficiaries of such contracts may utilize on an equal participation basis the services of those practitioners licensed pursuant to chapters 18.22, 18.25, 18.53, 18.57, and 18.71 RCW. [1993 c 492 § 226. Prior: 1990 1st ex.s. c 11 § 3; 1990 c 74 § 1; 1988 c 107 § 16; 1985 c 277 § 8; 1977 ex.s. c 255 § 1; 1973 1st ex.s. c 9 § 1; 1971 ex.s. c 269 § 2; 1971 c 8 § 3; 1969 ex.s. c 237 § 3; 1969 ex.s. c 223 § 28A.58.420; prior: 1967 c 135 § 2, part; 1959 c 187 § 1, part. Formerly RCW 28A.58.420, 28.76.410, part.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Intent—1990 1st ex.s. c 11: See note following RCW 28A.400.200.

Implementation—Effective dates—1988 c 107: See RCW 41.05.901.

Retrospective application—1985 c 277: See note following RCW 48.01.050.

Severability—1971 ex.s. c 269: "If any provision of this 1971 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 269 § 4.]

Hospitalization and medical insurance authorized: RCW 41.04.180.

Operation of student transportation program responsibility of local district—Scope—Transporting of elderly—Insurance: RCW 28A.160.010.

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

28A.400.391 Insurance for retired and disabled employees—Application—Rules. (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 September 30, 1993, 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. [1993 c 386 § 2; 1992 c 152 § 1.]

Intent—1993 c 386: "It is the legislature's intent to increase access to health insurance for retired and disabled school employees and also to improve equity between state employees and school employees by providing for the reduction of health insurance premiums charged to retired school employees through a subsidy charged against health insurance allocations for active employees. It is further the legislature's intent to improve the cost-effectiveness of state-purchased health care by managing programs for public employees, in this case retired school employees, through the state health care authority." [1993 c 386 § 1.]

Effective date—1993 c 386 §§ 1, 2, 4-6, 8-10, and 12-16: "Sections 1, 2, 4 through 6, 8 through 10, and 12 through 16 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 [May 15, 1993]." [1993 c 386 § 18.]

28A.400.400 District contributions to the retired school employees' subsidy account. (1) In a manner prescribed by the state health care authority, school districts and educational service districts shall remit to the health care authority for deposit in the retired school employees' subsidy account established in RCW 41.05.260:

(a) During the period beginning October 1, 1993, and ending September 30, 1994:

(i) For each full-time employee of the district, ten dollars for each month of the school year;

(ii) For each part-time employee of the district who, at the time of the remittance, is employed in an eligible position as defined in RCW 41.32.010 or 41.40.010 and is eligible for employer fringe benefit contributions for basic benefits as defined in RCW 28A.400.270, ten dollars for each month of the school year, prorated by the proportion of employer fringe benefit contributions for a full-time employee that the part-time employee receives;

(b) Beginning October 1, 1994:

(i) For each full-time employee of the district, an amount equal to four and seven-tenths percent multiplied by the insurance benefit allocation rate in the appropriations act for a certificated or classified staff, for each month of the school year;

(ii) For each part-time employee of the district who, at the time of the remittance, is employed in an eligible position as defined in RCW 41.32.010 or 41.40.010 and is eligible for employer fringe benefit contributions for basic benefits as defined in RCW 28A.400.270, an amount equal to four and seven-tenths percent multiplied by the insurance benefit allocation rate in the appropriations act for a certificated or classified staff, for each month of the school year, prorated by the proportion of employer fringe benefit contributions for a full-time employee that the part-time employee receives.

(2) The legislature reserves the right to increase or decrease the percent or amount required to be remitted in this section. [1993 c 386 § 13.]

Intent—1993 c 386: See note following RCW 28A.400.391.

Effective date—1993 c 386 §§ 1, 2, 4-6, 8-10, and 12-16: See note following RCW 28A.400.391.

Chapter 28A.405
CERTIFICATED EMPLOYEES

Sections

28A.405.140 Assistance for teacher may be required after evaluation. After an evaluation conducted pursuant to RCW 28A.405.100, the principal or the evaluator may require the teacher to take in-service training provided by the district in the area of teaching skills needing improvement, and may require the teacher to have a mentor for purposes of achieving such improvement. [1993 c 336 § 403; 1990 c 33 § 387; 1985 c 420 § 5. Formerly RCW 28A.67.220.]

Findings—Intent—Part headings not law—1993 c 336: See notes following RCW 28A.150.210.

Findings—1993 c 336: See note following RCW 28A.630.879.

Contingency—Effective date—Severability—1985 c 420: See notes following RCW 28A.405.110.

Chapter 28A.410
CERTIFICATION

Sections

28A.410.030 Individual assessment for candidates for initial certification—Rules—Fees. (1) Effective May 1, 1996, the state board of education shall require teacher certification candidates applying for initial certification to pass an individual assessment before being granted an initial certificate. The assessment shall include but not be limited to essay questions. The requirement shall be waived for out-of-state applicants with more than three years of teaching experience. The assessment shall test knowledge and competence in subjects including, but not limited to, instructional skills, classroom management, student behavior and development, oral and written language skills, student performance-based assessment skills, and other knowledge, skills, and attributes needed to be successful in assisting all students, including students with diverse and unique needs,

in achieving mastery of the essential academic learning requirements established pursuant to RCW 28A.630.885. In administering the assessment, the state board shall address the needs of certification candidates who have specific learning disabilities or physical conditions that may require special consideration in taking the assessment.

(2) The state board of education shall adopt such rules as may be necessary to implement this section, including, but not limited to, rules establishing the fees assessed persons who apply to take the assessment and the circumstances, if any, under which such fees may be refunded in whole or part. Fees shall be set at a level not higher than the costs for administering the tests. Fees shall not include costs of developing the test. Fee revenues received under this section shall be deposited in the teacher assessment revolving fund hereby established in the custody of the state treasurer. The fund is subject to the allotment procedures provided under chapter 43.88 RCW, but no appropriation is required for disbursement. The superintendent of public instruction shall be responsible for administering the assessment program consistent with state board of education rules. The superintendent of public instruction shall expend moneys from the teacher assessment revolving fund exclusively for the direct and indirect costs of establishing, equipping, maintaining, and operating the assessment program.

(3) The state board of education shall only require the assessment in subsection (1) of this section when the legislature appropriates funds to develop the assessment under this section. [1993 c 336 § 801; 1991 c 116 § 21; 1987 c 525 § 203. Formerly RCW 28A.70.010.]

Findings—Intent—Part headings not law—1993 c 336: See notes following RCW 28A.150.210.

Findings—1993 c 336: See note following RCW 28A.630.879.

Intent—Short title—1987 c 525 §§ 202-233: See notes following RCW 28A.410.020.

Severability—1987 c 525: See note following RCW 28A.630.100.

Chapter 28A.415

INSTITUTES, WORKSHOPS, AND TRAINING

(Formerly: Teachers' institutes, workshops, and other in-service training)

Sections

28A.415.220 Teachers recruiting future teachers program. (1) The teachers recruiting future teachers program is created within the professional development centers located in educational service districts to help enlarge the pool of qualified high school students who are motivated to become teachers.

(2) Subject to funds being appropriated, the professional development centers shall:

(a) Promote and replicate the teachers recruiting future teachers model program; and

(b) Place special emphasis on the recruitment of future teachers who are representative of the diversity of public school populations; and

(c) Place emphasis on the recruitment of future teachers who will teach mathematics, science and technology. [1993 c 217 § 1; 1991 c 252 § 1. Formerly RCW 28A.300.260.]

28A.415.250 Teacher assistance program—Provision for mentor teachers. The superintendent of public instruction shall adopt rules to establish and operate a teacher assistance program. For the purposes of this section, the terms "mentor teachers," "beginning teachers," and "experienced teachers" may include any person possessing any one of the various certificates issued by the superintendent of public instruction under RCW 28A.410.010. The program shall provide for:

(1) Assistance by mentor teachers who will provide a source of continuing and sustained support to beginning teachers, or experienced teachers who are having difficulties, or both, both in and outside the classroom. A mentor teacher may not be involved in evaluations under RCW 28A.405.100 of a teacher who receives assistance from said mentor teacher under the teacher assistance program established under this section. The mentor teachers shall also periodically inform their principals respecting the contents of training sessions and other program activities;

(2) Stipends for mentor teachers and beginning and experienced teachers which shall not be deemed compensation for the purposes of salary lid compliance under RCW 28A.400.200: PROVIDED, That stipends shall not be subject to the continuing contract provisions of this title;

(3) Workshops for the training of mentor and beginning teachers;

(4) The use of substitutes to give mentor teachers, beginning teachers, and experienced teachers opportunities to jointly observe and evaluate teaching situations and to give mentor teachers opportunities to observe and assist beginning and experienced teachers in the classroom;

(5) Mentor teachers who are superior teachers based on their evaluations, pursuant to RCW 28A.405.010 through 28A.405.240, and who hold valid continuing certificates;

(6) Mentor teachers shall be selected by the district and may serve as mentors up to and including full time. If a bargaining unit, certified pursuant to RCW 41.59.090 exists within the district, classroom teachers representing the bargaining unit shall participate in the mentor teacher selection process; and

(7) Periodic consultation by the superintendent of public instruction or the superintendent's designee with representatives of educational organizations and associations, including educational service districts and public and private institutions of higher education, for the purposes of improving communication and cooperation and program review. [1993 c 336 § 401; 1991 c 116 § 19; 1990 c 33 § 403; 1987 c 507 § 1; 1985 c 399 § 1. Formerly RCW 28A.405.450, 28A.67.240.]

Findings—Intent—Part headings not law—1993 c 336: See notes following RCW 28A.150.210.

Findings—1993 c 336: See note following RCW 28A.630.879.

Effective date—1987 c 507: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 15, 1987." [1987 c 507 § 4.]

28A.415.260 Pilot program using full-time mentor teachers. (1) To the extent specific funds are appropriated for the pilot program in this section, the superintendent of public instruction shall establish a pilot program to support the pairing of full-time mentor teachers with experienced teachers who are having difficulties and full-time mentor teachers with beginning teachers under RCW 28A.415.250.

(2) The superintendent of public instruction shall submit a report to the legislature by December 31, 1995, with findings about the pilot program. The report shall include an analysis of the effectiveness of the pilot program in the remediation of teachers having difficulties, recommendations regarding continuing the program, and recommendations on new procedures under chapter 28A.405 RCW regarding teachers who have not shown sufficient progress in the area or areas of teaching skills needing improvement.

(3) The superintendent of public instruction shall appoint an oversight committee, which shall include teachers and administrators from the pilot districts, that shall be involved in the evaluation of the pilot program under this section.

(4) The superintendent of public instruction shall adopt rules as necessary under chapter 34.05 RCW to implement the pilot program established under subsection (1) of this section. [1993 c 336 § 402.]

Findings—Intent—Part headings not law—1993 c 336: See notes following RCW 28A.150.210.

Findings—1993 c 336: See note following RCW 28A.630.879.

28A.415.270 Principal internship support program. (1) To the extent funds are appropriated, the Washington state principal internship support program is created beginning in the 1994-95 school year. The purpose of the program is to provide funds to school districts to hire substitutes for district employees who are in a principal preparation program to complete an internship with a mentor principal.

(2) Participants in the principal internship support program shall be selected as follows:

(a) The candidate shall be enrolled in a state board-approved school principal preparation program;

(b) The candidate shall apply in writing to his or her local school district;

(c) Each school district shall determine which applicants meet its criteria for participation in the principal internship support program and shall notify its educational service district of the school district's selected applicants. When submitting the names of applicants, the school district shall identify a mentor principal for each principal intern applicant, and shall agree to provide the internship applicant at least forty-five student days of release time for the internship; and

(d) Educational service districts, with the assistance of an advisory board, shall select internship participants.

(3)(a) The maximum amount of state funding for each internship shall be the estimated state-wide average cost of providing a substitute teacher for forty-five school days.

(b) Funds appropriated for the principal internship support program shall be allocated by the superintendent of public instruction to the educational service districts based on the percentage of full-time equivalent public school students enrolled in school districts in each educational service district. Participants should be selected to reflect the percentage of minorities of the student population in the educational service district region, and to the extent practicable, represent an equal number of women and men. If it is not possible to find qualified candidates reflecting the percentage of minorities of the student population of the educational service district, the educational service district shall select those qualified candidates who meet these criteria and leave the remaining positions unfilled, and any unspent funds shall revert to the state general fund.

(c) Once principal internship participants have been selected, the educational service districts shall allocate the funds to the appropriate school districts. The funds shall be used to pay for replacement substitute staff while the school district employee is completing the principal internship.

(d) Educational service districts may be reimbursed for costs associated with implementing the program. Reimbursement rates shall be determined by the superintendent of public instruction. [1993 c 336 § 404.]

Reviser's note: 1993 c 336 directed that this section be added to chapter 28A.405 RCW. This section has been codified in chapter 28A.415 RCW, which relates more directly to educators' training.

Findings—Intent—Part headings not law—1993 c 336: See notes following RCW 28A.150.210.

Findings—1993 c 336: See note following RCW 28A.630.879.

28A.415.280 Superintendent and program administrator internship support program. (1) To the extent funds are appropriated, the Washington state superintendent and program administrator internship support program is created beginning in the 1994-95 school year. The purpose of the program is to provide funds to school districts to hire substitutes for district employees who are in a superintendent or program administrator preparation program to complete an internship with a mentor administrator.

(2) Participants in the superintendent and program administrator internship support program shall be selected as follows:

(a) The candidate shall be enrolled in a state board-approved school district superintendent or program administrator preparation program;

(b) The candidate shall apply in writing to his or her local school district;

(c) Each school district shall determine which applicants meet its criteria for participation in the internship support program and shall notify its educational service district of the school district's selected applicants. When submitting the names of applicants, the school district shall identify a mentor administrator for each intern applicant and shall agree to provide the internship applicant at least forty-five student days of release time for the internship; and

(d) Educational service districts, with the assistance of an advisory board, shall select internship participants.

(3)(a) The maximum amount of state funding for each internship shall be the estimated state-wide average cost of providing a substitute teacher for forty-five school days as calculated by the superintendent of public instruction.

(b) Funds appropriated for the internship support program shall be allocated by the superintendent of public instruction to the educational service districts based on the percentage of full-time equivalent public school students enrolled in school districts in each educational service district. To the extent practicable, participants should be selected to reflect the racial and ethnic diversity of the student population in the educational service district region, and represent an equal number of women and men.

(c) Once internship participants have been selected, the educational service districts shall allocate the funds to the appropriate school districts. The funds shall be used to pay for replacement substitute staff while the school district employee is completing the internship.

(d) Educational service districts may be reimbursed for costs associated with implementing the program. Reimbursement rates shall be determined by the superintendent of public instruction. [1993 c 336 § 405.]

Reviser's note: 1993 c 336 directed that this section be added to chapter 28A.405 RCW. This section has been codified in chapter 28A.415 RCW, which relates more directly to educators' training.

Findings—Intent—Part headings not law—1993 c 336: See notes following RCW 28A.150.210.

Findings—1993 c 336: See note following RCW 28A.630.879.

28A.415.290 Administrator internship task force. (1) The state board of education shall appoint an administrator internship advisory task force to develop and recommend to the board standards for the principal and superintendent and program administrator internship support programs created in RCW 28A.415.270 and 28A.415.280. Interns shall be required to complete the state board standards in order to successfully complete the internship program. These standards shall be adopted by the state board of education before the allocation of funds by the superintendent of public instruction pursuant to RCW 28A.415.270(3)(c) and 28A.415.280(3)(c). Colleges, universities, and school districts may establish additional standards.

(2) Task force membership shall include, but not be limited to, representatives of the office of the superintendent of public instruction, principals, superintendents, program administrators, teachers, school directors, parents, higher education administrative preparation programs, and educational service districts. The task force membership shall, to the extent possible, be racially and ethnically diverse. [1993 c 336 § 406.]

Findings—Intent—Part headings not law—1993 c 336: See notes following RCW 28A.150.210.

Findings—1993 c 336: See note following RCW 28A.630.879.

28A.415.300 Rules. The superintendent of public instruction shall adopt rules as necessary under chapter 34.05 RCW to administer the principal and superintendent and program administrator internship support programs. [1993 c 336 § 407.]

Reviser's note: 1993 c 336 directed that this section be added to chapter 28A.300 RCW. This section has been codified in chapter 28A.415 RCW, which relates more directly to educators' training.

Findings—Intent—Part headings not law—1993 c 336: See notes following RCW 28A.150.210.

Findings—1993 c 336: See note following RCW 28A.630.879.

28A.415.310 Paraprofessional training program. (1) The paraprofessional training program is created. The primary purpose of the program is to provide training for classroom assistants to assist them in helping students achieve the student learning goals under RCW 28A.150.210. Another purpose of the program is to provide training to certificated personnel who work with classroom assistants.

(2) The superintendent of public instruction may allocate funds, to the extent funds are appropriated for this program, to educational service districts, school districts, and other organizations for providing the training in subsection (1) of this section. [1993 c 336 § 408.]

Reviser's note: 1993 c 336 directed that this section be added to chapter 28A.300 RCW. This section has been codified in chapter 28A.415 RCW, which relates more directly to educators' training.

Findings—Intent—Part headings not law—1993 c 336: See notes following RCW 28A.150.210.

Findings—1993 c 336: See note following RCW 28A.630.879.

Chapter 28A.500
LOCAL EFFORT ASSISTANCE

Sections

28A.500.010 Local assistance funds—Definitions—Allocation. (Expires December 31, 1995.) (1) Commencing with taxes assessed in 1993 to be collected in calendar year 1994 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 distribution of local effort assistance funds provided under this section in calendar years 1994 and 1995, state funds may be prorated as provided in the omnibus appropriations act.

(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 twelve percent levy rate" shall mean twelve 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 "twelve percent levy rate" of a district shall mean:

(i) Twelve 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 twelve percent levy rate which exceeds the state-wide average twelve 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 twelve percent levy rate and the state-wide average twelve percent levy rate; to (ii) the state-wide average twelve 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 twelve 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 twelve percent levy rate and the state-wide average twelve percent levy rate; divided by (ii) the district's twelve percent levy rate.

(4) In tax collection year 1993 and thereafter, local effort assistance funds shall be distributed to qualifying districts as follows:

(a) Thirty percent in April;

(b) Twenty-three percent in May;

(c) Two percent in June;

(d) Seventeen percent in August;

(e) Nine percent in October;

(f) Seventeen percent in November; and

(g) Two percent in December. [1993 c 465 § 2; 1993 c 410 § 1; 1992 c 49 § 2; 1987 1st ex.s. c 2 § 102. Formerly RCW 28A.41.155.]

Reviser's note: This section was amended by 1993 c 410 § 1 and by 1993 c 465 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Expiration date—1993 c 465 § 2: "Section 2 of this act shall expire December 31, 1995." [1993 c 465 § 3.]

Intent—Severability—Effective date—1987 1st ex.s. c 2: See notes following RCW 84.52.0531.

Chapter 28A.600
STUDENTS

Sections

28A.600.060 State honors awards program—Areas included. The recipients of the Washington state honors awards shall be selected based on student achievement in both verbal and quantitative areas, as measured by a test or tests of general achievement selected by the superintendent of public instruction, and shall include student performance in the academic core areas of English, mathematics, science, social studies, and languages other than English, which may be American Indian languages. The performance level in such academic core subjects shall be determined by grade point averages, numbers of credits earned, and courses enrolled in during the beginning of the senior year. [1993 c 371 § 4; 1991 c 116 § 22; 1985 c 62 § 2. Formerly RCW 28A.03.442.]

28A.600.310 High school students' options—Enrollment in community colleges and technical colleges—Transmittal of funds. (1) Eleventh and twelfth grade students or students who have not yet received a high school diploma or its equivalent and are eligible to be in the eleventh or twelfth grades may apply to a community college or technical college to enroll in courses or programs offered by the community college or technical college. If a community college or technical college accepts a secondary school pupil for enrollment under this section, the community college or technical college shall send written notice to the pupil and the pupil's school district within ten days of acceptance. The notice shall indicate the course and hours of enrollment for that pupil.

(2) The pupil's school district shall transmit to the community college or technical college an amount per each full-time equivalent college student at state-wide uniform rates for vocational and nonvocational students. The superintendent of public instruction shall separately calculate and allocate moneys appropriated for basic education under RCW 28A.150.260 to school districts for purposes of making such payments and for granting school districts seven percent thereof to offset program related costs. The calculations and allocations shall be based upon the estimated state-wide annual average per full-time equivalent high school student allocations under RCW 28A.150.260, excluding small high school enhancements, and applicable rules adopted under chapter 34.05 RCW. The superintendent of public instruction and the state board for community and technical colleges shall consult on the calculation and distribution of the funds. The community college or technical college shall not require the pupil to pay any other fees. The funds received by the community college or technical college from the school district shall not be deemed tuition or operating fees and may be retained by the community college or technical college. A student enrolled under this subsection shall not be counted for the purpose of determining any enrollment restrictions imposed by the state on the community colleges. [1993 c 222 § 1; 1990 1st ex.s. c 9 § 402.]

Effective date—1993 c 222: "This act shall take effect September 1, 1993." [1993 c 222 § 2.]

Finding—Severability—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

Chapter 28A.630
TEMPORARY PROVISIONS—SPECIAL PROJECTS

Sections

28A.630.860 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.630.861 School-to-work transitions program—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 28A.630.862 through 28A.630.880.

(1) "Integration of vocational and academic instruction" means an educational program that combines vocational and academic concepts into a single curriculum to increase the relevancy of course work, to strengthen and increase academic standards, and to enable students to apply knowledge and skills to career and educational objectives.

(2) "School-to-work transition" means a restructuring effort which provides multiple learning options and seamless integrated pathways to increase all students' opportunities to pursue their career and educational interests.

(3) "Work-based learning" means a competency-based educational experience that coordinates and integrates classroom instruction with structured, work site employment in which the student receives occupational training that advances student knowledge and skills in essential academic learning requirements. [1993 c 335 § 11.]

Findings—Effective date—1993 c 335: See notes following RCW 28A.630.862.

28A.630.862 School-to-work transitions program. (Expires June 30, 1999.) There is established in the office of the superintendent of public instruction a school-to-work transitions program which shall fund and coordinate projects to develop model secondary school programs. 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 and shall provide multiple educational pathway options for all secondary students. 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) Providing each student with a choice of multiple, flexible educational pathways based on the student's career or interest area;

(3) Emphasis on increased vocational and academic guidance and counseling for students as an essential component of the student's high school experience;

(4) Development of student essential academic learning requirements, methods of accurately measuring student performance, and goals for improved student learning;

(5) Partnership with local employers and employees to incorporate work sites as part of work-based learning experiences;

(6) Active participation of educators in the planning, implementation, and operation of the project, including increased opportunities for professional development and in-service training; and

(7) Active participation by employers, private and public community service providers, parents, and community members in the development and operation of the project. [1993 c 335 § 2; 1992 c 137 § 2.]

Findings—1993 c 335: "(1) The legislature finds that demonstrated relevancy and practical application of school work is essential to improving student learning and to increasing the ability of students to transition successfully to the world of work. Employers have an increasing need for highly 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 the school experience must prepare students to make informed career direction decisions at appropriate intervals in their educational progress. The elimination of rigid tracking into educational programs will increase students' posthigh school options and will expose students to a broad range of interrelated career and educational opportunities.

(3) The legislature further finds that student motivation and performance can be greatly increased by the demonstration of practical application of course work content and its relevancy to potential career directions.

(4) The legislature further finds that secondary schools should provide students with multiple, flexible educational pathways. Each educational pathway should:

(a) Prepare students to demonstrate both core competencies common for all students and competencies in a career or interest area;

(b) Integrate academic and vocational education into a single curriculum; and

(c) Provide both classroom and workplace experience.

(5) The purpose of RCW 28A.630.862 through 28A.630.880 and 28A.630.861 is to equip students with improved school-to-work transition opportunities through the establishment of school-to-work transition model projects throughout the state." [1993 c 335 § 1.]

Effective date—1993 c 335: "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 [May 12, 1993]." [1993 c 335 § 14.]

Expiration date—Severability—Conflict with federal requirements—1992 c 137: See notes following RCW 28A.630.860.

28A.630.864 School-to-work transitions program—Selection of projects—Evaluation of program. (Expires June 30, 1999.) (1) The superintendent of public instruction shall develop a process for schools or school districts to apply to participate in the school-to-work transitions pro-

gram. The office of the superintendent of public instruction shall review and select projects for grant awards, and monitor and evaluate the program.

(2) The superintendent of public instruction, in selecting projects for grant awards, shall give additional consideration to schools or school districts whose proposals include collaboration with middle schools or junior high schools to develop school-to-work transition objectives. Middle school or junior high school programs may include career awareness and exploration, preparation for school-to-school transition, and preparation for educational pathway decisions.

(3) The superintendent of public instruction, in selecting projects for grant awards, shall give additional consideration to schools or school districts whose proposals include a tech prep site selected under P.L. 101-392 or other articulation agreements with a community or technical college.

(4) The superintendent of public instruction, in selecting projects for grant awards, shall give additional consideration to schools or school districts whose proposals include the following elements: Paid student employment in an occupational area with growing labor market demand, instruction on the job from a mentor, demonstration of competency standards for program completion, and a contract to be signed by the participating student, the student's parent or legal guardian, the participating employer, and an education representative.

(5) The superintendent of public instruction and the state board of education may develop a process for teacher preparation programs to apply to participate in the school-to-work transitions program. The office of the superintendent of public instruction and the state board of education may review and select projects for grant awards. Teacher preparation grants shall be used to improve teacher preparation in school-to-work transitions, including course work related to integrated curriculum, tech prep concepts, updating technical skills, improving school and private sector partnerships, and assessing students. [1993 c 335 § 3; 1992 c 137 § 3.]

Findings—Effective date—1993 c 335: See notes following RCW 28A.630.862.

Expiration date—Severability—Conflict with federal requirements—1992 c 137: See notes following RCW 28A.630.860.

28A.630.866 School-to-work transitions program—Task force. (Expires June 30, 1999.) The superintendent of public instruction shall appoint a ten-member task force on school-to-work transitions. The task force shall include at least one representative from the work force training and education coordinating board and the state board for community and technical colleges. The task force shall advise the superintendent of public instruction in the development of the process for applying to participate in the school-to-work transitions program, in the review and selection of projects under RCW 28A.630.864, and the monitoring and evaluation of the projects. [1993 c 335 § 4; 1992 c 137 § 4.]

Findings—Effective date—1993 c 335: See notes following RCW 28A.630.862.

Expiration date—Severability—Conflict with federal requirements—1992 c 137: See notes following RCW 28A.630.860.

28A.630.868 School-to-work transitions program—Administration—Duration of projects. (Expires June 30, 1999.) (1) The superintendent of public instruction shall administer RCW *28A.630.860 through 28A.630.880.

(2) The school-to-work transitions projects may be conducted for up to six years, if funds are provided. [1993 c 335 § 5; 1992 c 137 § 6.]

***Reviser's note:** RCW 28A.630.860 was repealed by 1993 c 335 § 12.

Findings—Effective date—1993 c 335: See notes following RCW 28A.630.862.

Expiration date—Severability—Conflict with federal requirements—1992 c 137: See notes following RCW 28A.630.860.

28A.630.870 School-to-work transitions program—Gifts, grants, and contributions—School-to-work transitions program account. (Expires June 30, 1999.) (1) The superintendent of public instruction may accept, receive, and administer for the purposes of RCW *28A.630.860 through 28A.630.880 such gifts, grants, and contributions as may be provided from public and private sources for the purposes of RCW *28A.630.860 through 28A.630.880.

(2) The school-to-work transitions 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 *28A.630.860 through 28A.630.880. 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. [1993 c 335 § 6; 1992 c 137 § 7.]

***Reviser's note:** RCW 28A.630.860 was repealed by 1993 c 335 § 12.

Findings—Effective date—1993 c 335: See notes following RCW 28A.630.862.

Expiration date—Severability—Conflict with federal requirements—1992 c 137: See notes following RCW 28A.630.860.

28A.630.874 School-to-work transitions program—Technical assistance—Rules. (Expires June 30, 1999.) (1) The superintendent of public instruction, in coordination with the state board of education, 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, secondary schools, junior high schools, middle schools, 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 RCW *28A.630.860 through 28A.630.880. [1993 c 335 § 7; 1992 c 137 § 9.]

***Reviser's note:** RCW 28A.630.860 was repealed by 1993 c 335 § 12.

Findings—Effective date—1993 c 335: See notes following RCW 28A.630.862.

Expiration date—Severability—Conflict with federal requirements—1992 c 137: See notes following RCW 28A.630.860.

28A.630.876 School-to-work transitions program—Reporting requirements. (Expires June 30, 1999.) (1) The superintendent of public instruction shall report to the education committees of the legislature on the progress of the schools for the school-to-work transitions 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 project as a condition of receipt of continued funding. [1993 c 335 § 8; 1992 c 137 § 10.]

Findings—Effective date—1993 c 335: See notes following RCW 28A.630.862.

Expiration date—Severability—Conflict with federal requirements—1992 c 137: See notes following RCW 28A.630.860.

28A.630.878 School-to-work transitions program—Dissemination of information. (Expires June 30, 1999.) The superintendent of public instruction, through the center for the improvement of student learning, shall collect and disseminate to all school districts and other interested parties information about the school-to-work transitions projects. [1993 c 336 § 603; 1993 c 335 § 9; 1992 c 137 § 11.]

Reviser's note: This section was amended by 1993 c 335 § 9 and by 1993 c 336 § 603, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Expiration date—1993 c 336 § 603: "Section 603 of this act shall expire June 30, 1999." [1993 c 336 § 604.]

Findings—Intent—Part headings not law—1993 c 336: See notes following RCW 28A.150.210.

Findings—1993 c 336: See note following RCW 28A.630.879.

Findings—Effective date—1993 c 335: See notes following RCW 28A.630.862.

Expiration date—Severability—Conflict with federal requirements—1992 c 137: See notes following RCW 28A.630.860.

28A.630.879 School-to-work transitions program—Selection of programs for grant awards. The superintendent of public instruction, in selecting projects for grant awards under the school-to-work transitions program, shall give additional consideration to schools or school districts whose proposals are consistent with the state comprehensive plan for work force training and education prepared by the work force training and education coordinating board. [1993 c 336 § 602.]

Findings—1993 c 336: "(1) The legislature finds that preparing students to make successful transitions from school to work helps promote educational, career, and personal success for all students.

(2) A successful school experience should prepare students to make informed career direction decisions at critical points in their educational progress. Schools that demonstrate the relevancy and practical application of course work will expose students to a broad range of interrelated career and educational opportunities and will expand students' posthigh school options.

(3) The school-to-work transitions program, under chapter 335, Laws of 1993, is intended to help secondary schools develop model programs for school-to-work transitions. The purposes of the model programs are to provide incentives for selected schools to:

(a) Integrate vocational and academic instruction into a single curriculum;

(b) Provide each student with a choice of multiple, flexible educational pathways based on the student's career interest areas;

(c) Emphasize increased vocational and academic guidance and counseling for students;

(d) Foster partnerships with local employers and employees to incorporate work sites as part of work-based learning experiences;

(e) Encourage collaboration among middle or junior high schools and secondary schools in developing successful transition programs and to encourage articulation agreements between secondary schools and community and technical colleges.

(4) The legislature further finds that successful implementation of the school-to-work transitions program is an important part of achieving the purposes of chapter 336, Laws of 1993." [1993 c 336 § 601.]

Findings—Intent—Part headings not law—1993 c 336: See notes following RCW 28A.150.210.

28A.630.880 School-to-work transitions program—Short title—1993 c 335; 1992 c 137. (Expires June 30, 1999.) RCW *28A.630.860 through 28A.630.880 may be known and cited as the school-to-work transitions program. [1993 c 335 § 10; 1992 c 137 § 12.]

***Reviser's note:** RCW 28A.630.860 was repealed by 1993 c 335 § 12.

Findings—Effective date—1993 c 335: See notes following RCW 28A.630.862.

Expiration date—Severability—Conflict with federal requirements—1992 c 137: See notes following RCW 28A.630.860.

28A.630.883 Washington commission on student learning—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 28A.630.885 and 28A.300.130.

(1) "Commission" means the commission on student learning created in RCW 28A.630.885.

(2) "Student learning goals" mean[s] the goals established in RCW 28A.150.210.

(3) "Essential academic learning requirements" means more specific academic and technical skills and knowledge, based on the student learning goals, as determined under RCW 28A.630.885(3)(a). Essential academic learning requirements shall not limit the instructional strategies used by schools or school districts or require the use of specific curriculum.

(4) "Performance standards" or "standards" means the criteria used to determine if a student has successfully learned the specific knowledge or skill being assessed as determined under RCW 28A.630.885(3)(b). The standards should be set at internationally competitive levels.

(5) "Assessment system" or "student assessment system" means a series of assessments used to determine if students have successfully learned the essential academic learning requirements. The assessment system shall be developed under RCW 28A.630.885(3)(b).

(6) "Performance-based education system" means an education system in which a significantly greater emphasis is placed on how well students are learning, and significantly less emphasis is placed on state-level laws and rules that dictate how instruction is to be provided. The performance-based education system does not require that schools use an outcome-based instructional model. Decisions regarding how instruction is provided are to be made, to the greatest extent possible, by schools and school districts, not by the state. [1993 c 336 § 201.]

Findings—Intent—Part headings not law—1993 c 336: See notes following RCW 28A.150.210.

Findings—1993 c 336: See note following RCW 28A.630.879.

28A.630.884 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.630.885 Washington commission on student learning—Technical advisory committees—Development of state-wide academic assessment system—Quality schools center—Reports to the legislature (as amended by 1993 c 334). (Expires September 1, 1998.) ((~~(2)~~)) (1) 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~~)) five members appointed no later than ((~~February~~)) June 1, 1993, by the governor elected in the November 1992 election. The governor shall appoint a chair from the commission members, and fill any vacancies of gubernatorial appointments that may occur. The state board of education shall fill any vacancies of state board of education appointments that may occur. 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)~~)) (2) 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)~~)) (3) 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)~~)) (4) The commission shall coordinate its activities with the state board of education and the office of the superintendent of public instruction.

((~~(7)~~)) (5) 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)~~)) (6) 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)~~)) (7) Members of the commission shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. [1993 c 334 § 1; 1992 c 141 § 202.]

Effective date—1993 c 334: "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 [May 12, 1993]." [1993 c 334 § 2.]

28A.630.885 Washington commission on student learning—Advisory committees—Essential academic learning requirements—State-wide academic assessment system—Certificate of mastery—Accountability system—Reports to the legislature (as amended by 1993

c 336). **(Expires September 1, 1998.)** (((~~(2)~~))) (1) The Washington commission on student learning is hereby established. The primary purposes of the commission are to identify ((~~what~~)) the knowledge and skills all public school 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~~)) in RCW 28A.150.210, 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~~)) five members appointed no later than ((~~February~~)) June 1, 1993, by the governor elected in the November 1992 election. The governor shall appoint a chair from the commission members, and fill any vacancies in gubernatorial appointments that may occur. The state board of education shall fill any vacancies of state board of education appointments that may occur. 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~~)) racial and ethnic 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~~))) (2) 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)~~))) (3) 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~~)) Develop 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~~)) based on the student learning goals ((~~identified by the council on education reform and funding~~)) in RCW 28A.150.210. Essential academic learning requirements shall be developed, to the extent possible, for each of the student learning goals in RCW 28A.150.210. Goals one and two shall be considered primary. Essential academic learning requirements for RCW 28A.150.210(1), goal one, and the mathematics component of RCW 28A.150.210(2), goal two, shall be completed no later than March 1, 1995. Essential academic learning requirements that incorporate the remainder of RCW 28A.150.210 (2), (3), and (4), goals two, three, and four, shall be completed no later than March 1, 1996. To the maximum extent possible, the commission shall integrate goal four and the knowledge and skill areas in the other goals in the development of the essential academic learning requirements;

(b) ((~~By December 1, 1995,~~)) (i) The commission shall present to the state board of education and superintendent of public instruction a state-wide academic assessment system for use in the elementary ((~~grades~~)), middle, and high school years 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~~)) assessment methods, including performance-based measures that are criterion-referenced. Performance standards for determining if a student has successfully completed an assessment shall be initially determined by the commission in consultation with the advisory committees required in subsection (2) of this section.

(ii) 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~~)) have not ((~~master~~)) mastered the essential academic learning requirements at the appropriate periods in the student's educational development. ((~~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.~~))

(iii) Assessments measuring the essential academic learning requirements developed for RCW 28A.150.210(1), goal one, and the mathematics component of RCW 28A.150.210(2), goal two, shall be initially implemented by the state board of education and superintendent of public instruction no later than the 1996-97 school year, unless the legislature takes action to delay or prevent implementation of the assessment system and essential academic learning requirements. Assessments measuring the essential academic learning requirements developed for RCW 28A.150.210 (2), (3), and (4), goals two, three, and four, shall be initially implemented by the state board of education and superintendent of public instruction no later than the 1997-98 school year, unless the legislature takes action to delay or prevent implementation of the assessment system and essential academic learning requirements. To the maximum extent possible, the commission shall integrate knowledge and skill areas in development of the assessments.

(iv) Before the 2000-2001 school year, participation by school districts in the assessment system shall be optional. School districts that desire to participate before the 2000-2001 school year shall notify the superintendent of public instruction in a manner determined by the superintendent. Beginning in the 2000-2001 school year, all school districts shall be required to participate in the assessment system.

(v) The state board of education and superintendent of public instruction may modify the essential academic learning requirements and academic assessment system, as needed, in subsequent school years.

(vi) The commission shall develop assessments that are directly related to the essential academic learning requirements, and are not biased toward persons with different learning styles, racial or ethnic backgrounds, or on the basis of gender;

(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~~)) After a determination is made by the state board of education that the high school assessment system has been implemented and that it is sufficiently reliable and valid, successful completion of the high school assessment shall lead to a certificate of mastery. The certificate of mastery shall be obtained by most students at about the age of sixteen, and is evidence that the student has successfully mastered the essential academic learning requirements during his or her educational career. The certificate of mastery shall be required for graduation but shall not be the only requirement 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~~)) make recommendations 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~~)) regarding the relationship between the certificate of mastery and high school graduation requirements. Upon achieving the certificate of mastery, schools shall provide students with the opportunity to continue to pursue career and educational objectives through educational pathways that emphasize integration of academic and vocational education. Educational pathways may include, but are not limited to, programs such as work-based learning, school-to-work transition, tech prep, vocational-technical education, running start, and preparation for technical college, community college, or university education;

(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)~~)) Consider methods to address the unique needs of highly capable students when developing the assessments in (b) and (c) of this subsection;

(f) 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 system((~~s during the 1995-97 biennium and beyond~~));

((~~(i)~~)) (g) Develop recommendations for consideration by the higher education coordinating board for adopting college and university entrance requirements for public school students that ((~~would assist schools in adopting strategies designed to help students achieve the essential learning requirements~~)) are consistent with the essential academic learning requirements and the certificate of mastery;

((~~(j)~~)) (h) By December 1, ((~~1996~~)) 1998, recommend to the legislature, governor, state board of education, and superintendent of public instruction:

(i) A state-wide accountability system to monitor and 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~~)) The accountability system shall be designed to recognize the characteristics of the student population of schools and school districts such as gender, race, ethnicity, socioeconomic status, and other factors. The system shall include school-site, school district, and state-level accountability reports;

(ii) A school assistance program to help schools and school districts that are having difficulty helping students meet the essential academic learning requirements;

(iii) A system to intervene in schools and school districts in which significant numbers of students persistently fail to learn the essential academic learning requirements; and

(iv) An awards program to provide incentives to school staff to help their students learn the essential academic learning requirements, with each school being assessed individually against its own baseline. Incentives shall be based on the rate of percentage change of students achieving the essential academic learning requirements. School staff shall determine how the awards will be spent.

It is the intent of the legislature to begin implementation of programs in this subsection (3)(h) on September 1, 2000;

((~~(k)~~)) (i) Report annually by December 1st to the legislature, the governor, the superintendent of public instruction, and the state board of education on the progress, findings, and recommendations of the commission; and

((~~(l) Complete other tasks, as appropriate~~)) (j) Make recommendations to the legislature and take other actions necessary or desirable to help students meet the student learning goals.

((~~(6)~~)) (4) The commission shall coordinate its activities with the state board of education and the office of the superintendent of public instruction.

((~~(7)~~)) (5) 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)~~)) (6) The commission shall select an entity to provide staff support and the office of ((~~financial management~~)) the superintendent of public instruction shall ((~~contract with that entity~~)) provide administrative oversight and be the fiscal agent for the commission. The commission may direct the office of ((~~financial management~~)) the superintendent of public instruction to enter into subcontracts, within the commission's resources, with school districts, teachers, higher education faculty, state agencies, business organizations, and other individuals and organizations to assist the commission in its deliberations.

((~~(9)~~)) (7) Members of the commission shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. [1993 c 336 § 202; 1992 c 141 § 202.]

Reviser's note: RCW 28A.630.885 was amended twice during the 1993 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Findings—Intent—Part headings not law—1993 c 336: See notes following RCW 28A.150.210.

Findings—1993 c 336: See note following RCW 28A.630.879.

Expiration date—1992 c 141 § 202: "Section 202 of this act shall expire September 1, 1998." [1992 c 141 § 203.]

Findings—Part headings—Severability—1992 c 141: See notes following RCW 28A.410.040.

28A.630.950 Joint select committee on education restructuring. (Expires December 1, 2001.) (1) There is hereby created a joint select committee on education restructuring composed of twelve members as follows:

(a) Six members of the senate, three from each of the major caucuses, to be appointed by the president of the senate; and

(b) Six members of the house of representatives, three from each of the major caucuses, to be appointed by the speaker of the house of representatives.

(2) Staff support shall be provided by senate committee services and house of representatives office of program research as mutually agreed by the cochairs of the joint select committee. The cochairs shall be designated by the speaker of the house of representatives and the president of the senate.

(3) The expenses of the committee members shall be paid by the legislature under chapter 44.04 RCW.

(4) The committee shall seek advice from educators, business and labor leaders, parents, and others during its deliberations. [1993 c 336 § 1001.]

Expiration date—1993 c 336 §§ 1001-1005: "Sections 1001 through 1005 of this act shall expire December 1, 2001." [1993 c 336 § 1010.]

Findings—Intent—Part headings not law—1993 c 336: See notes following RCW 28A.150.210.

Findings—1993 c 336: See note following RCW 28A.630.879.

28A.630.951 Annual report. (Expires December 1, 2001.) The joint select committee on education restructuring shall monitor, review, and annually report to the full legislature upon the enactment and implementation of education restructuring in Washington both at the state and local level, including the following:

(1) The progress of the commission on student learning in the completion of its tasks as designated in RCW 28A.630.885 and in any subsequent legislation relating to education restructuring;

(2) The success of the center for [the] improvement of student learning established under RCW 28A.300.130;

(3) The number of school districts seeking waivers from basic education act requirements under RCW 28A.305.140 or other legislation, and the success of alternative programs pursued by those school districts;

(4) The progress and success of the commission on student learning, the superintendent of public instruction, the state board of education, the higher education coordinating board, and the state board for community and technical colleges in carrying out RCW 28A.630.885(3)(g), and any subsequent legislation relating to education restructuring; and

(5) Such other areas as the committee may deem appropriate. [1993 c 336 § 1002.]

Expiration date—1993 c 336 §§ 1001-1005: See note following RCW 28A.630.950.

Findings—Intent—Part headings not law—1993 c 336: See notes following RCW 28A.150.210.

Findings—1993 c 336: See note following RCW 28A.630.879.

28A.630.952 Review of laws and reporting requirements—Report to the legislature. (Expires December 1, 2001.) (1) In addition to the duties in RCW 28A.630.951, the joint select committee on education restructuring shall review all laws pertaining to K-12 public education and to educator preparation and certification, except those that protect the health, safety, and civil rights of students and staff, with the intent of identifying laws that inhibit the achievement of the new system of performance-based education. The select committee shall report to the legislature by November 15, 1994. The laws pertaining to home schooling and private schools shall not be reviewed in this study.

(2) The joint select committee on education restructuring shall review current school district data reporting requirements for the purposes of accountability and meeting state information needs. The joint select committee shall report to the legislature by January 1995 on:

(a) What data is necessary to compare how school districts are performing before the essential academic learning requirements and the assessment system are implemented with how school districts are performing after the essential academic learning requirements and the assessment system are implemented; and

(b) What data is necessary pertaining to school district reports under the accountability systems developed by the commission on student learning under RCW 28A.630.885(3)(h). [1993 c 336 § 1003.]

Expiration date—1993 c 336 §§ 1001-1005: See note following RCW 28A.630.950.

Findings—Intent—Part headings not law—1993 c 336: See notes following RCW 28A.150.210.

Findings—1993 c 336: See note following RCW 28A.630.879.

28A.630.953 Commission on student learning, superintendent of public instruction, state board of education, higher education coordinating board, and state board for community and technical colleges—Annual reports to joint select committee. (Expires December 1, 2001.) By September 1, 1994, and each September 1st thereafter, the commission on student learning, the superintendent of public instruction, the state board of education, the higher education coordinating board, and the state board for community and technical colleges shall each report to the joint select committee on education restructuring regarding their progress in completing tasks as designated in chapter 336, Laws of 1993, and tasks in any subsequent legislation relating to education restructuring. [1993 c 336 § 1004.]

Expiration date—1993 c 336 §§ 1001-1005: See note following RCW 28A.630.950.

Findings—Intent—Part headings not law—1993 c 336: See notes following RCW 28A.150.210.

Findings—1993 c 336: See note following RCW 28A.630.879.

28A.630.954 Final report. (Expires December 1, 2001.) The joint select committee on education restructuring shall submit its final report to the legislature by December 31, 2001. [1993 c 336 § 1005.]

Expiration date—1993 c 336 §§ 1001-1005: See note following RCW 28A.630.950.

Findings—Intent—Part headings not law—1993 c 336: See notes following RCW 28A.150.210.

Findings—1993 c 336: See note following RCW 28A.630.879.

Chapter 28A.635
OFFENSES RELATING TO SCHOOL PROPERTY AND PERSONNEL

Sections

28A.635.060 Defacing or injuring school property—Liability of pupil, parent, or guardian—Voluntary work program as alternative—Rights protected. (1) Any pupil who shall deface or otherwise injure any school property, shall be liable to suspension and punishment. Any school district whose property has been lost or willfully cut, defaced, or injured, may withhold the grades, diploma, and transcripts of the pupil responsible for the damage or loss until the pupil or the pupil's parent or guardian has paid for the damages, unless the student is transferring to another elementary or secondary educational institution, in which case the student's permanent record shall be released promptly to the receiving school. When the pupil and parent or guardian are unable to pay for the damages, the school district shall provide a program of voluntary work for the pupil in lieu of the payment of monetary damages. Upon completion of voluntary work the grades, diploma, and transcripts of the pupil shall be released. The parent or guardian of such pupil shall be liable for damages as otherwise provided by law.

(2) Before any penalties are assessed under this section, a school district board of directors shall adopt procedures which insure that pupils' rights to due process are protected.

(3) If the department of social and health services or a child-placing agency licensed by the department has been granted custody of a child, that child's records, if requested by the department or agency, are not to be withheld for nonpayment of school fees or any other reason. [1993 c 347 § 3; 1989 c 269 § 6; 1982 c 38 § 1; 1969 ex.s. c 223 § 28A.87.120. Prior: 1909 c 97 p 361 § 41; RRS § 5057; prior: 1903 c 156 § 14; 1897 c 118 § 172; 1890 p 372 § 48. Formerly RCW 28A.87.120, 28.87.120.]

Action against parent for willful injury to property by minor—Monetary limitation—Common law liability preserved: RCW 4.24.190.

Chapter 28A.650
EDUCATION TECHNOLOGY

Sections

28A.650.005 Findings—Intent. The legislature recognizes that up-to-date tools will help students learn. Workplace technology requirements will continue to change and students should be knowledgeable in the use of technologies.

Furthermore, the legislature finds that the Washington systemic initiative is a broad-based effort to promote widespread public literacy in mathematics, science, and technology. An important component of the systemic initiative is the universal electronic access to information by students. It is the intent of the legislature that components of RCW 28A.650.010 through 28A.650.025 will support the state-wide systemic reform effort in mathematics, science, and technology as envisioned by the Washington systemic initiative. [1993 c 336 § 701.]

28A.650.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Education technology" or "technology" means the effective use of electronic and optical tools, including telephones, and electronic and optical pathways in helping students learn.

(2) "Network" means integrated linking of education technology systems in schools for transmission of voice, data, video, or imaging, or a combination of these. [1993 c 336 § 702.]

28A.650.015 Education technology plan—Educational technology advisory committee. (1) The superintendent of public instruction, to the extent funds are appropriated, shall develop and implement a Washington state K-12 education technology plan. The technology plan, which shall be completed by December 15, 1993, and updated on at least a biennial basis, shall be developed to coordinate and expand the use of education technology in the common schools of the state. The plan shall be consistent with applicable provisions of chapter 43.105 RCW. The plan, at a minimum, shall address:

(a) The provision of technical assistance to schools and school districts for the planning, implementation, and training of staff in the use of technology in curricular and administrative functions;

(b) The continued development of a network to connect school districts, institutions of higher learning, and other sources of on-line information; and

(c) Methods to equitably increase the use of education technology by students and school personnel throughout the state.

(2) The superintendent of public instruction shall appoint an educational technology advisory committee to assist in the development and implementation of the technology plan in subsection (1) of this section. The committee shall include, but is not limited to, persons representing: The state board of education, the commission on student learning, the department of information services, educational service districts, school directors, school administrators, school principals, teachers, classified staff, higher education faculty, parents, students, business, labor, scientists and mathematicians, the higher education coordinating board, the work force training and education coordinating board, and the state library. [1993 c 336 § 703.]

28A.650.020 Regional educational technology support centers—Advisory councils. Educational service districts shall establish, subject to available funding, regional educational technology support centers for the purpose of providing ongoing educator training, school district cost-benefit analysis, long-range planning, network planning, distance learning access support, and other technical and programmatic support. Each educational service district shall establish a representative advisory council to advise the educational service district in the expenditure of funds provided to the technology support centers. [1993 c 336 § 705.]

Reviser's note: 1993 c 336 directed that this section be added to chapter 28A.310 RCW. This section has been codified in chapter 28A.650 RCW, which relates more directly to educational technology.

28A.650.025 Distribution of funds for regional educational technology support centers. The superintendent of public instruction, to the extent funds are appropriated, shall distribute funds to educational service districts on a grant basis for the regional educational technology support centers established in RCW 28A.650.020. [1993 c 336 § 706.]

28A.650.030 Distribution of funds to expand the education state-wide network. The superintendent of public instruction, to the extent funds are appropriated, shall distribute funds to the Washington school information processing cooperative and to school districts on a grant basis, from moneys appropriated for the purposes of this section, for equipment, networking, and software to expand the current K-12 education state-wide network. [1993 c 336 § 707.]

28A.650.035 Education technology account. (1) The superintendent of public instruction may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of educational technology and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments.

(2) The education technology account is hereby established in the custody of the state treasurer. The superintendent of public instruction shall deposit in the account all moneys received from gifts, grants, or endowments for education technology. Moneys in the account may be spent only for education technology. Disbursements from the account shall be on 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. [1993 c 336 § 708.]

28A.650.040 Rules. The superintendent of public instruction shall adopt rules as necessary under chapter 34.05 RCW governing the operation and scope of this chapter. [1993 c 336 § 709.]

28A.650.900 Findings—Intent—Part headings not law—1993 c 336. See notes following RCW 28A.150.210.

28A.650.901 Findings—1993 c 336. See note following RCW 28A.630.879.

Title 28B
HIGHER EDUCATION

Chapters

Chapter 28B.10
COLLEGES AND UNIVERSITIES GENERALLY

Sections

Report on postsecondary educational system to higher education coordinating board: RCW 28B.80.616.

28B.10.029 Property purchase and disposition—Independent printing production and purchasing authority. (1) An institution of higher education may exercise independently those powers otherwise granted to the director of general administration in chapter 43.19 RCW in connection with the purchase and disposition of all material, supplies, services, and equipment needed for the support, maintenance, and use of the respective institution of higher education. Property disposition policies followed by institutions of higher education shall be consistent with policies followed by the department of general administration. Purchasing policies and procedures followed by institutions of higher education shall be in compliance with chapters 39.19, 39.29, and 43.03 RCW, and RCW 43.19.1901, 43.19.1906, 43.19.1911, 43.19.1917, 43.19.1937, 43.19.534, 43.19.685, 43.19.700 through 43.19.704, and 43.19.550 through 43.19.637. The community and technical colleges shall comply with RCW 43.19.450. Except for the University of Washington, institutions of higher education shall comply with RCW 43.19.1935, 43.19.19363, and 43.19.19368. If an institution of higher education can satisfactorily demonstrate to the director of the office of financial management that the cost of compliance is greater than the value of benefits from any of the following statutes, then it shall be exempt from them: RCW 43.19.685; 43.19.534; and 43.19.637. Any institution of higher education that chooses to exercise independent purchasing authority for a commodity or group of commodities shall notify the director of general administration. Thereafter the director of general administration shall not be required to provide those services for that institution for the duration of the general administration contract term for that commodity or group of commodities.

(2) An institution of higher education may exercise independently those powers otherwise granted to the public printer in chapter 43.78 RCW in connection with the production or purchase of any printing and binding needed by the respective institution of higher education. Purchasing

policies and procedures followed by institutions of higher education shall be in compliance with chapter 39.19 RCW. Any institution of higher education that chooses to exercise independent printing production or purchasing authority shall notify the public printer. Thereafter the public printer shall not be required to provide those services for that institution. [1993 c 379 § 101.]

Intent—1993 c 379: "The legislature acknowledges the academic freedom of institutions of higher education, and seeks to improve their efficiency and effectiveness in carrying out their missions. By this act, the legislature intends to increase the flexibility of institutions of higher education to manage personnel, construction, purchasing, printing, and tuition." [1993 c 379 § 1.]

Severability—1993 c 379: "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." [1993 c 379 § 407.]

Effective date—1993 c 379: "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, 1993." [1993 c 379 § 408.]

28B.10.031 Check cashing privileges. (1) Any institution of higher education may, at its option and after the approval by governing boards, accept in exchange for cash a payroll check, expense check, financial aid check, or personal check from a student or employee of that institution of higher education in accordance with the following conditions:

(a) The check shall be drawn to the order of cash or bearer and be immediately payable by a drawee financial institution;

(b) The person presenting the check to the institution of higher education shall produce identification that he or she is currently enrolled or employed at the institution of higher education; and

(c) The payroll check, expense check, or financial aid check shall have been issued by the institution of higher education.

(2) In the event that any personal check cashed under this section is dishonored by the drawee financial institution when presented for payment, the institution of higher education, after giving notice of the dishonor to the student or employee and providing an opportunity for a brief adjudicative proceeding, may:

(a) In the case of a student, place a hold on the student's enrollment and transcript records until payment in full of the value of the dishonored check and reasonable collection fees and costs;

(b) In the case of an employee, withhold from the next payroll check or expense check the full amount of the dishonored check plus a collection fee. In the case that the employee no longer is employed by the institution of higher education at time of dishonor, then the institution of higher education may pursue other legal collection efforts that are to be paid by the drawer or endorser of the dishonored check along with the full value of the check. [1993 c 145 § 1.]

28B.10.044 State support received by students—Information. (1) The higher education coordinating board shall annually develop information on the approximate amount of state support that students receive. For students at state-supported colleges and universities, the information shall include the approximate level of support received by students in each tuition category. That information may include consideration of the following: Expenditures included in the educational cost formula, revenue forgiven from waived tuition and fees, state-funded financial aid awarded to students at public institutions, and all or a portion of appropriated amounts not reflected in the educational cost formula for institutional programs and services that may affect or enhance the educational experience of students at a particular institution. For students attending a private college, university, or proprietary school, the information shall include the amount of state-funded financial aid awarded to students attending the institution.

(2) Beginning July 30, 1993, the board shall annually provide information appropriate to each institution's student body to each state-supported four-year institution of higher education and to the state board for community and technical colleges for distribution to community and technical colleges.

(3) Beginning July 30, 1993, the board shall annually provide information on the level of financial aid received by students at that institution to each private university, college, or proprietary school, that enrolls students receiving state-funded financial aid.

(4) At least annually, beginning with the 1993 fall academic term, each institution of higher education described in subsection (2) or (3) of this section shall provide to students at the institution information on the approximate amount that the state is contributing to the support of their education. Information provided to students at each state-supported college and university shall include the approximate amount of state support received by students in each tuition category at that institution. The amount of state support shall be based on the information provided by the higher education coordinating board under subsections (1) through (3) of this section. Institutions may use any informational format that is appropriate for their students, including, but not limited to, posters, handouts, and information in students' registration packets. [1993 c 250 § 1.]

28B.10.265 Waiver from fees—Children of certain citizens missing in action or prisoners of war. Subject to the limitations of RCW 28B.15.910, 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, if the children meet such other educational qualifications as such institution of higher education shall deem reasonable and necessary under the circumstances. Applicants for free or reduced tuition shall provide institutional administrative personnel with documentation of their rights under this section. [1993 1st sp.s. c 18 § 1; 1992 c 231 § 2; 1985 c 390 § 1; 1973 c 63 § 2; 1972 ex.s. c 17 § 2.]

Effective date—1993 1st sp.s. c 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 July 1, 1993." [1993 1st sp.s. c 18 § 38.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

Effective date—1973 c 63: "This 1973 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately [March 8, 1973]: PROVIDED, That qualified applicants under sections 1 and 2 of this 1973 amendatory act shall be admitted to such institutions free of tuition and such fees commencing not later than the next succeeding quarter, semester or like educational period beginning after the effective date of this 1973 amendatory act." [1973 c 63 § 3.]

Effective date—1972 ex.s. c 17: "This 1972 act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately [February 19, 1972]: PROVIDED, That qualified applicants under sections 1 and 2 of this 1972 act shall be admitted to such institutions tuition-free commencing not later than the next succeeding quarter, semester or like educational period beginning after the effective date of this 1972 act." [1972 ex.s. c 17 § 3.]

28B.10.290 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.10.350 Construction work, remodeling or demolition, bids when—Exemption—Waiver—Prevailing rate of wage—Universities and The Evergreen State College. (1) When the cost to The Evergreen State College, any regional university, or state university, of any building, construction, renovation, remodeling, or demolition other than maintenance or repairs will equal or exceed the sum of twenty-five thousand dollars, complete plans and specifications for such work shall be prepared and such work shall be put out for public bids and the contract shall be awarded to the lowest responsible bidder if in accordance with the bid specifications: PROVIDED, That when the estimated cost of such building, construction, renovation, remodeling, or demolition equals or exceeds the sum of twenty-five thousand dollars, such project shall be deemed a public works and "the prevailing rate of wage," under chapter 39.12 RCW shall be applicable thereto: PROVIDED FURTHER, That when such building, construction, renovation, remodeling, or demolition involves one trade or craft area and the estimated cost exceeds ten thousand dollars, complete plans and specifications for such work shall be prepared and such work shall be put out for public bids, and the contract shall be awarded to the lowest responsible bidder if in accordance with the bid specifications. This subsection shall not apply when a contract is awarded by the small works procedure authorized in RCW 28B.10.355.

(2) The Evergreen State College, any regional university, or state university may require a project to be put to public bid even when it is not required to do so under subsection (1) of this section.

(3) Where the estimated cost to The Evergreen State College, any regional university, or state university of any building, construction, renovation, remodeling, or demolition is less than twenty-five thousand dollars or the contract is awarded by the small works procedure authorized in RCW 28B.10.355, the publication requirements of RCW 39.04.020 shall be inapplicable.

(4) In the event of any emergency when the public interest or property of The Evergreen State College, regional university, or state university would suffer material injury or damage by delay, the president of such college or university may declare the existence of such an emergency and reciting the facts constituting the same may waive the requirements of this section with reference to any contract in order to correct the condition causing the emergency: PROVIDED, That an "emergency," for the purposes of this section, means a condition likely to result in immediate physical injury to persons or to property of such college or university in the absence of prompt remedial action or a condition which immediately impairs the institution's ability to perform its educational obligations. [1993 c 379 § 109; 1985 c 152 § 1; 1979 ex.s. c 12 § 1; 1977 ex.s. c 169 § 14; 1971 ex.s. c 258 § 1.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

Severability—1979 ex.s. c 12: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 12 § 3.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Severability—1971 ex.s. c 258: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 258 § 3.]

Subcontractors to be identified by bidder, when: RCW 39.30.060.

28B.10.355 Public works projects—Small works roster—Rules—Procedures—Revisions. Each board of regents of the state universities and each board of trustees of the regional universities and The Evergreen State College may establish a small works roster. The small works roster authorized by this section may be used for any public works project for which the estimated cost is less than one hundred thousand dollars. Each board shall adopt rules to implement this section.

The roster shall be composed of all responsible contractors who have requested to be on the list. Each board shall establish a procedure for securing telephone or written quotations from the contractors on the small works roster to assure establishment of a competitive price and for awarding contracts to the lowest responsible bidder. This procedure shall require either that a good faith effort be made to request quotations from all contractors on the small works roster who have indicated the capability of performing the kind of public works being contracted or that the board shall solicit quotations from at least five contractors in a manner that will equitably distribute the opportunity among contractors on the roster. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection and available by telephone inquiry. Each board may adopt a procedure to prequalify contractors for inclusion on the small works roster. No board may be required to make available for public inspection or copying under chapter 42.17 RCW financial information required to be provided by the prequalification procedure.

The small works roster shall be revised at least once each year by publishing notice of such opportunity in at least one newspaper of general circulation in the state. Responsible contractors shall be added to the list at any time they submit a written request. [1993 c 379 § 110; 1985 c 152 § 2.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

28B.10.660 Insurance or protection authorized—Premiums—Health benefits for graduate student appointees. (1) The governing boards of any of the state's institutions of higher education may make available liability, life, health, health care, accident, disability and salary protection or insurance or any one of, or a combination of, the enumerated types of insurance, or any other type of insurance or protection, for the regents or trustees and students of the institution. Except as provided in subsection (2) of this section, the premiums due on such protection or insurance shall be borne by the assenting regents, trustees, or students. The regents or trustees of any of the state institutions of higher education may make liability insurance available for employees of the institutions. The premiums due on such liability insurance shall be borne by the university or college.

(2) A governing board of a public four-year institution of higher education may make available, and pay the costs of, health benefits for graduate students holding graduate service appointments, designated as such by the institution. Such health benefits may provide coverage for spouses and dependents of such graduate student appointees. [1993 1st sp.s. c 9 § 1; 1979 ex.s. c 88 § 1. Prior: 1973 1st ex.s. c 147 § 4; 1973 1st ex.s. c 9 § 2; 1971 ex.s. c 269 § 3; 1969 ex.s. c 237 § 4; 1969 ex.s. c 223 § 28B.10.660; prior: 1967 c 135 § 2, part; 1959 c 187 § 1, part. Formerly RCW 28.76.410, part.]

Effective date—Effect of veto—Savings—Severability—1973 1st ex.s. c 147: See notes following RCW 41.05.050.

Severability—1971 ex.s. c 269: See note following RCW 28A.400.350.

28B.10.690 Graduation rate improvement—Findings. The legislature finds that, in public colleges and universities, improvement is needed in graduation rates and in the length of time required for students to attain their educational objectives. The legislature also finds that public colleges and universities should offer classes in a way that will permit full-time students to complete a degree or certificate program in about the amount of time described in the institution's catalog as necessary to complete that degree or certificate program. [1993 c 414 § 1.]

28B.10.691 Graduation rate improvement—Strategic plans—Adoption of strategies. (1) By May 15, 1994, each state institution of higher education, as part of its strategic plan, shall adopt strategies designed to shorten the time required for students to complete a degree or certificate and to improve the graduation rate for all students.

(2) Beginning with the fall 1995-96 academic term, each institution of higher education as defined in RCW 28B.10.016 shall implement the strategies described in subsection (1) of this section. [1993 c 414 § 2.]

28B.10.692 Graduation rate improvement—Review of strategic plans—Report to governor and legislature. (1) By May 30, 1994, each public four-year institution of higher education shall forward to the higher education coordinating board for its review and comment, certain preliminary components of the institution's strategic plan. The components shall include strategies to improve student graduation rates and shorten the time needed for students to obtain a baccalaureate degree.

(2) By September 30, 1994, the state board for community and technical colleges will forward to the higher education coordinating board for its review and comment, a report on the strategies adopted by community and technical colleges to speed the progress of students towards their educational goals and to shorten the time needed for students to obtain a degree or certificate.

(3) By December 15, 1994, the higher education coordinating board shall report to the governor and the higher education committees of the house of representatives and senate on its review of strategies designed to improve graduation rates and shorten the time needed for students to obtain a degree or certificate. The report shall include an analysis of system-wide strategies and recommendations for any legislation necessary to assist institutions with the implementation of their plans. [1993 c 414 § 3.]

28B.10.693 Graduation rate improvement—Student progression understandings. Each institution of higher education as defined in RCW 28B.10.016 may enter into a student progression understanding with an interested student. The terms of the understanding shall permit a student to obtain a degree or certificate within the standard period of time assumed for a full-time student pursuing that degree or certificate. Usually, the standard amount of time will be about two years for an associate of arts degree and about four years for a baccalaureate degree. Student progression understandings shall not give rise to any cause of action on behalf of any student as a result of the failure of any state institution of higher education to fulfill its obligations under the student progression understanding. [1993 c 414 § 4.]

28B.10.710 Washington state or Pacific Northwest history in curriculum. There shall be a one quarter or semester course in either Washington state history and government, or Pacific Northwest history and government in the curriculum of all teachers' colleges and teachers' courses in all institutions of higher education. No person shall be graduated from any of said schools without completing said course of study, unless otherwise determined by the state board of education. Any course in Washington state or Pacific Northwest history and government used to fulfill this requirement shall include information on the culture, history, and government of the American Indian peoples who were the first human inhabitants of the state and the region. [1993 c 77 § 1; 1969 ex.s. c 223 § 28B.10.710. Prior: 1967 c 64 § 1, part; 1963 c 31 § 1, part; 1961 c 47 § 2, part; 1941 c 203 § 1, part; Rem. Supp. 1941 § 4898-3, part. Formerly RCW 28.05.050, part.]

28B.10.776 Budget calculation—Enrollment levels—Participation rate. It is the policy of the state of Washington that the essential requirements level budget calculation for institutions of higher education include enrollment levels necessary to maintain, by educational sector, the participation rate funded in the 1993 fiscal year. The participation rate shall be based on the state's estimated population ages seventeen and above by appropriate age groups. [1993 1st sp.s. c 15 § 2.]

Findings—1993 1st sp.s. c 15: "The legislature finds that the proportion of the state budget dedicated to postsecondary educational programs has decreased for two decades. At the same time, major technological, economic, and demographic changes have exacerbated the need for improved training and education to maintain a high quality, competitive work force, and a well-educated populace to meet the challenges of the twenty-first century. Therefore, the legislature finds that there is increasing need for postsecondary educational opportunities for citizens of the state of Washington.

The legislature declares that the policy of the state of Washington shall be to improve the access to, and the quality of, this state's postsecondary educational system. The budgetary policy of the state of Washington shall be to provide a level of protection and commitment to the state's postsecondary educational system commensurate with the responsibility of this state to the educational and professional improvement of its citizens and work force." [1993 1st sp.s. c 15 § 1.]

Effective date—1993 1st sp.s. c 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 July 1, 1993." [1993 1st sp.s. c 15 § 10.]

28B.10.778 Budget calculation—New enrollments—Funding level—Inflation factor. It is the policy of the state of Washington that, for new enrollments provided under RCW 28B.10.776, the essential requirements level budget calculation for those enrollments shall, each biennium, at a minimum, include a funding level per full-time equivalent student that is equal to the rate assumed in the omnibus appropriations act for the last fiscal year of the previous biennium for the instructional, primary support, and library programs, plus an inflation factor. The inflation factor should be equivalent to the inflation factor used to calculate basic education in the common school system budget request submitted by the governor. [1993 1st sp.s. c 15 § 3.]

Findings—Effective date—1993 1st sp.s. c 15: See notes following RCW 28B.10.776.

28B.10.780 Budget calculation—Funding level. It is the policy of the state of Washington that the essential requirements level budget calculation for state institutions of higher education include a funding level per full-time equivalent student that is, each biennium, at a minimum, equal to the general fund—state and tuition fund rate per student assumed in the omnibus appropriations act for the last fiscal year of the previous biennium for the state-funded programs, minus one-time expenditures and plus an inflation factor. The inflation factor should be equivalent to the inflation factor used to calculate basic education in the common school system budget request submitted by the governor. [1993 1st sp.s. c 15 § 4.]

Findings—Effective date—1993 1st sp.s. c 15: See notes following RCW 28B.10.776.

28B.10.782 Budget calculation—Increased enrollment target level—Availability of information. It is the policy of the state of Washington that higher education enrollments be increased in increments each biennium in order to achieve, by the year 2010, the goals, by educational sector, adopted by the higher education coordinating board in its enrollment plan entitled "Design for the 21st Century: Expanding Higher Education Opportunities in Washington," or subsequent revisions adopted by the board.

Per student costs for additional students to achieve this policy shall be at the same rate per student as enrollments mandated in RCW 28B.10.776.

For each public college and university, and for the community and technical college system, budget documents generated by the governor and the legislature in the development and consideration of the biennial omnibus appropriations act shall display an enrollment target level. The enrollment target level is the biennial state-funded enrollment increase necessary to fulfill the state policy set forth in this section. The budget documents shall compare the enrollment target level with the state-funded enrollment increases contained in the biennial budget proposals of the governor and each house of the legislature. The information required by this section shall be set forth in the budget documents so that enrollment and cost information concerning the number of students and additional funds needed to reach the enrollment goals are prominently displayed and easily understood.

For the governor's budget request, the information required by this section shall be made available in the document entitled "Operating Budget Supporting Data" or its successor document. [1993 1st sp.s. c 15 § 5.]

Findings—Effective date—1993 1st sp.s. c 15: See notes following RCW 28B.10.776.

28B.10.784 Budget calculation—Participation rate and enrollment level estimates—Recommendations to governor and legislature. The participation rate used to calculate enrollment levels under RCW 28B.10.776 and 28B.10.782 shall be based on fall enrollment reported in the higher education enrollment report as maintained by the office of financial management, fall enrollment as reported in the management information system of the state board for community and technical colleges, and the corresponding fall population forecast by the office of financial management. Formal estimates of the state participation rates and enrollment levels necessary to fulfill the requirements of RCW 28B.10.776 and 28B.10.782 shall be determined by the office of financial management as part of its responsibility to develop and maintain student enrollment forecasts for colleges and universities under RCW 43.62.050. Formal estimates of the state participation rates and enrollment levels required by this section shall be based on procedures and standards established by a technical work group consisting of staff from the higher education coordinating board, the public four-year institutions of higher education, the state board for community and technical colleges, the fiscal and higher education committees of the house of representatives and the senate, and the office of financial management. Formal estimates of the state participation rates and enrollment levels required by this section shall be submitted to the fiscal committees of the house of representatives and senate on or before November 15th of each even-numbered year. The higher education coordinating board shall periodically review the enrollment goals set forth in RCW 28B.10.776 and 28B.10.782 and submit recommendations concerning modification of these goals to the governor and to the higher education committees of the house of representatives and the senate. [1993 1st sp.s. c 15 § 6.]

Findings—Effective date—1993 1st sp.s. c 15: See notes following RCW 28B.10.776.

28B.10.786 Budget calculation—Student financial aid programs. It is the policy of the state of Washington

that financial need not be a barrier to participation in higher education. It is also the policy of the state of Washington that the essential requirements level budget calculation include funding for state student financial aid programs. The calculation should, at a minimum, include a funding level equal to the amount provided in the second year of the previous biennium in the omnibus appropriations act, adjusted for the percentage of needy resident students, by educational sector, likely to be included in any enrollment increases necessary to maintain, by educational sector, the participation rate funded in the 1993 fiscal year. The calculation should also be adjusted to reflect, by educational sector, any increases in cost of attendance. The cost of attendance figures should be calculated by the higher education coordinating board and provided to the office of financial management and appropriate legislative committees by June 30th of each even-numbered year. [1993 1st sp.s. c 15 § 7.]

Findings—Effective date—1993 1st sp.s. c 15: See notes following RCW 28B.10.776.

28B.10.800 State student financial aid program—Purpose. The sole purpose of RCW 28B.10.800 through 28B.10.824 is to establish a state of Washington student financial aid program, thus assisting financially needy or disadvantaged students domiciled in Washington to obtain the opportunity of attending an accredited institution of higher education, as defined in RCW 28B.10.802(1). Financial aid under RCW 28B.10.800 through 28B.10.824 is available only to students who are resident students as defined in RCW 28B.15.012(2) (a) through (d). [1993 1st sp.s. c 18 § 2; 1969 ex.s. c 222 § 7. Formerly RCW 28.76.430.]

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

Legislative declaration—1969 ex.s. c 222: "The legislature hereby declares that it regards the higher education of its qualified domiciliaries to be a public purpose of great importance to the welfare and security of this state and nation; and further declares that the establishment of a student financial aid program, assisting financially needy or disadvantaged students in this state to be a desirable and economical method of furthering this purpose. The legislature has concluded that the benefit to the state in assuring the development of the talents of its qualified domiciliaries will bring tangible benefits to the state in the future.

The legislature further declares that there is an urgent need at present for the establishment of a state of Washington student financial aid program, and that the most efficient and economical way to meet this need is through the plan prescribed in this act." [1969 ex.s. c 222 § 6.]

Severability—1969 ex.s. c 222: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 ex.s. c 222 § 24.]

State educational grant account—Established—Deposits—Use: RCW 28B.10.821.

28B.10.900 "Hazing" defined. As used in RCW 28B.10.901 and 28B.10.902, "hazing" includes any method of initiation into a student organization or living group, or any pastime or amusement engaged in with respect to such an organization or living group that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student or other person attending a public or private institution of higher education or other postsecondary educational institution in this state. "Hazing" does not include customary athletic events or other similar contests or competitions. [1993 c 514 § 1.]

28B.10.901 Hazing prohibited—Penalty. (1) No student, or other person in attendance at any public or private institution of higher education, or any other postsecondary educational institution, may conspire to engage in hazing or participate in hazing of another.

(2) A violation of this section is a misdemeanor, punishable as provided under RCW 9A.20.021.

(3) Any organization, association, or student living group that knowingly permits hazing is strictly liable for harm caused to persons or property resulting from hazing. If the organization, association, or student living group is a corporation whether for profit or nonprofit, the individual directors of the corporation may be held individually liable for damages. [1993 c 514 § 2.]

28B.10.902 Participating in or permitting hazing—Loss of state-funded grants or awards—Loss of official recognition or control—Rules. (1) A person who participates in the hazing of another shall forfeit any entitlement to state-funded grants, scholarships, or awards for a period of time determined by the institution of higher education.

(2) Any organization, association, or student living group that knowingly permits hazing to be conducted by its members or by others subject to its direction or control shall be deprived of any official recognition or approval granted by a public institution of higher education.

(3) The public institutions of higher education shall adopt rules to implement this section. [1993 c 514 § 3.]

28B.10.903 Conduct associated with initiation into group or pastime or amusement with group—Sanctions adopted by rule. Institutions of higher education shall adopt rules providing sanctions for conduct associated with initiation into a student organization or living group, or any pastime or amusement engaged in with respect to an organization or living group not amounting to a violation of RCW 28B.10.900. Conduct covered by this section may include embarrassment, ridicule, sleep deprivation, verbal abuse, or personal humiliation. [1993 c 514 § 4.]

Chapter 28B.12
COLLEGE WORK-STUDY PROGRAM

Sections

28B.12.040 Board to develop and administer program—Agreements authorized, limitation. The higher education coordinating board shall develop and administer the college work-study program and shall be authorized to enter into agreements with employers and eligible institutions for the operation of the program. These agreements shall include such provisions as the higher education coordinating board may deem necessary or appropriate to carry out the purposes of this chapter.

With the exception of off-campus community service placements, the share from moneys disbursed under the college work-study program of the compensation of students employed under such program in accordance with such agreements shall not exceed eighty percent of the total such compensation paid such students.

By rule, the board shall define community service placements and may determine any salary matching requirements for any community service employers. [1993 c 385 § 3; 1985 c 370 § 58; 1974 ex.s. c 177 § 4.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability—1974 ex.s. c 177: See note following RCW 28B.12.010.

Purpose—1974 ex.s. c 177: See RCW 28B.12.020.

28B.12.060 Rules—Mandatory provisions. The higher education coordinating board shall adopt rules as may be necessary or appropriate for effecting the provisions of this chapter, and not in conflict with this chapter, in accordance with the provisions of chapter 34.05 RCW, the state higher education administrative procedure act. Such rules shall include provisions designed to make employment under such work-study program reasonably available, to the extent of available funds, to all eligible students in eligible postsecondary institutions in need thereof. Such rules shall include:

(1) Providing work under the college work-study program which will not result in the displacement of employed workers or impair existing contracts for services.

(2) Furnishing work only to a student who:

(a) Is capable, in the opinion of the eligible institution, of maintaining good standing in such course of study while employed under the program covered by the agreement; and

(b) Has been accepted for enrollment as at least a half-time student at the eligible institution or, in the case of a student already enrolled in and attending the eligible institution, is in good standing and in at least half-time attendance there either as an undergraduate, graduate or professional student; and

(c) Is not pursuing a degree in theology.

(3) Placing priority on the securing of work opportunities for students who are residents of the state of Washington as defined in RCW 28B.15.012 and 28B.15.013 except resident students defined in RCW 28B.15.012(2)(e).

(4) Provisions to assure that in the state institutions of higher education utilization of this student work-study program:

(a) Shall only supplement and not supplant classified positions under jurisdiction of chapter 41.06 RCW;

(b) That all positions established which are comparable shall be identified to a job classification under the Washington personnel resources board's classification plan and shall receive equal compensation;

(c) Shall not take place in any manner that would replace classified positions reduced due to lack of funds or work; and

(d) That work study positions shall only be established at entry level positions of the classified service. [1993 1st sp.s. c 18 § 3; 1993 c 281 § 14; 1987 c 330 § 202; 1985 c 370 § 60; 1974 ex.s. c 177 § 6.]

Reviser's note: This section was amended by 1993 c 281 § 14 and by 1993 1st sp.s. c 18 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

Effective date—1993 c 281: See note following RCW 41.06.022.

Construction—Application of rules—Severability—1987 c 330: See notes following RCW 28B.12.050.

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability—1974 ex.s. c 177: See note following RCW 28B.12.010.

Chapter 28B.15
COLLEGE AND UNIVERSITY FEES

Sections

28B.15.012 Classification as resident or nonresident student—Definitions. Whenever used in chapter 28B.15 RCW:

(1) The term "institution" shall mean a public university, college, or community college within the state of Washington.

(2) The term "resident student" shall mean: (a) A financially independent student who has had a domicile in the state of Washington for the period of one year immediately prior to the time of commencement of the first day of the semester or quarter for which the student has registered at any institution and has in fact established a bona fide domicile in this state primarily for purposes other than educational; (b) a dependent student, if one or both of the student's parents or legal guardians have maintained a bona fide domicile in the state of Washington for at least one year immediately prior to commencement of the semester or quarter for which the student has registered at any institution; (c) a student classified as a resident based upon domicile by an institution on or before May 31, 1982, who was enrolled at a state institution during any term of the 1982-1983 academic year, so long as such student's enrollment (excepting summer sessions) at an institution in this state is continuous; (d) any student who has spent at least seventy-five percent of both his or her junior and senior years in high schools in this state, whose parents or legal guardians have been domiciled in the state for a period of at least one year within the five-year period before the student graduates from high school, and who enrolls in a public institution of higher education within six months of leaving high school, for as long as the student remains continuously enrolled for three quarters or two semesters in any calendar year; or (e) a student who is the spouse or a dependent of a person who is on active military duty stationed in the state: PROVIDED, That a nonresident student enrolled for more than six hours per semester or quarter shall be considered as attending for primarily educational purposes, and for tuition and fee paying purposes only such period of enrollment shall not be counted toward the establishment of a bona fide domicile of one year in this state unless such student proves that the student has in fact established a bona fide domicile in this state primarily for purposes other than educational.

(3) The term "nonresident student" shall mean any student who does not qualify as a "resident student" under the provisions of RCW 28B.15.012 and 28B.15.013. A nonresident student shall include:

(a) A student attending an institution with the aid of financial assistance provided by another state or governmental unit or agency thereof, such nonresidency continuing for one year after the completion of such semester or quarter.

(b) A person who is not a citizen of the United States of America who does not have permanent or temporary resident status or does not hold "Refugee-Parolee" or "Conditional Entrant" status with the United States immigration and naturalization service or is not otherwise permanently residing in the United States under color of law and who does not also meet and comply with all the applicable requirements in RCW 28B.15.012 and 28B.15.013.

(4) The term "domicile" shall denote a person's true, fixed and permanent home and place of habitation. It is the place where the student intends to remain, and to which the student expects to return when the student leaves without intending to establish a new domicile elsewhere. The burden of proof that a student, parent or guardian has established a domicile in the state of Washington primarily for purposes other than educational lies with the student.

(5) The term "dependent" shall mean a person who is not financially independent. Factors to be considered in determining whether a person is financially independent shall be set forth in rules and regulations adopted by the higher education coordinating board and shall include, but not be limited to, the state and federal income tax returns of the person and/or the student's parents or legal guardian filed for the calendar year prior to the year in which application is made and such other evidence as the board may require. [1993 1st sp.s. c 18 § 4. Prior: 1987 c 137 § 1; 1987 c 96 § 1; 1985 c 370 § 62; 1983 c 285 § 1; 1982 1st ex.s. c 37 § 1; 1972 ex.s. c 149 § 1; 1971 ex.s. c 273 § 2.]

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Effective date—1982 1st ex.s. c 37: "Sections 13 and 14 of this amendatory act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately. All other sections of this amendatory act shall take effect on June 1, 1982." [1982 1st ex.s. c 37 § 24.]

Severability—1982 1st ex.s. c 37: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 1st ex.s. c 37 § 23.]

Severability—1971 ex.s. c 273: See note following RCW 28B.15.011.

28B.15.014 Exemption from nonresident tuition fees differential. Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges may exempt the following nonresidents from paying all or a portion of the nonresident tuition 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.

(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. [1993 1st sp.s. c 18 § 5; 1992 c 231 § 3. Prior: 1989 c 306 § 3; 1989 c 290 § 3; 1985 c 362 § 1; 1984 c 232 § 1; 1982 1st ex.s. c 37 § 3; 1971 ex.s. c 273 § 4.]

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

Effective date—1992 c 231: See note following RCW 28B.10.016.

Intent—1989 c 290: See note following RCW 28B.15.725.

Severability—1984 c 232: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1984 c 232 § 2.]

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability—1971 ex.s. c 273: See note following RCW 28B.15.011.

28B.15.031 "Operating fees"—Defined—Disposition. The term "operating fees" as used in this chapter shall include the fees, other than building fees, charged all students registering at the state's colleges and universities but shall not include fees for short courses, self-supporting degree credit programs and courses, marine station work, experimental station work, correspondence or extension courses, and individual instruction and student deposits or rentals, disciplinary and library fines, which colleges and universities shall have the right to impose, laboratory, gymnasium, health, and student activity fees, or fees, charges, rentals, and other income derived from any or all revenue producing lands, buildings and facilities of the colleges or universities heretofore or hereafter acquired, constructed or installed, including but not limited to income from rooms, dormitories, dining rooms, hospitals, infirmaries, housing or student activity buildings, vehicular parking facilities, land, or the appurtenances thereon, or such other special fees as may be established by any college or university board of trustees or regents from time to time. All moneys received as operating fees at any institution of higher education shall be deposited in a local account containing only operating fees revenue and related interest: PROVIDED, That two and one-half percent of operating fees shall be retained by the institutions, except the technical colleges, for the purposes of RCW 28B.15.820. Local operating fee accounts shall not be subject to appropriation by the legislature or allotment procedures under chapter 43.88 RCW. [1993 1st sp.s. c 18 § 6; 1993 c 379 § 201; 1987 c 15 § 2. Prior: 1985 c 390 § 13; 1985 c 356 § 2; 1982 1st ex.s. c 37 § 12; 1981 c 257 § 1; 1979 c 151 § 14; 1977 ex.s. c 331 § 3; 1971 ex.s. c 279 § 2.]

Reviser's note: This section was amended by 1993 c 379 § 201 and by 1993 1st sp.s. c 18 § 6, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Appropriation—1993 1st sp.s. c 18: "All moneys in the accounts established under *RCW 28B.15.824 on July 1, 1993, are hereby appropriated to the respective institutions of higher education for deposit in the institution's local account established under RCW 28B.15.031." [1993 1st sp.s. c 18 § 15.]

***Reviser's note:** RCW 28B.15.824 was repealed by 1993 c 379 § 206 and by 1993 1st sp.s. c 18 § 14, effective July 1, 1993.

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

Effective date—1987 c 15: See note following RCW 28B.15.411.

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability—1981 c 257: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 257 § 13.]

Effective date—1977 ex.s. c 331: "The effective date of this 1977 amendatory act shall be September 1, 1977." [1977 ex.s. c 331 § 5.]

Severability—1977 ex.s. c 331: "If any provision of this 1977 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 331 § 4.]

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

28B.15.066 General fund appropriations to institutions of higher education. It is the intent of the legislature that:

In making appropriations from the state's general fund to institutions of higher education, each appropriation shall conform to the following:

(1) The appropriation shall be reduced by the amount of operating fees revenue estimated to be collected from students enrolled at the state-funded enrollment level specified in the omnibus biennial operating appropriations act and the estimated interest on operating fees revenue, minus obligations under RCW 28B.15.820 and 43.99I.040 and minus the amount of waived operating fees authorized under RCW 28B.15.910;

(2) The appropriation shall not be reduced by the amount of operating fees revenue collected from students enrolled above the state-funded level, but within the over-enrollment limitations, specified in the omnibus biennial operating appropriations act; and

(3) The general fund state appropriation shall not be reduced by the amount of operating fees revenue collected as a result of waiving less operating fees revenue than the amounts authorized under RCW 28B.15.910. [1993 c 379 § 205.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

28B.15.100 Tuition and fees set by individual institutions—Limitations—Tuition and fees for certain part time, additional time, and out-of-state students. (1) The governing boards of the state universities, the regional universities, 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 fees shall be rounded to the nearest whole dollar amount: PROVIDED, That such tuition fees for other than the summer term shall be in the

amounts for the respective institutions as otherwise set forth in this chapter.

(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 RCW 28B.15.910, 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 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 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 for part-time students: PROVIDED, That, subject to the limitations of RCW 28B.15.910, the governing boards of the 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, or law, or who are registered exclusively in required courses in vocational preparatory programs. [1993 1st sp.s. c 18 § 7; 1992 c 231 § 6. Prior: 1985 c 390 § 18; 1985 c 370 § 67; 1982 1st ex.s. c 37 § 11; 1981 c 257 § 5; 1977 ex.s. c 322 § 2; 1977 ex.s. c 169 § 36; 1971 ex.s. c 279 § 5; 1969 ex.s. c 223 § 28B.15.100; prior: (i) 1967 ex.s. c 8 § 31, part. Formerly RCW 28.85.310, part. (ii) 1963 c 181 § 1, part; 1961 ex.s. c 10 § 1, part; 1959 c 186 § 1, part; 1947 c 243 § 1, part; 1945 c 187 § 1, part; 1933 c 169 § 1, part; 1931 c 48 § 1, part; 1921 c 139 § 1, part; 1919 c 63 § 1, part; 1915 c 66 § 2, part; RRS § 4546, part. Formerly RCW 28.77.030, part. (iii) 1963 c 180 § 1, part; 1961 ex.s. c 11 § 1, part; 1949 c 73 § 1, part; 1931 c 49 § 1, part; 1921 c 164 § 1, part; Rem. Supp. 1949 § 4569, part. Formerly RCW 28.80.030, part. (iv) 1967 c 47 § 10, part; 1965 ex.s. c 147 § 1, part; 1963 c 143 § 1, part; 1961 ex.s. c 13 § 3, part. Formerly RCW 28.81.080, part.]

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

Effective date—1992 c 231: See note following RCW 28B.10.016.

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability—1981 c 257: See note following RCW 28B.15.031.

Severability—1977 ex.s. c 322: See note following RCW 28B.15.065.

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

28B.15.202 Tuition and fees—University of Washington and Washington State University—Building fees—Services and activities fee. Tuition fees and maximum services and activities fees at the University of Washington and at Washington State University for other than the summer 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 for the 1993-94 academic year shall be thirty-six and three-tenths percent and thereafter total tuition fees shall be forty-one and one-tenth 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. Beginning with the 1995-96 academic year the building fee for each academic year shall be a percentage of total tuition fees. This percentage shall be calculated by the higher education coordinating board and be based on the actual percentage the building fee is of total tuition in the 1994-95 academic year, rounded up to the nearest half percent.

(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 for the 1993-94 academic year shall be twenty-five and two-tenths percent and thereafter total tuition fees shall be twenty-eight and four-tenths 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. Beginning with the 1995-96 academic year the building fee for each academic year shall be a percentage of total tuition fees. This percentage shall be calculated by the higher education coordinating board and be based on the actual percentage the building fee is of total tuition in the 1994-95 academic year, rounded up to the nearest half percent.

(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) of this section: PROVIDED, That the building fees for each academic year shall be three hundred and forty-two dollars. Beginning with the 1995-96 academic year the building fee for each academic year shall be a percentage of total tuition fees. This percentage shall be calculated by the higher education coordinating board and be based on the actual percentage the building fee is of total tuition in the 1994-95 academic year, rounded up to the nearest half percent.

(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 for the 1993-94 academic year shall be one hundred nine and three-tenths percent and thereafter total tuition fees shall be one hundred twenty-two and nine-tenths 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.

Beginning with the 1995-96 academic year the building fee for each academic year shall be a percentage of total tuition fees. This percentage shall be calculated by the higher education coordinating board and be based on the actual percentage the building fee is of total tuition in the 1994-95 academic year, rounded up to the nearest half percent.

(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 for the 1993-94 academic year shall be sixty-five and six-tenths percent and thereafter total tuition fees shall be seventy-three and six-tenths 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. Beginning with the 1995-96 academic year the building fee for each academic year shall be a percentage of total tuition fees. This percentage shall be calculated by the higher education coordinating board and be based on the actual percentage the building fee is of total tuition in the 1994-95 academic year, rounded up to the nearest half percent.

(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) of this section: PROVIDED, That the building fees for each academic year shall be five hundred and fifty-five dollars. Beginning with the 1995-96 academic year the building fee for each academic year shall be a percentage of total tuition fees. This percentage shall be calculated by the higher education coordinating board and be based on the actual percentage the building fee is of total tuition in the 1994-95 academic year, rounded up to the nearest half percent.

(7) The governing boards of the state universities shall charge to and collect from each student, a services and activities fee. The governing board 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: 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. For the 1993-94 academic year, services and activities fees shall not exceed two hundred forty-three dollars per student. For the 1994-95 academic year, services and activities fees shall not exceed two hundred forty-nine dollars per student. 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. [1993 1st sp.s. c 18 § 8; 1993 c 379 § 202; 1992 c 231 § 7; 1985 c 390 § 19; 1982 1st ex.s. c 37 § 18; 1981 c 257 § 6.]

Reviser's note: This section was amended by 1993 c 379 § 202 and by 1993 1st sp.s. c 18 § 8, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

Effective date—1992 c 231: See note following RCW 28B.10.016.

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability—1981 c 257: See note following RCW 28B.15.031.

28B.15.225 Exemption from fees of schools of medicine or dentistry at University of Washington—Exemption from nonresident tuition fees differential for participants in the Washington, Alaska, Montana, or Idaho program at Washington State University. Subject to the limitations of RCW 28B.15.910, the governing board of the University of Washington may exempt the following students from the payment of all or a portion of the nonresident tuition fees differential: Students admitted to the university's school of medicine pursuant to contracts with the states of Alaska, Montana, or Idaho, or agencies thereof, providing for a program of regionalized medical education conducted by the school of medicine; or students admitted to the university's school of dentistry pursuant to 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 the school of dentistry. The proportional cost of the program, in excess of resident student tuition and fees, will be reimbursed to the university by or on behalf of participating states or agencies. Subject to the limitations of RCW 28B.15.910, the governing board of Washington State University may exempt from payment all or a portion of the nonresident tuition fees 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. [1993 1st sp.s. c 18 § 9; 1992 c 231 § 8; 1981 c 20 § 1; 1975 1st ex.s. c 105 § 1.]

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

Effective date—1992 c 231: See note following RCW 28B.10.016.

28B.15.380 Exemption from payment of fees at state universities, regional universities, and The Evergreen State College—Veterans and children of certain law enforcement officers or fire fighters. Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, and The Evergreen State College may exempt the following students from the payment of all or a portion of tuition fees and services and activities 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, the board may exempt the student from paying up to fifty percent of the nonresident tuition fees differential. Such exemptions 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-supported college or university within ten years of their graduation from high school. [1993 1st sp.s. c 18 § 10; 1992 c 231 § 9; 1990 c 154 § 1; 1985 c 390 § 23; 1979 c 82 § 1; 1977 ex.s. c 322 § 10; 1977 ex.s. c 169 § 37; 1973 1st ex.s. c 191 § 1; 1971 ex.s. c 279 § 8; 1969 ex.s. c 269 § 8; 1969 ex.s. c 223 § 28B.15.380. Prior: (i) 1947 c 46 § 1; 1921 c 139 § 5; Rem. Supp. 1947 § 4550. Formerly RCW 28.77.070. (ii) 1921 c 164 § 4, part; RRS § 4572, part. Formerly RCW 28.80.060, part.]

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

Effective date—1992 c 231: See note following RCW 28B.10.016.

Severability—1979 c 82: "If any provision of this amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1979 c 82 § 3.]

Severability—1977 ex.s. c 322: See note following RCW 28B.15.065.

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Effective date—1973 1st ex.s. c 191: "This 1973 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1973." [1973 1st ex.s. c 191 § 4.]

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

"Totally disabled" defined for certain purposes: RCW 28B.15.385.

28B.15.402 Tuition and fees—Regional universities and The Evergreen State College—Building fees—Services and activities fees. Tuition fees and maximum services and activities fees at the regional universities and The Evergreen State College for other than the summer 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 for the 1993-94 academic year shall be twenty-seven and seven-tenths percent and thereafter total tuition fees shall be thirty-one and five-tenths 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. Beginning with the 1995-96 academic year the building fee for each academic year shall be a percentage of total tuition fees. This percentage shall be calculated by the higher education coordinating board and be based on the actual percentage the building fee is of total tuition in the 1994-95 academic year, rounded up to the nearest half percent.

(2) For full time resident graduate students, the total tuition fees for the 1993-94 academic year shall be twenty-five and three-tenths percent and thereafter total tuition fees shall be twenty-eight and six-tenths 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. Beginning with the 1995-96 academic year the building fee for each academic year shall be a percentage of total tuition fees. This percentage shall be calculated by the higher education coordinating board and be based on the actual percentage the building fee is of total tuition in the 1994-95 academic year, rounded up to the nearest half percent.

(3) For full time nonresident undergraduate students and all other full time nonresident students not in graduate study programs, the total tuition fees for the 1993-94 academic year shall be one hundred nine and four-tenths percent and thereafter total tuition fees shall be one hundred twenty-three 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. Beginning with the 1995-96 academic year the building fee for each academic year shall be a percentage of total tuition fees. This percentage shall be calculated by the higher education coordinating board and be based on the actual percentage the building fee is of total tuition in the 1994-95 academic year, rounded up to the nearest half percent.

(4) For full time nonresident graduate students, the total tuition fees for the 1993-94 academic year shall be eighty-two percent and thereafter total tuition fees shall be ninety-two 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. Beginning with the 1995-96 academic year the building fee for each academic year shall be a percentage of total tuition fees. This percentage shall be calculated by the higher education coordinating board and be based on the actual percentage the building fee is of total tuition in the 1994-95 academic year, rounded up to the nearest half percent.

(5) The governing boards of each of the regional universities and The Evergreen State College shall charge to and collect from each student, a services and activities fee. The governing board 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: 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. For the 1993-94 academic year, services and activities fees shall not exceed two hundred eight-four [eighty-four] dollars per student. For the 1994-95 academic year, services and activities fees shall not exceed two hundred ninety dollars per student. 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. [1993 1st sp.s. c 18 § 11; 1993 c 379 § 203; 1992 c 231 § 10; 1989 c 245 § 1; 1985 c 390 § 24; 1982 1st ex.s. c 37 § 19; 1981 c 257 § 7.]

Reviser's note: This section was amended by 1993 c 379 § 203 and by 1993 1st sp.s. c 18 § 11, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

Effective date—1992 c 231: See note following RCW 28B.10.016.

Analyses—1989 c 245: See note following RCW 28B.15.070.

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability—1981 c 257: See note following RCW 28B.15.031.

28B.15.502 Tuition and fees—Community colleges—Building fees—Services and activities fees—Fees for summer school and certain courses. Tuition fees and maximum services and activities fees at each community college for other than the summer 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 for the 1993-94 academic year shall be twenty-five and four-tenths percent and thereafter total tuition fees shall be twenty-eight and eight-tenths 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. Beginning with the 1995-96 academic year the building fee for each academic year shall be a percentage of total tuition fees. This percentage shall be calculated by the higher education coordinating board and be based on the actual percentage the building fee is of total tuition in the 1994-95 academic year, rounded up to the nearest half percent.

(2) For full time nonresident students, the total tuition fees for the 1993-94 academic year shall be one hundred nine and three-tenths percent and thereafter total tuition fees shall be one hundred twenty-two and seven-tenths 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. Beginning with the 1995-96 academic year the building fee for each academic year shall be a percentage of total tuition fees. This percentage shall be calculated by the higher education coordinating board and be based on the actual percentage the building fee is of total tuition in the 1994-95 academic year, rounded up to the nearest half percent.

(3) The governing boards of each of the state community colleges shall charge to and collect from each student a services and activities fee. Each governing board 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: 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. For the 1993-94 academic year, services and activities fees shall not exceed one hundred twenty-eight dollars per student. For the 1994-95 academic year, services and activities fees shall not exceed one hundred thirty-one dollars per student. 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 subsection (3) of this section shall be 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.

Subject to the limitations of RCW 28B.15.910, each governing board may charge such fees for ungraded courses, noncredit courses, community services courses, and self-supporting courses as it, in its discretion, may determine, consistent with the rules and regulations of the state board for community and technical colleges. [1993 1st sp.s. c 18 § 12; 1993 c 379 § 204; 1992 c 231 § 11; 1991 c 353 § 2; 1985 c 390 § 25; 1982 1st ex.s. c 37 § 10; 1981 c 257 § 8.]

Reviser's note: This section was amended by 1993 c 379 § 204 and by 1993 1st sp.s. c 18 § 12, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

Effective date—1992 c 231: See note following RCW 28B.10.016.

Effective date—1991 c 353: See note following RCW 28B.15.515.

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability—1981 c 257: See note following RCW 28B.15.031.

28B.15.515 Community colleges—State-funded enrollment levels—Summer school—Enrollment level variances. (1) The boards of trustees of the community college districts may operate summer schools on either a self-supporting or a state-funded basis.

If summer school is operated on a self-supporting basis, the fees charged shall be retained by the colleges, and shall be sufficient to cover the direct costs, which are instructional salaries and related benefits, supplies, publications, and records.

Community colleges that have self-supporting summer schools shall continue to receive general fund state support for vocational programs that require that students enroll in a four quarter sequence of courses that includes summer quarter due to clinical or laboratory requirements and for ungraded courses limited to adult basic education, vocational apprenticeship, aging and retirement, small business management, industrial first aid, and parent education.

(2) The board of trustees of a community college district may permit the district's state-funded, full-time equivalent enrollment level, as provided in the omnibus state appropriations act, to vary. If the variance is above the state-funded level, the district may charge those students above the state-funded level a fee equivalent to the amount of tuition and fees that are charged students enrolled in state-funded courses. These fees shall be retained by the colleges.

(3) The state board for community and technical colleges shall ensure compliance with this section. [1993 1st sp.s. c 18 § 13; 1993 1st sp.s. c 15 § 8; 1991 c 353 § 1.]

Reviser's note: This section was amended by 1993 1st sp.s. c 15 § 8 and by 1993 1st sp.s. c 18 § 13, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

Findings—Effective date—1993 1st sp.s. c 15: See notes following RCW 28B.10.776.

Effective date—1991 c 353: "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 15, 1991." [1991 c 353 § 3.]

28B.15.520 Waiver of fees and nonresident tuition fees differential—Community colleges. Subject to the limitations of RCW 28B.15.910, the governing boards of the community colleges may:

(1) 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

(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 waiver only if they begin their course of study at a community college within ten years of their graduation from high school;

(2) Waive all or a portion of the nonresident tuition fees differential for:

(a) Nonresident students enrolled in a community college 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

(b) Up to forty percent of the students enrolled in the regional education program for deaf students, subject to federal funding of such program. [1993 1st sp.s. c 18 § 16; 1992 c 231 § 12; 1990 c 154 § 2; 1987 c 390 § 1. Prior: 1985 c 390 § 26; 1985 c 198 § 1; 1982 1st ex.s. c 37 § 8; 1979 ex.s. c 148 § 1; 1973 1st ex.s. c 191 § 2; 1971 ex.s. c 279 § 12; 1970 ex.s. c 59 § 8; 1969 ex.s. c 261 § 29. Formerly RCW 28.85.310, part.]

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

Effective date—1992 c 231: See note following RCW 28B.10.016.

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Effective date—1973 1st ex.s. c 191: See note following RCW 28B.15.380.

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

Severability—1970 ex.s. c 59: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1970 ex.s. c 59 § 11.] For codification of 1970 ex.s. c 59, see Codification Tables, Volume 0.

Severability—1969 ex.s. c 261: See note following RCW 28B.50.020.

Certificate of educational competence: RCW 28A.305.190.

"Totally disabled" defined for certain purposes: RCW 28B.15.385.

28B.15.522 Waiver of tuition and fees for long-term unemployed or underemployed persons—Community colleges. (1) The governing boards of the community colleges 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 shall adopt rules to carry out this section. [1993 1st sp.s. c 18 § 17; 1992 c 231 § 13; 1985 c 390 § 27; 1984 c 50 § 2.]

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

Effective date—1992 c 231: See note following RCW 28B.10.016.

Intent—1984 c 50: "The legislature finds that providing educational opportunities to the long-term unemployed and underemployed is a valuable incentive to these individuals to reestablish themselves as contributing members of society. To this end, the legislature finds that creating the opportunity for these people to attend the state's community colleges on a space available basis, without charge, will provide the impetus for self-improvement without drawing upon the limited resources of the state or its institutions." [1984 c 50 § 1.]

Severability—1984 c 50: "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." [1984 c 50 § 4.]

28B.15.527 Waiver of nonresident tuition fees differential for students of foreign nations—Community colleges. Subject to the limitations of RCW 28B.15.910, the governing boards of the community colleges may waive all or a portion of the nonresident 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 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. [1993 1st sp.s. c 18 § 18; 1992 c 231 § 14; 1989 c 245 § 5; 1987 c 12 § 3.]

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

Effective date—1992 c 231: See note following RCW 28B.10.016.

Analyses—1989 c 245: See note following RCW 28B.15.070.

28B.15.543 Waiver of tuition and fees for recipients of the Washington scholars award—Qualifications. Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional 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, 1994. 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, 1994. 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-supported institutions of higher education during that period and continue to have the tuition and services and activities fees waived by the 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. [1993 1st sp.s. c 18 § 19; 1992 c 231 § 17; 1990 c 33 § 558; 1987 c 465 § 2. Prior: 1985 c 390 § 30; 1985 c 370 § 68; 1985 c 341 § 16; 1984 c 278 § 17.]

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

Effective date—1992 c 231: See note following RCW 28B.10.016.

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Application—1987 c 465 § 2: "The amendments to RCW 28B.15.543 by section 2, chapter 465, Laws of 1987 shall apply to persons holding the Washington scholars award as of July 26, 1987, as well as persons holding the award after July 26, 1987." [1987 c 465 § 3.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability—1984 c 278: See note following RCW 28A.185.010.

28B.15.545 Waiver of tuition and fees for recipients of the Washington award for vocational excellence. Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges shall waive tuition and services and activities fees 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, 1994. 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, 1994. 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, 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. [1993 1st sp.s. c 18 § 20; 1992 c 231 § 18; 1987 c 231 § 1; 1985 c 390 § 31; 1984 c 267 § 6.]

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

Effective date—1992 c 231: See note following RCW 28B.10.016.

28B.15.556 Waiver of tuition and fees for students of foreign nations—Authorized—Limitations. Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, and The Evergreen State College may waive all or a portion of the tuition, 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. [1993 1st sp.s. c 18 § 21; 1992 c 231 § 19; 1986 c 232 § 2.]

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

Effective date—1992 c 231: See note following RCW 28B.10.016.

28B.15.600 Refunds or cancellation of fees. The governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges may refund or cancel in full the tuition and services and activities fees if the student withdraws from a university or college course or program prior to the sixth day of instruction of the quarter or semester for which the fees have been paid or are due. If the student withdraws on or after the sixth day of instruction, the governing boards may

refund or cancel up to one-half of the fees, provided such withdrawal occurs within the first thirty calendar days following the beginning of instruction. However, if a different policy is required by federal law in order for the institution of higher education to maintain eligibility for federal funding of programs, the governing board may adopt a refund policy that meets the minimum requirements of the federal law, and the policy may treat all students attending the institution in the same manner.

The governing boards of the respective universities and colleges may adopt rules for the refund of tuition and fees for courses or programs that begin after the start of the regular quarter or semester. The governing boards may adopt rules to comply with RCW 28B.15.623 and may extend the refund or cancellation period for students who withdraw for medical reasons or who are called into the military service of the United States and may refund other fees pursuant to such rules as they may prescribe. [1993 1st sp.s. c 18 § 22; 1991 c 164 § 5; 1985 c 390 § 32; 1983 c 256 § 1; 1977 ex.s. c 169 § 40; 1973 1st ex.s. c 46 § 2; 1971 ex.s. c 279 § 15; 1969 ex.s. c 223 § 28B.15.600. Prior: 1963 c 89 § 1. Formerly RCW 28.76.430.]

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Severability—1973 1st ex.s. c 46: See note following RCW 28B.10.704.

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

28B.15.615 Exemption from resident operating fees for persons holding graduate service appointments. Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities and the regional universities may exempt the following students from paying all or a portion of the resident operating fee: Students granted a graduate service appointment, designated as such by the institution, involving not less than twenty hours of work per week. The exemption shall be for the term of the appointment. 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. [1993 1st sp.s. c 18 § 23; 1992 c 231 § 21; 1984 c 105 § 1.]

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

Effective date—1992 c 231: See note following RCW 28B.10.016.

28B.15.620 Exemption from tuition and fees increase at institutions of higher learning—Vietnam veterans—Expiration of section. Subject to the limitations of RCW 28B.15.910, 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 from the payment of any increase in tuition and fees otherwise applicable to any other resident or nonresident student. 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 enrolled in state institutions of higher education on or before May 7, 1990. This section shall expire June 30, 1995. [1993 1st sp.s. c 18 § 24; 1992 c 231 § 22; 1989 c 306 § 4; 1983 c 307 § 1; 1979 ex.s. c 83 § 1; 1977 ex.s. c 322 § 9; 1972 ex.s. c 149 § 3; 1971 ex.s. c 279 § 22.]

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

Effective date—1992 c 231: See note following RCW 28B.10.016.

Severability—1977 ex.s. c 322: See note following RCW 28B.15.065.

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

28B.15.628 Exemption from tuition and fees increases at public institutions of higher education—Persian Gulf veterans—Expiration of section. Subject to the limitations of RCW 28B.15.910, 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 from increases in tuition and fees that occur during and after their period of service. 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. [1993 1st sp.s. c 18 § 25; 1992 c 231 § 23; 1991 c 228 § 14.]

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

Effective date—1992 c 231: See note following RCW 28B.10.016.

Intent—1991 c 228: "It is the intent of the legislature to enable Washington residents who have actively served in the Persian Gulf combat zone to attend any Washington institution of higher education at 1990 tuition rates." [1991 c 228 § 13.]

Expiration date—1991 c 228 §§ 13, 14: "Sections 13 and 14 of this act shall expire on June 30, 1994." [1991 c 228 § 15.]

28B.15.725 Exchange agreements for undergraduate upper division students—Resident tuition rates—Limitations. Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, 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 exempt participating

undergraduate upper division students 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 students receiving a waiver at a state institution shall not exceed the number of that institution's students receiving nonresident tuition waivers at participating out-of-state institutions. Waiver imbalances that may occur in one year shall be offset in the year immediately following.

(2) Undergraduate upper division student participation in an exchange program authorized by this section is limited to one academic year. [1993 1st sp.s. c 18 § 26; 1992 c 231 § 24; 1989 c 290 § 2.]

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

Effective date—1992 c 231: See note following RCW 28B.10.016.

Intent—1989 c 290: "The legislature recognizes that a unique educational experience can result from an undergraduate upper division student attending an out-of-state institution. It also recognizes that some Washington residents may be unable to pursue such out-of-state enrollment owing to their limited financial resources and the higher cost of nonresident tuition. The legislature intends to facilitate expanded nonresident undergraduate upper division enrollment opportunities for residents of the state by authorizing the governing boards of the four-year institutions of higher education to enter into exchange programs with other states' comparable public four-year institutions with comparable programs wherein the participating institutions agree that visiting undergraduate upper division students will pay resident tuition rates of the host institutions." [1989 c 290 § 1.]

28B.15.730 Waiver of nonresident tuition fees differential—Washington/Oregon reciprocity program. Subject to the limitations of RCW 28B.15.910, the state board for community and technical colleges and the governing boards of the state universities, the regional universities, the community colleges, and The Evergreen State College may waive all or a portion of the nonresident tuition fees 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. [1993 1st sp.s. c 18 § 27; 1992 c 231 § 25; 1985 c 370 § 69; 1983 c 104 § 1; 1979 c 80 § 1.]

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

Effective date—1992 c 231: See note following RCW 28B.10.016.

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability—1979 c 80: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 c 80 § 5.]

28B.15.740 Limitation on total tuition and fee waivers. Subject to the limitations of RCW 28B.15.910, 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 tuition and fees subject to the following restrictions:

(1) Except as provided in subsection (2) of this section, the total dollar amount of tuition and fee waivers awarded by the governing boards shall not exceed four percent, 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 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 and 28B.15.013: 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, 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) In addition to the tuition and fee waivers provided in subsection (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 (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. [1993 1st sp.s. c 18 § 28; 1992 c 231 § 26; 1989 c 340 § 2; 1986 c 232 § 3; 1985 c 390 § 33; 1982 1st ex.s. c 37 § 9; 1980 c 62 § 1; 1979 ex.s. c 262 § 1.]

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

Effective date—1992 c 231: See note following RCW 28B.10.016.

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability—1979 ex.s. c 262: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 262 § 5.]

28B.15.750 Waiver of nonresident tuition fees differential—Washington/Idaho reciprocity program. Subject to the limitations of RCW 28B.15.910, 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

nonresident tuition fees 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. [1993 1st sp.s. c 18 § 29; 1992 c 231 § 27; 1985 c 370 § 73; 1983 c 166 § 1.]

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

Effective date—1992 c 231: See note following RCW 28B.10.016.

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

28B.15.756 Waiver of nonresident tuition fees differential—Washington/British Columbia reciprocity program. Subject to the limitations of RCW 28B.15.910, 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 nonresident tuition fees 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. [1993 1st sp.s. c 18 § 30; 1992 c 231 § 28; 1987 c 446 § 2; 1985 c 370 § 76; 1983 c 166 § 4.]

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

Effective date—1992 c 231: See note following RCW 28B.10.016.

Effective date—1987 c 446: See note following RCW 28B.15.754.

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

28B.15.820 Institutional financial aid fund—"Eligible student" defined. (1) Each institution of higher education, except technical colleges, shall deposit two and one-half percent of revenues collected from tuition and services and activities fees in an institutional financial aid fund that is hereby created and which shall be held locally. Moneys in the fund shall be used only for the following purposes: (a) To make guaranteed long-term loans to eligible students as provided in subsections (3) through (8) of this section; (b) to make short-term loans as provided in subsection (9) of this section; or (c) to provide financial aid to needy students as provided in subsection (10) of this section.

(2) An "eligible student" for the purposes of subsections (3) through (8) and (10) of this section is a student registered for at least six credit hours or the equivalent, who is eligible for resident tuition and fee rates as defined in RCW 28B.15.012 through 28B.15.013, and who is a "needy student" as defined in RCW 28B.10.802.

(3) The amount of the guaranteed long-term loans made under this section shall not exceed the demonstrated financial need of the student. Each institution shall establish loan terms and conditions which shall be consistent with the terms of the guaranteed loan program established by 20 U.S. Code Section 1071 et seq., as now or hereafter amended. All loans made shall be guaranteed by the Washington student loan guaranty association or its successor agency. Institutions are hereby granted full authority to operate as an eligible lender under the guaranteed loan program.

(4) Before approving a guaranteed long-term loan, each institution shall analyze the ability of the student to repay the loan based on factors which include, but are not limited to, the student's accumulated total education loan burdens and the employment opportunities and average starting salary characteristics of the student's chosen fields of study. The institution shall counsel the student on the advisability of acquiring additional debt, and on the availability of other forms of financial aid.

(5) Each institution is responsible for collection of guaranteed long-term loans made under this section and shall exercise due diligence in such collection, maintaining all necessary records to insure that maximum repayments are made. Institutions shall cooperate with other lenders and the Washington student loan guaranty association, or its successor agency, in the coordinated collection of guaranteed loans, and shall assure that the guarantability of the loans is not violated. Collection and servicing of guaranteed long-term loans under this section shall be performed by entities approved for such servicing by the Washington student loan guaranty association or its successor agency: PROVIDED, That institutions be permitted to perform such servicing if specifically recognized to do so by the Washington student loan guaranty association or its successor agency. Collection and servicing of guaranteed long-term loans made by community colleges under subsection (1) of this section shall be coordinated by the state board for community and technical colleges and shall be conducted under procedures adopted by the state board.

(6) Receipts from payment of interest or principal or any other subsidies to which institutions as lenders are entitled, that are paid by or on behalf of borrowers of funds under subsections (3) through (8) of this section, shall be deposited in each institution's financial aid fund and shall be used to cover the costs of making the guaranteed long-term loans under this section and maintaining necessary records and making collections under subsection (5) of this section: PROVIDED, That such costs shall not exceed five percent of aggregate outstanding loan principal. Institutions shall maintain accurate records of such costs, and all receipts beyond those necessary to pay such costs, shall be deposited in the institution's financial aid fund.

(7) The governing boards of the state universities, the regional universities, and The Evergreen State College, and the state board for community and technical colleges, on behalf of the community colleges, shall each adopt necessary rules and regulations to implement this section.

(8) First priority for any guaranteed long-term loans made under this section shall be directed toward students who would not normally have access to educational loans from private financial institutions in Washington state, and maximum use shall be made of secondary markets in the support of loan consolidation.

(9) Short-term loans, not to exceed one year, may be made from the institutional financial aid fund to students enrolled in the institution. No such loan shall be made to any student who is known by the institution to be in default or delinquent in the payment of any outstanding student loan. A short-term loan may be made only if the institution has

ample evidence that the student has the capability of repaying the loan within the time frame specified by the institution for repayment.

(10) Any moneys deposited in the institutional financial aid fund that are not used in making long-term or short-term loans may be used by the institution for locally-administered financial aid programs for needy students, such as need-based institutional employment programs or need-based tuition and fee scholarship or grant programs. These funds shall be used in addition to and not to replace institutional funds that would otherwise support these locally-administered financial aid programs. First priority in the use of these funds shall be given to needy students who have accumulated excessive educational loan burdens. An excessive educational loan burden is a burden that will be difficult to repay given employment opportunities and average starting salaries in the student's chosen fields of study. Second priority in the use of these funds shall be given to needy single parents, to assist these students with their educational expenses, including expenses associated with child care and transportation. [1993 c 385 § 1; 1993 c 173 § 1; 1985 c 390 § 35; 1983 1st ex.s. c 64 § 1; 1982 1st ex.s. c 37 § 13; 1981 c 257 § 9.]

Reviser's note: This section was amended by 1993 c 173 § 1 and by 1993 c 385 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability—1981 c 257: See note following RCW 28B.15.031.

28B.15.824 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.15.910 Limitation on total operating fees revenue waived, exempted, or reduced. (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 fees 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 gross authorized operating fees revenue set forth below. As used in this section, "gross authorized operating fees revenue" means the estimated gross operating fees revenue as estimated under RCW 82.33.020 or as revised by the office of financial management, before granting any waivers. This limitation applies to all tuition waiver programs established before or after July 1, 1992.

(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. [1993 1st sp.s. c 18 § 31; 1992 c 231 § 33.]

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

Effective date—1992 c 231: See note following RCW 28B.10.016.

Chapter 28B.16
STATE HIGHER EDUCATION PERSONNEL LAW

Sections

28B.16.010 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.16.015 Option to have relationship and obligations governed by chapter 41.56 RCW. At any time after July 1, 1993, an institution of higher education and the exclusive bargaining representative of a bargaining unit of employees classified under this chapter or chapter 41.06 RCW as appropriate may exercise their option to have their relationship and corresponding obligations governed entirely by the provisions of chapter 41.56 RCW, by filing notice of the parties' intent to be so governed, subject to the mutual adoption of a collective bargaining agreement recognizing the notice of intent. The parties shall provide the notice to the board or its successor and the public employment relations commission. On the first day of the month following the month during which the institution of higher

education and the exclusive bargaining representative provide notice to the board or its successor and the public employment relations commission that they have executed an initial collective bargaining agreement recognizing the notice of intent, this chapter shall cease to apply to all employees in the bargaining unit covered by the agreement, and all labor relations functions of the board or its successor with respect to these employees shall be transferred to the public employment relations commission. [1993 c 379 § 310.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

28B.16.020 through 28B.16.230 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.16.240 Recodified as RCW 41.06.382. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.16.255 through 28B.16.300 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.16.900 through 28B.16.930 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 28B.35
REGIONAL UNIVERSITIES

Sections

28B.35.361 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.35.751 Disposition of certain normal school fund revenues. All moneys received from the lease or rental of lands set apart by the enabling act for state normal schools purposes; all interest or income arising from the proceeds of the sale of such lands or of the timber, fallen timber, stone, gravel, or other valuable material thereon, less the allocation to the state treasurer's service fund pursuant to RCW 43.08.190 and the state investment board expense account pursuant to RCW 43.33A.160; and all moneys received as interest on deferred payments on contracts for the sale of such lands, shall from time to time be paid into the state treasury and credited to the Eastern Washington University, Central Washington University, Western Washington University and The Evergreen State College capital projects accounts as herein provided to be expended for capital projects, and bond retirement purposes as set forth in RCW 28B.35.750, as now or hereafter amended. Eastern Washington University, Central Washington University, Western Washington University, and The Evergreen State College shall be credited with one-fourth of the total amount beginning July 1, 2003. Beginning July 1, 1995, The Evergreen State College shall receive five percent of the total amount not obligated to repayment of bonds; Eastern Washington University, Central Washington University, and Western Washington University shall receive equal amounts of the remaining amount. Beginning July 1, 1997, The Evergreen State College shall receive ten percent of the total amount not obligated to repayment of bonds; Eastern Washington University, Central Washington University, and Western Washington University shall receive equal amounts of the remaining amount. Beginning July 1, 1999, The Evergreen State College shall receive fifteen percent of the total amount not dedicated to repayment of bonds; Eastern Washington University, Central Washington University, and Western Washington University shall each receive equal amounts of the remaining amount. Beginning July 1, 2001, The Evergreen State College shall receive twenty percent of the total amount not obligated to repayment of bonds; Eastern Washington University, Central Washington University, and Western Washington University shall each receive equal amounts of the remaining amount. [1993 c 411 § 2; 1991 sp.s. c 13 § 95; 1977 ex.s. c 169 § 87; 1969 ex.s. c 223 § 28B.40.751. Prior: 1967 c 47 § 15; 1965 c 76 § 1. Formerly RCW 28B.40.751; 28.81.551.]

Finding—1993 c 411: "The legislature finds that Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College are the state's comprehensive undergraduate institutions and each should share equally in the benefits derived from lands set apart in the enabling act for state normal school purposes." [1993 c 411 § 1.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Chapter 28B.40
THE EVERGREEN STATE COLLEGE

Sections

28B.40.361 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 28B.50
COMMUNITY AND TECHNICAL COLLEGES
(Formerly: Community colleges)

Sections

Report on postsecondary educational system to higher education coordinating board: RCW 28B.80.616.

Work force employment and training—Reports: RCW 50.12.261.

28B.50.195 Intercollegiate coaches—Minimum standards encouraged. The state board for community and technical colleges in consultation with the Northwest athletic association of community colleges and other interested parties shall encourage community colleges to ensure that intercollegiate coaches meet the following minimum standards:

(1) Verification of up-to-date certification in first aid and cardiopulmonary resuscitation;

(2) Maintaining knowledge of Northwest athletic association of community colleges codes, rules, and institutional policy; and

(3) Encouragement of coaches to participate in appropriate in-service training and activities. [1993 c 94 § 2.]

Policy—1993 c 94: "The legislature supports the establishment of minimum standards for intercollegiate coaches and a process to ensure the safety and appropriate skill development of student athletes." [1993 c 94 § 1.]

28B.50.196 Intercollegiate coaches—Training to promote coaching competence and techniques. The community and technical colleges are encouraged to provide training to promote development of coaching competence and to enhance the coaching techniques of intercollegiate coaches. The community and technical colleges may offer this educational service to coaches in the community and technical colleges, common schools, amateur teams, youth groups, and community sports groups. The community and technical colleges may provide this educational service through curriculum courses, workshops, or in-service training. [1993 c 94 § 3.]

Policy—1993 c 94: See note following RCW 28B.50.195.

28B.50.259 Program for dislocated forest products workers—Waiver from tuition and fees. (1) The state board for community and technical colleges 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 RCW 28B.15.910, the governing boards of the community and technical colleges 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. [1993 1st sp.s. c 18 § 32; 1992 c 231 § 29; 1991 c 315 § 17.]

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

Effective date—1992 c 231: See note following RCW 28B.10.016.

Intent—1991 c 315: See note following RCW 50.12.270.

Severability—Conflict with federal requirements—Effective date—1991 c 315: See RCW 50.70.900 through 50.70.902.

28B.50.330 Construction, reconstruction, equipping, and demolition of community and technical college facilities and acquisition of property—Financing by revenue bonds—Bid procedure. The boards of trustees of college districts are empowered in accordance with the provisions of this chapter to provide for the construction, reconstruction, erection, equipping, demolition, and major alterations of buildings and other capital assets, and the acquisition of sites, rights-of-way, easements, improvements, or appurtenances for the use of the aforementioned colleges as authorized by the college board in accordance with RCW 28B.50.140; to be financed by bonds payable out of special funds from revenues hereafter derived from income received from such facilities, gifts, bequests, or grants, and such additional funds as the legislature may provide, and payable out of a bond retirement fund to be established by the respective district boards in accordance with rules and regulations of the state board. With respect to building, improvements, or repairs, or other work, where the estimated cost exceeds twenty-five thousand dollars, complete plans and specifications for such work shall be prepared and such work shall be put out for public bids and the contract shall be awarded to the lowest responsible bidder if in accordance with the bid specifications: PROVIDED, That when such building, construction, renovation, remodeling, or demolition involves one trade or craft area and the estimated cost exceeds ten thousand dollars, complete plans and specifications for such work shall be prepared and such work shall be put out for public bids, and the contract shall be awarded to the lowest responsible bidder if in accordance with the bid specifications. This subsection shall not apply when a contract is awarded by the small works procedure authorized in RCW 39.04.150: PROVIDED FURTHER, That any project regardless of dollar amount may be put to public bid.

Where the estimated cost to any college of any building, improvements, or repairs, or other work, is less than twenty-

five thousand dollars, the publication requirements of RCW 39.04.020 shall be inapplicable. [1993 c 379 § 108; 1991 c 238 § 48; 1979 ex.s. c 12 § 2; 1969 ex.s. c 223 § 28B.50.330. Prior: 1967 ex.s. c 8 § 33. Formerly RCW 28.85.330.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

Severability—1979 ex.s. c 12: See note following RCW 28B.10.350.

28B.50.536 General educational development test—Rules—Issuance of certificate of educational competence. Subject to rules adopted by the state board of education under RCW 28A.305.190, the state board for community and technical colleges shall adopt rules governing the eligibility of persons sixteen years of age and older to take the general educational development test, rules governing the administration of the test, and rules governing the issuance of a certificate of educational competence to persons who successfully complete the test. Certificates of educational competence issued under this section shall be issued in such form and substance as agreed upon by the state board for community and technical colleges and superintendent of public instruction. [1993 c 218 § 3.]

28B.50.8351 Exceptional faculty awards—"Foundation" defined. For purposes of RCW 28B.50.835 through 28B.50.843 "foundation" means a private nonprofit corporation that: (1) Is registered under Title 24 RCW and qualified as a tax-exempt entity under section 501(c)(3) of the federal internal revenue code; (2) exists solely for the benefit of one or more community or technical colleges in this state; and (3) is registered with the attorney general's office under the charitable trust act, chapter 11.110 RCW. [1993 c 87 § 3.]

28B.50.837 Exceptional faculty awards—Established—Community and technical college faculty awards trust fund. (1) The Washington community and technical college exceptional faculty awards program is established. The program shall be administered by the college board. The college faculty awards trust fund hereby created shall be administered by the state treasurer.

(2) Funds appropriated by the legislature for the community and technical college exceptional faculty awards program shall be deposited in the college faculty awards trust fund. At the request of the college board, the treasurer shall release the state matching funds to the local endowment fund of the college or its foundation. No appropriation is necessary for the expenditure of moneys from the fund. [1993 c 87 § 1; 1991 sp.s. c 13 §§ 108, 109; 1991 c 238 § 63; 1990 c 29 § 2.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Severability—1990 c 29: See note following RCW 28B.50.835.

28B.50.839 Exceptional faculty awards—Guidelines—Matching funds—Donations—Disbursements. (1) In consultation with eligible community and technical colleges, the college board shall set priorities and guidelines for the program.

(2) Under this section, a college shall not receive more than four faculty grants in twenty-five thousand dollar increments, with a maximum total of one hundred thousand dollars per campus in any biennium.

(3) All community and technical colleges and foundations shall be eligible for matching trust funds. Institutions and foundations may apply to the college board for grants from the fund in twenty-five thousand dollar increments up to a maximum of one hundred thousand dollars when they can match the state funds with equal cash donations from private sources, except that in the initial year of the program, no college or foundation may receive more than one grant until every college or its foundation has received one grant. These donations shall be made specifically to the exceptional faculty awards program and deposited by the institution or foundation in a local endowment fund or a foundation's fund. Otherwise unrestricted gifts may be deposited in the endowment fund by the institution or foundation.

(4) Once sufficient private donations are received by the institution or foundation, the institution shall inform the college board and request state matching funds. The college board shall evaluate the request for state matching funds based on program priorities and guidelines. The college board may ask the state treasurer to release the state matching funds to a local endowment fund established by the institution or a foundation's fund established by a foundation for each faculty award created. [1993 c 87 § 2; 1991 c 238 § 64; 1990 c 29 § 3.]

Severability—1990 c 29: See note following RCW 28B.50.835.

28B.50.844 Exceptional faculty awards—Eligibility of foundation for matching funds—Endowment fund management. A foundation is not eligible to receive matching funds under RCW 28B.50.835 through 28B.50.843 unless the foundation and the board of trustees of the college for whose benefit the foundation exists have entered into a contract, approved by the attorney general, that: (1) Specifies the services to be provided by the foundation; (2) provides for protection of the community and technical college exceptional awards endowment funds under the foundation's control; and (3) provides for the college's assumption of ownership, management, and control of such funds if the foundation ceases to exist or function properly, or fails to provide the specified services in accordance with the contract.

The principal of the community and technical college exceptional awards endowment fund managed by the foundation shall not be invaded. Funds recovered by a college under this section shall be deposited into the college's local endowment fund. For purposes of this section, community and technical college exceptional awards endowment funds include the private donations, state matching funds, and any accrued interest on such donations and matching funds. [1993 c 87 § 4.]

28B.50.851 Faculty tenure—Definitions. As used in RCW 28B.50.850 through 28B.50.869:

(1) "Tenure" shall mean a faculty appointment for an indefinite period of time which may be revoked only for adequate cause and by due process;

(2)(a) "Faculty appointment", except as otherwise provided in (b) of this subsection, shall mean full time employment as a teacher, counselor, librarian or other position for which the training, experience and responsibilities are comparable as determined by the appointing authority, except administrative appointments; "faculty appointment" shall also mean department heads, division heads and administrators to the extent that such department heads, division heads or administrators have had or do have status as a teacher, counselor, or librarian; faculty appointment shall also mean employment on a reduced work load basis when a faculty member has retained tenure under RCW 28B.50.859;

(b) "Faculty appointment" shall not mean special faculty appointment as a teacher, counselor, librarian, or other position as enumerated in (a) of this subsection, when such employment results from special funds provided to a community college district from federal moneys or other special funds which other funds are designated as "special funds" by the college board: PROVIDED, That such "special funds" so designated by the college board for purposes of this section shall apply only to teachers, counselors and librarians hired from grants and service agreements and teachers, counselors and librarians hired in nonformula positions. A special faculty appointment resulting from such special financing may be terminated upon a reduction or elimination of funding or a reduction or elimination of program: PROVIDED FURTHER, That "faculty appointees" holding faculty appointments pursuant to subsections (1) or (2)(a) of this section who have been subsequently transferred to positions financed from "special funds" pursuant to (b) of this subsection and who thereafter lose their positions upon reduction or elimination of such "special funding" shall be entitled to be returned to previous status as faculty appointees pursuant to subsection (1) or (2)(a) of this section depending upon their status prior to the "special funding" transfer. Notwithstanding the fact that tenure shall not be granted to anyone holding a special faculty appointment, the termination of any such faculty appointment prior to the expiration of the term of such faculty member's individual contract for any cause which is not related to elimination or reduction of financing or the elimination or reduction of program shall be considered a termination for cause subject to the provisions of this chapter;

(3) "Probationary faculty appointment" shall mean a faculty appointment for a designated period of time which may be terminated without cause upon expiration of the probationer's terms of employment;

(4) "Probationer" shall mean an individual holding a probationary faculty appointment;

(5) "Administrative appointment" shall mean employment in a specific administrative position as determined by the appointing authority;

(6) "Appointing authority" shall mean the board of trustees of a college district;

(7) "Review committee" shall mean a committee composed of the probationer's faculty peers, a student representative, and the administrative staff of the community or technical college: PROVIDED, That the majority of the committee shall consist of the probationer's faculty peers. [1993 c 188 § 1; 1991 c 294 § 2; 1991 c 238 § 68; 1988 c 32 § 2; 1975 1st ex.s. c 112 § 1; 1974 ex.s. c 33 § 1; 1970 ex.s. c 5 § 3; 1969 ex.s. c 283 § 33. Formerly RCW 28.85.851.]

Construction—1993 c 188: "Nothing contained in this act shall be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement." [1993 c 188 § 5.]

Effective date—1993 c 188: "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, 1993." [1993 c 188 § 6.]

Severability—1993 c 188: "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." [1993 c 188 § 7.]

Intent—1991 c 294: "Improving the quality of instruction at our state institutions of higher education is a priority of the legislature. Recently, many efforts have been made by the legislature, the colleges, and the higher education coordinating board to assess and improve the quality of instruction received by students at our state institutions. It is the intent of the legislature that, in conjunction with these various efforts, the process for the award of faculty tenure at community colleges should allow for a thorough review of the performance of faculty appointees prior to the granting of tenure." [1991 c 294 § 1.]

Construction—1991 c 294: "Nothing contained in this act shall be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement." [1991 c 294 § 6.]

Effective date—Application—1991 c 294: "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, 1991, and shall apply to all faculty appointments made by community colleges after June 30, 1991, but shall not apply to employees of community colleges who hold faculty appointments prior to July 1, 1991." [1991 c 294 § 7.]

Severability—1991 c 294: "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." [1991 c 294 § 8.]

Severability—1969 ex.s. c 283: See note following RCW 28A.150.050.

28B.50.858 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.50.869 Faculty tenure—Review committees, composition—Selection of faculty representatives, student representative. The review committees required by RCW 28B.50.850 through 28B.50.869 shall be composed of members of the administrative staff, a student representative, and the faculty. The representatives of the faculty shall represent a majority of the members on each review committee. The members representing the faculty on each review committee shall be selected by a majority of the faculty and faculty department heads acting in a body. The student representative, who shall be a full time student, shall be chosen by the student association of the particular community or technical college in such manner as the members thereof shall determine. [1993 c 188 § 2; 1991 c 238 § 70; 1974 ex.s. c 33 § 2; 1969 ex.s. c 283 § 45. Formerly RCW 28.85.869.]

Construction—Effective date—Severability—1993 c 188: See notes following RCW 28B.50.851.

Severability—1969 ex.s. c 283: See note following RCW 28A.150.050.

28B.50.872 Periodic posttenure evaluation. By June 30, 1994, each community and technical college shall

establish, through the local collective bargaining process, periodic posttenure evaluation of all full-time faculty consistent with the standards of the Northwest association of schools and colleges. [1993 c 188 § 3.]

Construction—Effective date—Severability—1993 c 188: See notes following RCW 28B.50.851.

Chapter 28B.70
WESTERN REGIONAL HIGHER EDUCATION COMPACT

Sections

28B.70.050 Exemption from nonresident tuition fees differential. When said compact becomes operative the governing board of each institution of higher education in this state, to the extent necessary to conform with the terms of the contractual agreement, subject to the limitations of RCW 28B.15.910, may exempt from payment all or a portion of the nonresident tuition fees 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. [1993 1st sp.s. c 18 § 33; 1992 c 231 § 30; 1969 ex.s. c 223 § 28B.70.050. Prior: 1955 c 214 § 5. Formerly RCW 28.82.050.]

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

Effective date—1992 c 231: See note following RCW 28B.10.016.

Chapter 28B.80
HIGHER EDUCATION COORDINATING BOARD
(Formerly: Council for postsecondary education in the state of Washington)

Sections

28B.80.330 Duties. The board shall perform the following planning duties in consultation with the four-year institutions, the community and technical college system, and when appropriate the work force training and education coordinating board, the superintendent of public instruction, and the independent higher educational institutions:

(1) Develop and establish role and mission statements for each of the four-year institutions and for the community and technical college system;

(2) Identify the state's higher education goals, objectives, and priorities;

(3) Prepare a comprehensive master plan which includes but is not limited to:

(a) Assessments of the state's higher education needs. These assessments may include, but are not limited to: The basic and continuing needs of various age groups; business and industrial needs for a skilled work force; analyses of demographic, social, and economic trends; consideration of the changing ethnic composition of the population and the special needs arising from such trends; college attendance, retention, and dropout rates, and the needs of recent high school graduates and placebound adults. The board should consider the needs of residents of all geographic regions, but its initial priorities should be applied to heavily populated areas underserved by public institutions;

(b) Recommendations on enrollment and other policies and actions to meet those needs;

(c) Guidelines for continuing education, adult education, public service, and other higher education programs.

The initial plan shall be submitted to the governor and the legislature by December 1, 1987. Comments on the plan from the board's advisory committees and the institutions shall be submitted with the plan.

The plan shall be updated every four years, and presented to the governor and the appropriate legislative policy committees. Following public hearings, the legislature shall, by concurrent resolution, approve or recommend changes to the initial plan, and the updates. The plan shall then become state higher education policy unless legislation is enacted to alter the policies set forth in the plan;

(4) Review, evaluate, and make recommendations on operating and capital budget requests from four-year institutions and the community and technical college system, based on the elements outlined in subsections (1), (2), and (3) of this section, and on guidelines which outline the board's fiscal priorities. These guidelines shall be distributed to the institutions and the community college board by December of each odd-numbered year. The institutions and the community college board shall submit an outline of their proposed budgets, identifying major components, to the board no later than August 1 of each even-numbered year. The board shall submit recommendations on the proposed budgets and on the board's budget priorities to the office of financial management before October 15 of each even-numbered year, and to the legislature by January 1 of each odd-numbered year;

(5) Recommend legislation affecting higher education;

(6) Recommend tuition and fees policies and levels based on comparisons with peer institutions;

(7) Establish priorities and develop recommendations on financial aid based on comparisons with peer institutions;

(8) Prepare recommendations on merging or closing institutions; and

(9) Develop criteria for identifying the need for new baccalaureate institutions. [1993 c 363 § 6; 1985 c 370 § 4.]

Findings—Effective date—1993 c 363: See notes following RCW 28B.80.610.

28B.80.350 Coordination of activities with segments of higher education. 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 and technical colleges 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 or an American Indian language shall satisfy any requirement for instruction in a language other than English that 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. [1993 c 77 § 2; 1992 c 60 § 3; 1988 c 172 § 4; 1985 c 370 § 6.]

***Reviser's note:** Chapter 28B.16 RCW was repealed by 1993 c 281, with the exception of RCW 28B.16.240, which was recodified as a new section in chapter 41.06 RCW. For exemptions to higher education personnel law see chapter 41.06 RCW.

28B.80.580 Program for dislocated forest products workers—Placebound students—Waiver from tuition and fees. (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 RCW 28B.15.910, the institutions providing the service may waive all or a portion of the tuition, and 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 RCW 28B.15.910, for any eligible participant, all or a portion of tuition may be waived for a maximum of four semesters or six quarters within a two-year time period. The participant must be enrolled for a minimum of ten credits per semester or quarter. [1993 1st sp.s. c 18 § 34; 1992 c 231 § 31; 1991 c 315 § 20.]

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

Effective date—1992 c 231: See note following RCW 28B.10.016.

Intent—1991 c 315: See note following RCW 50.12.270.

Severability—Conflict with federal requirements—Effective date—1991 c 315: See RCW 50.70.900 through 50.70.902.

28B.80.610 Higher education institutional responsibilities. (1) At the local level, the higher education institutional responsibilities include but are not limited to:

(a) Development and provision of strategic plans under the guidelines established by the higher education coordinating board. In developing their strategic plans, the research universities shall consider the feasibility of significantly increasing the number of evening graduate classes;

(b) For the four-year institutions of higher education, timely provision of information required by the higher education coordinating board to report to the governor, the legislature, and the citizens;

(c) Provision of local student financial aid delivery systems to achieve both state-wide goals and institutional objectives in concert with state-wide policy; and

(d) Operating as efficiently as feasible within institutional missions and goals.

(2) At the state level, the higher education coordinating board shall be responsible for:

(a) Delineation and coordination of strategic plans to be prepared by the institutions;

(b) Preparation of reports to the governor, the legislature, and the citizens on program accomplishments and use of resources by the institutions;

(c) Administration and policy implementation for state-wide student financial aid programs; and

(d) Assistance to institutions in improving operational efficiency through measures that include periodic review of program efficiencies.

(3) At the state level, on behalf of community colleges and technical colleges, the state board for community and

technical colleges shall coordinate and report on the system's strategic plans and shall provide any information required of its colleges by the higher education coordinating board. [1993 c 363 § 2.]

Findings—1993 c 363: "The legislature finds a need to redefine the relationship between the state and its postsecondary education institutions through a compact based on trust, evidence, and a new alignment of responsibilities. As the proportion of the state budget dedicated to postsecondary education programs has continued to decrease and the opportunity for this state's citizens to participate in such programs also has declined, the state institutions of higher education have increasingly less flexibility to respond to emerging challenges through innovative management and programming. The legislature finds that this state has not provided its institutions of higher education with the ability to effectively achieve state-wide goals and objectives to increase access to, improve the quality of, and enhance the accountability for its postsecondary education system.

Therefore, the legislature declares that the policy of the state of Washington is to create an environment in which the state institutions of higher education have the authority and flexibility to enhance attainment of state-wide goals and objectives for the state's postsecondary education system through decisions and actions at the local level. The policy shall have the following attributes:

(1) The accomplishment of equitable and adequate enrollment by significantly raising enrollment lids, adequately funding those increases, and providing sufficient financial aid for the neediest students;

(2) The development and use of a new definition of quality measured by effective operations and clear results; the efficient use of funds to achieve well-educated students;

(3) The attainment of a new resource management relationship that removes the state from micromanagement, allows institutions greater management autonomy to focus resources on essential functions, and encourages innovation; and

(4) The development of a system of coordinated planning and sufficient feedback to assure policymakers and citizens that students are succeeding and resources are being prudently deployed." [1993 c 363 § 1.]

Effective date—1993 c 363: "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, 1993." [1993 c 363 § 7.]

28B.80.612 Identification of methods to reduce administrative barriers. In cooperation with institutions of higher education, the state board for community and technical colleges, and appropriate state and local agencies, the higher education coordinating board may identify methods to reduce administrative barriers to efficient institutional operations. These methods may include waivers of statutory requirements and administrative rules. The higher education coordinating board shall report to the governor and appropriate legislative committees its recommendations for any statutory changes necessary to enhance institutional efficiencies. In cooperation with affected institutions, the board shall work with appropriate agencies to reduce administrative barriers that do not require statutory changes. [1993 c 363 § 3.]

Findings—Effective date—1993 c 363: See notes following RCW 28B.80.610.

28B.80.614 Study of higher education system operations. The higher education coordinating board, in conjunction with the four-year institutions of higher education, shall conduct a study of higher education system operations to identify efficiencies to increase access to, improve the quality of, and reduce the cost of higher education. This study shall include but not be limited to:

(1) Examining potential unnecessary duplicative and low-productivity programs for possible consolidation or termination;

(2) Developing criteria for and conducting an evaluation of faculty productivity;

(3) Reviewing and developing recommendations on appropriate institutional roles for providing remedial instruction;

(4) Exploring the potential for greater use of the public higher education system physical plant and other resources through such means as expanded operations during summer terms, evenings, and weekends;

(5) Examining the effectiveness of proposals on variable tuition rates and faculty salary incentives; and

(6) Identifying ways for institutions to share resources, faculty, and curricula through collaboration with other public and private postsecondary institutions and common school districts in their service areas to increase student opportunities and reduce costs. Analyses shall include clear articulation of functions among institutions, means to reduce duplication, and policies to facilitate student movement among institutions. [1993 c 363 § 4.]

Findings—Effective date—1993 c 363: See notes following RCW 28B.80.610.

28B.80.616 Reports to legislature and citizens on postsecondary educational system—Reports to board from state board for community and technical colleges and state institutions of higher education—Cooperation with independent colleges and universities. The higher education coordinating board, in conjunction with the state board for community and technical colleges and the institutions of higher education, shall report regularly to the legislature and the citizens the accomplishments of, expenditures for, and requirements of the postsecondary educational system in the state of Washington. The state board for community and technical colleges and the state institutions of higher education shall report uniformly to the higher education coordinating board, on an annual basis, the information necessary to prepare the report. Independent colleges and universities are encouraged to cooperate with this effort and to provide to the board information in a uniform format developed by the board, in cooperation with the institutions. Examples of performance measures that could be included are:

(1) Retention and graduation rates;

(2) Average time to a degree;

(3) Credit hours per degree awarded;

(4) Degrees awarded by discipline and by level;

(5) Multiple degrees;

(6) Measures taken to reduce duplicative courses, programs, and requirements;

(7) Student-faculty contact hours;

(8) Placement rates;

(9) Success in recruiting and graduating underrepresented groups;

(10) Various fiscal and management measures; and

(11) Demographic information on enrolled students, including but not limited to socioeconomic and ethnic backgrounds. [1993 c 363 § 5.]

Findings—Effective date—1993 c 363: See notes following RCW 28B.80.610.

28B.80.800 Task force on international education and cultural exchanges. (Expires June 30, 1995.) The Washington task force on international education and cultural exchanges is established. The task force shall be administered by the higher education coordinating board, with the assistance and support of the superintendent of public instruction, institutions of higher education, the department of trade and economic development, and other appropriate state agencies. The members of the task force may include but need not be limited to: Legislators; executives from business and agriculture; labor leaders; native American tribal representatives; officials from local government; regents and trustees; administrators from schools, community and technical colleges, colleges, and universities; faculty; and representatives from cultural and cultural exchange organizations. To the extent possible when selecting members for the task force, the board shall select members from diverse cultural backgrounds and shall strive to promote geographic balance. [1993 c 382 § 1.]

Expiration date—1993 c 382: "This act shall expire June 30, 1995." [1993 c 382 § 5.]

28B.80.801 Task force—Purposes. (Expires June 30, 1995.) The purposes of the task force shall include but need not be limited to:

(1) Recommending policy, programs, and activities that will help to ensure that universities, colleges, community and technical colleges, and the common schools are providing all students with an education that includes an understanding of the languages, culture, traditions, history, and government of peoples of and from other lands and other indigenous cultures;

(2) Recommending ways to enhance and promote student, faculty, and cultural exchanges with people from other lands and other indigenous cultures and to provide every college student with an opportunity to study abroad or to study other cultures indigenous to this area;

(3) Recommending the desirability of integrating an international and multicultural perspective into courses in history, political science, education, sociology, business, and other academic programs;

(4) Recommending the feasibility of requiring coursework in the language and the culture, history, or government of another country or region, or of native American peoples, as a condition of graduation from a public school, college, or university;

(5) Recommending, as a condition of teacher certification, the desirability of requiring coursework in multicultural and international perspectives and understanding students from other lands and cultures;

(6) Completing and disseminating a survey of all Washington community and technical colleges, colleges, and universities that shall include but need not be limited to information on: The international and multicultural issues, relationships, and activities underway or contemplated at each institution; formal and informal relationships with institutions in other lands, or institutions serving native American peoples; the number of Washington's students studying abroad; and the number of international students enrolled in each institution of higher education;

(7) Gathering information on sister city and other formal and informal relationships between the state's local governments and cities, states, provinces, and regions in other lands and native American tribes;

(8) Recommending ways to enrich the experience of international students and students from other indigenous cultures at Washington's community and technical colleges, colleges, universities, and high schools;

(9) Identifying ways that international students and students from other indigenous cultures enrich the state's economy and the academic culture of the state's schools and colleges;

(10) Recommending ways to enhance the coordination of cultural exchange opportunities;

(11) Recommending collaborative structures and programs to facilitate the development and assessment of international and multicultural education and cultural exchanges; and

(12) Identifying private and public funding methods to ensure a sustained investment in international and multicultural education in Washington state. [1993 c 382 § 2.]

Expiration date—1993 c 382: See note following RCW 28B.80.800.

28B.80.802 Task force—Receipt of gifts and grants. (Expires June 30, 1995.) The board may accept gifts, grants, donations, devises, and bequests to facilitate the work of the task force. [1993 c 382 § 3.]

Expiration date—1993 c 382: See note following RCW 28B.80.800.

28B.80.803 Task force—Reports. (Expires June 30, 1995.) By December 30, 1993, with the assistance of the higher education coordinating board, the task force shall provide a preliminary report to the governor and the legislature. The report shall include recommendations of the task force for any legislation needed to facilitate its work and implement its findings and recommendations. By October 1, 1994, the board shall report additional findings and recommendations of the task force to the governor, the house of representatives and senate higher education committees, the superintendent of public instruction, and to the presidents of each college and university in the state. [1993 c 382 § 4.]

Expiration date—1993 c 382: See note following RCW 28B.80.800.

Chapter 28B.85
DEGREE-GRANTING INSTITUTIONS

Sections

28B.85.906 Application of chapter to foreign degree-granting institution branch campuses. This chapter shall not apply to any approved branch campus of a foreign degree-granting institution in compliance with chapter 28B.90 RCW. [1993 c 181 § 7.]

Chapter 28B.90
FOREIGN DEGREE-GRANTING BRANCH CAMPUSES

Sections

28B.90.005 Findings. The legislature finds that it has previously declared in RCW 28B.107.005 that it is important to the economic future of the state to promote international awareness and understanding, and in RCW 1.20.100 and 28A.630.300, that the state's economy and economic well-being depends heavily on foreign trade and international exchange.

The legislature finds that it is appropriate that such policies should be implemented by encouraging universities and colleges domiciled in foreign countries to establish branch campuses in Washington and that it is also important to those foreign colleges and universities that their status as authorized foreign degree-granting institutions be recognized by this state to facilitate the establishment and operation of such branch campuses.

In the furtherance of such policy, the legislature adopts the foreign degree-granting institution approved branch campus act. [1993 c 181 § 1.]

28B.90.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Degree" means any designation, appellation, certificate, letters or words including, but not limited to, "associate," "bachelor," "masters," "doctorate," or "fellow" that signifies, or purports to signify, satisfactory and successful completion of requirements of a postsecondary academic program of study.

(2) "Foreign degree-granting institution" means a public or private college or university, either profit or nonprofit:

(a) That is domiciled in a foreign country;

(b) That offers in its country of domicile credentials, instruction, or services prerequisite to the obtaining of an academic or professional degree granted by such college or university; and

(c) That is authorized under the laws or regulations of its country of domicile to operate a degree-granting institution in that country.

(3) "Approved branch campus" means a foreign degree-granting institution's branch campus that has been approved by the higher education coordinating board to operate in the state.

(4) "Branch campus" means an educational facility located in the state that:

(a) Is either owned and operated directly by a foreign degree-granting institution or indirectly through a Washington profit or nonprofit corporation in which the foreign degree-granting institution is the sole or controlling shareholder or member; and

(b) Provides courses solely and exclusively to students enrolled in a degree-granting program offered by the foreign degree-granting institution who:

(i) Have received academic credit for courses of study completed at the foreign degree-granting institution in its country of domicile;

(ii) Will receive academic credit towards their degree from the foreign degree-granting institution for the courses of study completed at the educational facility in the state; and

(iii) Will return to the foreign degree-granting institution in its country of domicile for completion of their degree-granting program or receipt of their degree.

(5) "Board" means the higher education coordinating board. [1993 c 181 § 2.]

28B.90.020 Approval of foreign degree-granting institution as branch campus. A foreign degree-granting institution that submits evidence satisfactory to the board of its authorized status in its country of domicile and its intent to establish an educational facility in the state is entitled to operate a branch campus in the state. Upon receipt of the satisfactory evidence, the board shall certify that the branch campus of the foreign degree-granting institution is approved to operate in the state under this chapter, for as long as the foreign degree-granting institution retains its authorized status in its country of domicile. [1993 c 181 § 3.]

28B.90.030 Branch campuses exempt under chapter 28B.85 RCW. A branch campus of a foreign degree-granting institution previously found by the board to be exempt from chapter 28B.85 RCW may continue to operate in the state. However, within one year of July 25, 1993, the institution shall provide evidence of authorization as required under RCW 28B.90.020. Upon receipt of the satisfactory evidence, the board shall certify that the branch campus of the foreign degree-granting institution is approved to operate in the state under this chapter. [1993 c 181 § 4.]

Chapter 28B.101
EDUCATIONAL OPPORTUNITY GRANT PROGRAM—PLACEBOUND STUDENTS

Sections

28B.101.040 Use of grants. Grants may be used by eligible participants to attend any public or private college or university in the state of Washington that is accredited by an accrediting association recognized by rule of the higher education coordinating board and that has an existing unused capacity. Grants shall not be used to attend any branch campus or educational program established under chapter 28B.45 RCW. The participant shall not be eligible for a grant if it will be used for any programs that include religious worship, exercise, or instruction or to pursue a degree in theology. Each participating student may receive up to two thousand five hundred dollars per academic year, not to exceed the student's demonstrated financial need for the course of study. Resident students as defined in RCW

28B.15.012(2)(e) are not eligible for grants under this chapter. [1993 1st sp.s. c 18 § 35; 1993 c 385 § 2; 1990 c 288 § 6.]

Reviser's note: This section was amended by 1993 c 385 § 2 and by 1993 1st sp.s. c 18 § 35, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

Chapter 28B.102
FUTURE TEACHERS CONDITIONAL SCHOLARSHIP PROGRAM

Sections

28B.102.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Conditional scholarship" means a loan that is forgiven in whole or in part if the recipient renders service as a teacher in the public schools of this state.

(2) "Institution of higher education" or "institution" means a college or university in the state of Washington which is accredited by an accrediting association recognized as such by rule of the higher education coordinating board.

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

(4) "Eligible student" means a student who is registered for at least ten credit hours or the equivalent, demonstrates achievement of at least a 3.30 grade point average for students entering an institution of higher education directly from high school or maintains at least a 3.00 grade point average or the equivalent for each academic year in an institution of higher education, is a resident student as defined by RCW 28B.15.012 and 28B.15.013, and has a declared intention to complete an approved preparation program leading to initial teacher certification or required for earning an additional endorsement, or a college or university graduate who meets the same credit hour requirements and is seeking an additional teaching endorsement or initial teacher certification. Resident students defined in RCW 28B.15.012(2)(e) are not eligible students under this chapter.

(5) "Public school" means an elementary school, a middle school, junior high school, or high school within the public school system referred to in Article IX of the state Constitution.

(6) "Forgiven" or "to forgive" or "forgiveness" means to render service as a teacher at a public school in the state of Washington in lieu of monetary repayment.

(7) "Satisfied" means paid-in-full.

(8) "Participant" means an eligible student who has received a conditional scholarship under this chapter.

(9) "Targeted ethnic minority" means a group of Americans with a common ethnic or racial heritage selected by the board for program consideration due to societal concerns such as high dropout rates or low rates of college participation by members of the group. [1993 1st sp.s. c 18 § 36; 1987 c 437 § 2.]

Effective date—1993 1st sp.s. c 18: See note following RCW 28B.10.265.

28B.102.060 Repayment obligation. (1) Participants in the conditional scholarship program incur an obligation to repay the conditional scholarship, with interest, unless they teach for ten years in the public schools of the state of Washington, under rules adopted by the board.

(2) The interest rate shall be eight percent for the first four years of repayment and ten percent beginning with the fifth year of repayment.

(3) The period for repayment shall be ten years, with payments of principal and interest accruing quarterly commencing nine months from the date the participant completes or discontinues the course of study. Provisions for deferral of payment shall be determined by the board.

(4) The entire principal and interest of each payment shall be forgiven for each payment period in which the participant teaches in a public school until the entire repayment obligation is satisfied or the borrower ceases to teach at a public school in this state. Should the participant cease to teach at a public school in this state before the participant's repayment obligation is completed, payments on the unsatisfied portion of the principal and interest shall begin the next payment period and continue until the remainder of the participant's repayment obligation is satisfied.

(5) The board is responsible for collection of repayments made under this section and shall exercise due diligence in such collection, maintaining all necessary records to insure that maximum repayments are made. Collection and servicing of repayments under this section shall be pursued using the full extent of the law, including wage garnishment if necessary, and shall be performed by entities approved for such servicing by the Washington student loan guaranty association or its successor agency. The board is responsible to forgive all or parts of such repayments under the criteria established in this section and shall maintain all necessary records of forgiven payments.

(6) Receipts from the payment of principal or interest or any other subsidies to which the board as administrator is entitled, which are paid by or on behalf of participants under this section, shall be deposited with the higher education coordinating board and shall be used to cover the costs of granting the conditional scholarships, maintaining necessary records, and making collections under subsection (5) of this section. The board shall maintain accurate records of these costs, and all receipts beyond those necessary to pay such costs shall be used to grant conditional scholarships to eligible students.

(7) The board shall temporarily or, in special circumstances, permanently defer the requirements of this section for eligible students as defined in RCW 28B.10.017. [1993 c 423 § 1; 1991 c 164 § 6; 1987 c 437 § 6.]

Chapter 28B.108
AMERICAN INDIAN ENDOWED SCHOLARSHIP PROGRAM

Sections

28B.108.060 Scholarship endowment fund established. The American Indian scholarship endowment fund is established. The endowment fund shall be administered by the state treasurer.

(1) Moneys received from the higher education coordinating board, private donations, state matching moneys, and funds received from any other source may be deposited into the endowment fund. Private moneys received as a gift subject to conditions may be deposited into the fund.

(2) At the request of the higher education coordinating board, the treasurer shall release earnings from the endowment fund to the board for scholarships. No appropriation is required for expenditures from the endowment fund.

(3) When notified by the higher education coordinating board or by court order that a condition attached to a gift of private moneys in the fund has failed, the treasurer shall release those moneys to the donors according to the terms of the conditional gift.

(4) The principal of the endowment fund shall not be invaded. The release of moneys under subsection (3) of this section shall not constitute an invasion of corpus.

(5) The earnings on the fund shall be used solely for the purposes set forth in RCW 28B.108.040, except when the terms of a conditional gift of private moneys in the fund require that a portion of earnings on such moneys be reinvested in the fund. [1993 c 372 § 1; 1991 sp.s. c 13 § 110; 1990 c 287 § 7.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

28B.108.070 State matching funds. The higher education coordinating board may request that the treasurer deposit fifty thousand dollars of state matching funds into the American Indian scholarship endowment fund when the board can match the state funds with an equal amount of private cash donations, including conditional gifts. Private cash donations means moneys from nonstate sources that include, but are not limited to, federal moneys, tribal moneys, and assessments by commodity commissions authorized to conduct research activities, including but not limited to research studies authorized under RCW 15.66.030 and 15.65.040. [1993 c 372 § 2; 1991 c 228 § 12; 1990 c 287 § 8.]

Chapter 28B.115
HEALTH PROFESSIONAL CONDITIONAL SCHOLARSHIP PROGRAM

Sections

28B.115.080 Annual award amount—Scholarship preferences—Required service obligations. After June 1, 1992, the board, in consultation with the department and the department of social and health services, shall:

(1) Establish the annual award amount for each credentialed health care profession which shall be based upon an assessment of reasonable annual eligible expenses involved in training and education for each credentialed health care profession. The annual award amount may be established at a level less than annual eligible expenses. The annual award amount shall be established by the board for each eligible health profession. The awards shall not be paid for more than a maximum of five years per individual;

(2) Determine any scholarship awards for prospective physicians in such a manner to require the recipients declare an interest in serving in rural areas of the state of Washington. Preference for scholarships shall be given to students who reside in a rural physician shortage area or a nonshortage rural area of the state prior to admission to the eligible education and training program in medicine. Highest preference shall be given to students seeking admission who are recommended by sponsoring communities and who declare the intent of serving as a physician in a rural area. The board may require the sponsoring community located in a nonshortage rural area to financially contribute to the eligible expenses of a medical student if the student will serve in the nonshortage rural area;

(3) Establish the required service obligation for each credentialed health care profession, which shall be no less than three years or no more than five years. The required service obligation may be based upon the amount of the scholarship or loan repayment award such that higher awards involve longer service obligations on behalf of the participant;

(4) Determine eligible education and training programs for purposes of the scholarship portion of the program;

(5) Honor loan repayment and scholarship contract terms negotiated between the board and participants prior to May 21, 1991, concerning loan repayment and scholarship award amounts and service obligations authorized under chapter 28B.115, 28B.104, or 70.180 RCW. [1993 c 492 § 271; 1991 c 332 § 21.]

Finding—1993 c 492: See note following RCW 28B.125.010.

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

28B.115.120 Participant obligation—Scholarships. (1) Participants in the health professional loan repayment and scholarship program who are awarded scholarships incur an obligation to repay the scholarship, with interest, unless they serve the required service obligation in a health professional shortage area in the state of Washington.

(2) The interest rate shall be eight percent for the first four years of repayment and ten percent beginning with the fifth year of repayment.

(3) The period for repayment shall coincide with the required service obligation, with payments of principal and interest accruing quarterly commencing no later than nine months from the date the participant completes or discontinues the course of study or completes or discontinues the required residency. Provisions for deferral of payment shall be determined by the board.

(4) The entire principal and interest of each payment shall be forgiven for each payment period in which the participant serves in a health professional shortage area until the entire repayment obligation is satisfied or the borrower

ceases to so serve. Should the participant cease to serve in a health professional shortage area of this state before the participant's repayment obligation is completed, payments on the unsatisfied portion of the principal and interest shall begin the next payment period and continue until the remainder of the participant's repayment obligation is satisfied. Except for circumstances beyond their control, participants who serve less than the required service obligation shall be obliged to repay to the program an amount equal to twice the total amount paid by the program on their behalf.

(5) The board is responsible for collection of repayments made under this section and shall exercise due diligence in such collection, maintaining all necessary records to ensure that maximum repayments are made. Collection and servicing of repayments under this section shall be pursued using the full extent of the law, including wage garnishment if necessary, and shall be performed by entities approved for such servicing by the Washington student loan guaranty association or its successor agency. The board is responsible to forgive all or parts of such repayments under the criteria established in this section and shall maintain all necessary records of forgiven payments.

(6) Receipts from the payment of principal or interest or any other subsidies to which the board as administrator is entitled, which are paid by or on behalf of participants under this section, shall be deposited with the board and shall be used to cover the costs of granting the scholarships, maintaining necessary records, and making collections under subsection (5) of this section. The board shall maintain accurate records of these costs, and all receipts beyond those necessary to pay such costs shall be used to grant scholarships to eligible students.

(7) Sponsoring communities who financially contribute to the eligible financial expenses of eligible medical students may enter into agreements with the student to require repayment should the student not serve the required service obligation in the community as a primary care physician. The board may develop criteria for the content of such agreements with respect to reasonable provisions and obligations between communities and eligible students.

(8) The board may make exceptions to the conditions for participation and repayment obligations should circumstances beyond the control of individual participants warrant such exceptions. [1993 c 423 § 2; 1991 c 332 § 25.]

Chapter 28B.125
HEALTH PERSONNEL RESOURCES

Sections

28B.125.010 State-wide health personnel resource plan—Committee. (1) The higher education coordinating board, the state board for community and technical colleges, the superintendent of public instruction, the state department of health, the Washington health services commission, and the state department of social and health services, to be known for the purposes of this section as the committee, shall establish a state-wide health personnel resource plan. The governor shall appoint a lead agency from one of the agencies on the committee.

In preparing the state-wide plan the committee shall consult with the training and education institutions affected by this chapter, health care providers, employers of health care providers, insurers, consumers of health care, and other appropriate entities.

Should a successor agency or agencies be authorized or created by the legislature with planning, coordination, or administrative authority over vocational-technical schools, community colleges, or four-year higher education institutions, the governor shall grant membership on the committee to such agency or agencies and remove the member or members it replaces.

The committee shall appoint subcommittees for the purpose of assisting in the development of the institutional plans required under this chapter. Such subcommittees shall at least include those committee members that have statutory responsibility for planning, coordination, or administration of the training and education institutions for which the institutional plans are being developed. In preparing the institutional plans for four-year institutes of higher education, the subcommittee shall be composed of at least the higher education coordinating board and the state's four-year higher education institutions. The appointment of subcommittees to develop portions of the state-wide plan shall not relinquish the committee's responsibility for assuring overall coordination, integration, and consistency of the state-wide plan.

In establishing and implementing the state-wide health personnel resource plan the committee shall, to the extent possible, utilize existing data and information, personnel, equipment, and facilities and shall minimize travel and take such other steps necessary to reduce the administrative costs associated with the preparation and implementation of the plan.

(2) The state-wide health resource plan shall include at least the following:

(a)(i) Identification of the type, number, and location of the health care professional work force necessary to meet health care needs of the state.

(ii) A description and analysis of the composition and numbers of the potential work force available for meeting health care service needs of the population to be used for recruitment purposes. This should include a description of the data, methodology, and process used to make such determinations.

(b) A centralized inventory of the numbers of student applications to higher education and vocational-technical training and education programs, yearly enrollments, yearly degrees awarded, and numbers on waiting lists for all the state's publicly funded health care training and education programs. The committee shall request similar information for incorporation into the inventory from private higher education and vocational-technical training and education programs.

(c) A description of state-wide and local specialized provider training needs to meet the health care needs of target populations and a plan to meet such needs in a cost-effective and accessible manner.

(d) A description of how innovative, cost-effective technologies such as telecommunications can and will be

used to provide higher education, vocational-technical, continued competency, and skill maintenance and enhancement education and training to placebound students who need flexible programs and who are unable to attend institutions for training.

(e) A strategy for assuring higher education and vocational-technical educational and training programming is sensitive to the changing work force such as reentry workers, women, minorities, and the disabled.

(f) Strategies to increase the number of persons of color in the health professions. Such strategies shall incorporate, to the extent possible, federal and state assistance programs for health career development, including those for American Indians, economically disadvantaged persons, physically challenged persons, and persons of color.

(g) A strategy and coordinated state-wide policy developed by the subcommittees authorized in subsection (1) of this section for increasing the number of graduates intending to serve in shortage areas after graduation, including such strategies as the establishment of preferential admissions and designated enrollment slots.

(h) Guidelines and policies developed by the subcommittees authorized in subsection (1) of this section for allowing academic credit for on-the-job experience such as internships, volunteer experience, apprenticeships, and community service programs.

(i) A strategy developed by the subcommittees authorized in subsection (1) of this section for making required internships and residency programs available that are geographically accessible and sufficiently diverse to meet both general and specialized training needs as identified in the plan when such programs are required.

(j) A description of the need for multiskilled health care professionals and an implementation plan to restructure educational and training programming to meet these needs.

(k) An analysis of the types and estimated numbers of health care personnel that will need to be recruited from out-of-state to meet the health professional needs not met by in-state trained personnel.

(l) An analysis of the need for educational articulation within the various health care disciplines and a plan for addressing the need.

(m) An analysis of the training needs of those members of the long-term care profession that are not regulated and that have no formal training requirements. Programs to meet these needs should be developed in a cost-effective and a state-wide accessible manner that provide for the basic training needs of these individuals.

(n) A designation of the professions and geographic locations in which loan repayment and scholarships should be available based upon objective data-based forecasts of health professional shortages. A description of the criteria used to select professions and geographic locations shall be included. Designations of professions and geographic locations may be amended by the department of health when circumstances warrant as provided for in RCW 28B.115.070.

(o) A description of needed changes in regulatory laws governing the credentialing of health professionals.

(p) A description of linguistic and cultural training needs of foreign-trained health care professionals to assure safe and effective practice of their health care profession.

(q) A plan to implement the recommendations of the state-wide nursing plan authorized by RCW 74.39.040.

(r) A description of criteria and standards that institutional plans provided for in this section must address in order to meet the requirements of the state-wide health personnel resource plan, including funding requirements to implement the plans. The committee shall also when practical identify specific outcome measures to measure progress in meeting the requirements of this plan. The criteria and standards shall be established in a manner as to provide flexibility to the institutions in meeting state-wide plan requirements. The committee shall establish required submission dates for the institutional plans that permit inclusion of funding requests into the institutions budget requests to the state.

(s) A description of how the higher education coordinating board, state board for community and technical colleges, superintendent of public instruction, department of health, and department of social and health services coordinated in the creation and implementation of the state plan including the areas of responsibility each agency shall assume. The plan should also include a description of the steps taken to assure participation by the groups that are to be consulted with.

(t) A description of the estimated fiscal requirements for implementation of the state-wide health resource plan that include a description of cost saving activities that reduce potential costs by avoiding administrative duplication, coordinating programming activities, and other such actions to control costs.

(3) The committee may call upon other agencies of the state to provide available information to assist the committee in meeting the responsibilities under this chapter. This information shall be supplied as promptly as circumstances permit.

(4) State agencies involved in the development and implementation of the plan shall to the extent possible utilize existing personnel and financial resources in the development and implementation of the state-wide health personnel resource plan.

(5) The state-wide health personnel resource plan shall be submitted to the governor by July 1, 1992, and updated by July 1 of each even-numbered year. The governor, no later than December 1 of that year, shall approve, approve with modifications, or disapprove the state-wide health resource plan.

(6) The approved state-wide health resource plan shall be submitted to the senate and house of representatives committees on health care, higher education, and ways and means or appropriations by December 1 of each even-numbered year.

(7) Implementation of the state-wide plan shall begin by July 1, 1993.

(8) Notwithstanding subsections (5) and (7) of this section, the committee shall prepare and submit to the higher education coordinating board by June 1, 1992, the analysis necessary for the initial implementation of the health professional loan repayment and scholarship program created in chapter 28B.115 RCW.

(9) Each publicly funded two-year and four-year institute of higher education authorized under Title 28B RCW and vocational-technical institution authorized under

Title 28A RCW that offers health training and education programs shall biennially prepare and submit an institutional plan to the committee. The institutional plan shall identify specific programming and activities of the institution that meet the requirements of the state-wide health professional resource plan.

The committee shall review and assess whether the institutional plans meet the requirements of the state-wide health personnel resource plan and shall prepare a report with its determination. The report shall become part of the institutional plan and shall be submitted to the governor and the legislature.

The institutional plan shall be included with the institution's biennial budget submission. The institution's budget shall identify proposed spending to meet the requirements of the institutional plan. Each vocational-technical institution, college, or university shall be responsible for implementing its institutional plan. [1993 c 492 § 270; 1991 c 332 § 5.]

Finding—1993 c 492: "The legislature finds that the successful implementation of health care reform will depend on a sufficient supply of primary health care providers throughout the state. Many rural and medically underserved urban areas lack primary health care providers and because of this, basic health care services are limited or unavailable to populations living in these areas. The legislature has in recent years initiated new programs to address these provider shortages but funding has been insufficient and additional specific provider shortages remain." [1993 c 492 § 269.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

28B.125.030 New training programs. (1) The state board for community and technical colleges, in coordination with the committee under this chapter, shall identify health professional training needs not currently met by community and technical colleges in the state. It shall recommend creation of new training programs necessary to meet the shortages and identify where such programs shall be located within the state's community and technical college system.

(2) Every publicly funded community and technical college identified by the board in subsection (1) of this section shall include in their biennial budget, and institutional plan, a description of the training programs that will be created by the college or institute to alleviate the shortages.

(3) Health personnel shortages shall be determined in accordance with the health personnel resource plan required by this chapter. [1993 c 323 § 5.]

Legislative declaration—1993 c 323: See note following RCW 18.29.190.

Chapter 28B.130
TRANSPORTATION DEMAND MANAGEMENT PROGRAMS

Sections

28B.130.005 Findings—Intent. Transportation demand management strategies that reduce the number of vehicles on Washington state's highways, roads, and streets, and provide attractive and effective alternatives to single-occupancy travel, can improve ambient air quality, conserve fossil fuels, and forestall the need for capital improvements to the state's transportation system. The legislature has required many public and private employers in the state's largest counties to implement transportation demand management programs to reduce the number of single-occupant vehicle travelers during the morning and evening rush hours, and has provided substantial funding for the University of Washington's UPASS program, which has been immensely successful in its first two years of implementation. The legislature finds that additional transportation demand management strategies are required to mitigate the adverse social, environmental, and economic effects of auto dependency and traffic congestion. While expensive capital improvements, including dedicated busways and commuter rail systems, may be necessary to improve the region's mobility, they are only part of the solution. All public and private entities that attract single-occupant vehicle drivers must develop imaginative and cost-effective ways to encourage walking, bicycling, carpooling, vanpooling, bus riding, and telecommuting. It is the intent of the legislature to revise those portions of state law that inhibit the application of imaginative solutions to the state's transportation mobility problems, and to encourage many more public and private institutions of higher learning to adopt effective transportation demand management strategies.

The legislature finds further that many of the institutions of higher education in the state's largest counties are responsible for significant numbers of single-occupant vehicle trips to and from their campuses. These single-occupant vehicle trips are not only contributing to the degradation of the state's environment and deterioration of its transportation system, but are also usurping parking spaces from surrounding residential communities because existing parking facilities cannot accommodate students' current demand. Therefore, it is the intent of the legislature to permit these institutions to develop and fund transportation demand management programs that reduce single-occupant vehicle travel and promote alternatives to single-occupant vehicle driving. The legislature encourages institutions of higher education to include faculty and staff in their transportation demand management programs. [1993 c 447 § 1.]

28B.130.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Transportation fee" means the fee charged to employees and students at institutions of higher education for the purposes provided in RCW 28B.130.020.

(2) "Transportation demand management program" means the set of strategies adopted by an institution of higher education to reduce the number of single-occupant vehicles traveling to its campus. These strategies may include but are not limited to those identified in RCW 70.94.531. [1993 c 447 § 2.]

28B.130.020 Transportation fee. The governing board of an institution of higher education as defined in RCW 28B.10.016 may impose either a voluntary or a mandatory transportation fee on employees and on students at the institution. The transportation fee shall be used solely to fund transportation demand management programs that reduce the demand for campus and neighborhood parking, and promote alternatives to single-occupant vehicle driving. If the board charges a mandatory transportation fee to students, it shall charge a mandatory transportation fee to employees. The transportation fee for employees may exceed, but shall not be lower than the transportation fee charged to students. The transportation fee for employees may be deducted from the employees' paychecks. The transportation fee for students may be imposed annually, or each academic term. For students attending community colleges and technical colleges, the mandatory transportation fee shall not exceed sixty percent of the maximum rate permitted for services and activities fees at community colleges, unless, through a vote, a majority of students consent to increase the transportation fee. For students attending four-year institutions of higher education, the mandatory transportation fee shall not exceed thirty-five percent of the maximum rate permitted for services and activities fees at the institution unless, through a vote, a majority of students consents to increase the transportation fee. The board may make a limited number of exceptions to the fee based on a policy adopted by the board. [1993 c 447 § 3.]

28B.130.030 Use of transportation fees. Transportation fees shall be spent only on activities directly related to the institution of higher education's transportation demand management program. These may include, but are not limited to the following activities: Transit, carpool, and vanpool subsidies; ridesharing programs, and program advertising for carpools, vanpools, and transit service; guaranteed ride-home and telecommuting programs; and bicycle storage facilities. Funds may be spent on capital or operating costs incurred in the implementation of any of these strategies, and may be also used to contract with local or regional transit agencies for transportation services. Funds may be used for existing programs if they are incorporated into the campus transportation demand management program. [1993 c 447 § 4.]

28B.130.040 Adoption of guidelines for establishing and funding transportation demand management programs. The board of trustees or board of regents of each institution of higher education imposing a transportation fee shall adopt guidelines governing the establishment and funding of transportation demand management programs supported by transportation fees. These guidelines shall establish procedures for budgeting and expending transportation fee revenue. [1993 c 447 § 5.]

Title 28C
VOCATIONAL EDUCATION

Chapters

Chapter 28C.10
PRIVATE VOCATIONAL SCHOOLS

Sections

28C.10.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agency" means the work force training and education coordinating board.

(2) "Agent" means a person owning an interest in, employed by, or representing for remuneration a private vocational school within or without this state, who enrolls or personally attempts to secure the enrollment in a private vocational school of a resident of this state, offers to award educational credentials for remuneration on behalf of a private vocational school, or holds himself or herself out to residents of this state as representing a private vocational school for any of these purposes.

(3) "Degree" means any designation, appellation, letters, or words including but not limited to "associate," "bachelor," "master," "doctor," or "fellow" which signify or purport to signify satisfactory completion of an academic program of study beyond the secondary school level.

(4) "Education" includes but is not limited to, any class, course, or program of training, instruction, or study.

(5) "Educational credentials" means degrees, diplomas, certificates, transcripts, reports, documents, or letters of designation, marks, appellations, series of letters, numbers, or words which signify or appear to signify enrollment, attendance, progress, or satisfactory completion of the requirements or prerequisites for any educational program.

(6) "Entity" includes, but is not limited to, a person, company, firm, society, association, partnership, corporation, or trust.

(7) "Private vocational school" means any location where an entity is offering postsecondary education in any form or manner for the purpose of instructing, training, or preparing persons for any vocation or profession.

(8) "To grant" includes to award, issue, sell, confer, bestow, or give.

(9) "To offer" includes, in addition to its usual meanings, to advertise or publicize. "To offer" also means to solicit or encourage any person, directly or indirectly, to perform the act described.

(10) "To operate" means to establish, keep, or maintain any facility or location where, from, or through which

education is offered or educational credentials are offered or granted to residents of this state, and includes contracting for the performance of any such act. [1993 c 445 § 1; 1991 c 238 § 81; 1990 c 188 § 5; 1986 c 299 § 2.]

Effective dates—Severability—1991 c 238: See RCW 28B.50.917 and 28B.50.918.

Severability—1990 c 188: "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." [1990 c 188 § 14.]

28C.10.084 Tuition recovery trust fund—Deposits required—Use—Claims—Notice—Disbursements. (1) The agency shall establish, maintain, and administer a tuition recovery trust fund. All funds collected for the tuition recovery trust fund are payable to the state for the benefit and protection of any student or enrollee of a private vocational school licensed under this chapter, or, in the case of a minor, his or her parents or guardian, for purposes including but not limited to the settlement of claims related to school closures under subsection (10) of this section and the settlement of claims under RCW 28C.10.120. The fund shall be liable for settlement of claims and costs of administration but shall not be liable to pay out or recover penalties assessed under RCW 28C.10.130 or 28C.10.140. No liability accrues to the state of Washington from claims made against the fund.

(2) By June 30, 1998, a minimum operating balance of one million dollars shall be achieved in the fund and maintained thereafter. If disbursements reduce the operating balance below two hundred thousand dollars at any time before June 30, 1998, or below one million dollars thereafter, each participating entity shall be assessed a pro rata share of the deficiency created, based upon the incremental scale created under subsection (6) of this section. The agency shall adopt schedules of times and amounts for effecting payments of assessment.

(3) To be and remain licensed under this chapter each entity shall, in addition to other requirements under this chapter, make cash deposits into a tuition recovery trust fund as a means to assure payment of claims brought under this chapter.

(4) The amount of liability that can be satisfied by this fund on behalf of each individual entity licensed under this chapter shall be established by the agency, based on an incremental scale that recognizes the average amount of unearned prepaid tuition in possession of the entity. However, the minimum amount of liability for any entity shall not be less than five thousand dollars. The upper limit of liability is reestablished after any disbursements are made to settle an individual claim or class of claims.

(5) The fund's liability with respect to each participating entity commences on the date of its initial deposit into the fund and ceases one year from the date it is no longer licensed under this chapter.

(6) The agency shall adopt by rule a matrix for calculating the deposits into the fund required of each entity. Proration shall be determined by factoring the entity's share of liability in proportion to the aggregated liability of all participants under the fund by grouping such prorations under the incremental scale created by subsection (4) of this section. Expressed as a percentage of the total liability, that figure determines the amount to be contributed when factored into a fund containing one million dollars. The total amount of its prorated share, minus the amount paid for initial capitalization, shall be payable in up to twenty increments over a ten-year period, commencing with the sixth month after the entity makes its initial capitalization deposit. Additionally, the agency shall require deposits for initial capitalization, under which the amount each entity deposits is proportionate to its share of two hundred thousand dollars, employing the matrix developed under this subsection. The amount thus established shall be deposited by each applicant for initial licensing before the issuance of such license.

(7) No vested right or interests in deposited funds is created or implied for the depositor, either at any time during the operation of the fund or at any such future time that the fund may be dissolved. All funds deposited are payable to the state for the purposes described under this section. The agency shall maintain the fund, serve appropriate notices to affected entities when scheduled deposits are due, collect deposits, and make disbursements to settle claims against the fund. When the aggregated deposits total five million dollars and the history of disbursements justifies such modifications, the agency may at its own option reduce the schedule of deposits whether as to time, amount, or both and the agency may also entertain proposals from among the licensees with regard to disbursing surplus funds for such purposes as vocational scholarships.

(8) Based on annual financial data supplied by the entity the agency shall determine whether the increment assigned to that entity on the incremental scale established under subsection (6) of this section has changed. If an increase or decrease in gross annual tuition income has occurred, a corresponding change in its incremental position and contribution schedule shall be made before the date of its next scheduled deposit into the fund. Such adjustments shall only be calculated and applied annually.

(9) No deposits made into the fund by an entity are transferable. If the majority ownership interest in an entity is conveyed through sale or other means into different ownership, all contributions made to the date of transfer accrue to the fund. The new owner commences contributions under provisions applying to a new applicant.

(10) To settle claims adjudicated under RCW 28C.10.120 and claims resulting when a private vocational school ceases to provide educational services, the agency may make disbursements from the fund. Students enrolled under a training contract executed between a school and a public or private agency or business are not eligible to make a claim against the fund. In addition to the processes described for making reimbursements related to claims under RCW 28C.10.120, the following procedures are established to deal with reimbursements related to school closures:

(a) The agency shall attempt to notify all potential claimants. The unavailability of records and other circumstances surrounding a school closure may make it impossible or unreasonable for the agency to ascertain the names and whereabouts of each potential claimant but the agency shall make reasonable inquiries to secure that information from all likely sources. The agency shall then proceed to settle the claims on the basis of information in its possession. The

agency is not responsible or liable for claims or for handling claims that may subsequently appear or be discovered.

(b) Thirty days after identified potential claimants have been notified, if a claimant refuses or neglects to file a claim verification as requested in such notice, the agency shall be relieved of further duty or action on behalf of the claimant under this chapter.

(c) After verification and review, the agency may disburse funds from the tuition recovery trust fund to settle or compromise the claims. However, the liability of the fund for claims against the closed entity shall not exceed the maximum amount of liability assigned to that entity under subsection (6) of this section.

(d) In the instance of claims against a closed school, the agency shall seek to recover such disbursed funds from the assets of the defaulted entity, including but not limited to asserting claims as a creditor in bankruptcy proceedings.

(11) When funds are disbursed to settle claims against a current licensee, the agency shall make demand upon the licensee for recovery. The agency shall adopt schedules of times and amounts for effecting recoveries. An entity's failure to perform subjects its license to suspension or revocation under RCW 28C.10.050 in addition to any other available remedies. [1993 c 445 § 2; 1990 c 188 § 8; 1987 c 459 § 1.]

Severability—1990 c 188: See note following RCW 28C.10.020.

28C.10.120 Complaints—Investigations—Hearings—Remedies. (1) Complaints may be filed under this chapter only by a person claiming loss of tuition or fees as a result of an unfair business practice. The complaint shall set forth the alleged violation and shall contain information required by the agency on forms provided for that purpose. A complaint may also be filed with the agency by an authorized staff member of the agency or by the attorney general.

(2) The agency shall investigate any complaint under this section and shall first attempt to bring about a negotiated settlement. The agency director or the director's designee may conduct an informal hearing with the affected parties in order to determine whether a violation has occurred.

(3) If the agency finds that the private vocational school or its agent engaged in or is engaging in any unfair business practice, the agency shall issue and cause to be served upon the violator an order requiring the violator to cease and desist from the act or practice and may impose the penalties provided under RCW 28C.10.130. If the agency finds that the complainant has suffered loss as a result of the act or practice, the agency may order the violator to pay full or partial restitution of any amounts lost. The loss may include any money paid for tuition, required or recommended course materials, and any reasonable living expenses incurred by the complainant during the time the complainant was enrolled at the school.

(4) The complainant is not bound by the agency's determination of restitution. The complainant may reject that determination and may pursue any other legal remedy.

(5) The violator may, within twenty days of being served any order described under subsection (3) of this section, file an appeal under the administrative procedure act, chapter 34.05 RCW. Timely filing stays the agency's order during the pendency of the appeal. If the agency prevails, the appellant shall pay the costs of the administrative hearing. [1993 c 445 § 3; 1990 c 188 § 10; 1989 c 175 § 83; 1986 c 299 § 12.]

Severability—1990 c 188: See note following RCW 28C.10.020.

Effective date—1989 c 175: See note following RCW 34.05.010.

28C.10.910 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 28C.18
WORK FORCE TRAINING AND EDUCATION

Sections

28C.18.060 Board's duties. (Effective July 1, 1994.) The board, in cooperation with the operating agencies of the state training system shall:

(1) Concentrate its major efforts on planning, coordination evaluation, policy analysis, and recommending improvements to the state's training system.

(2) Advocate for the state training system and for meeting the needs of employers and the work force for work force education and training.

(3) Establish and maintain an inventory of the programs of the state training system, and related state programs, and perform a biennial assessment of the vocational education, training, and adult basic education and literacy needs of the state; identify ongoing and strategic education needs; and assess the extent to which employment, training, vocational and basic education, rehabilitation services, and public assistance services represent a consistent, integrated approach to meet such needs.

(4) Develop and maintain a state comprehensive plan for work force training and education, including but not limited to, goals, objectives, and priorities for the state training system, and review the state training system for consistency with the state comprehensive plan. In developing the state comprehensive plan for work force training and education, the board shall use, but shall not be limited to: Economic, labor market, and populations trends reports in office of financial management forecasts; joint office of financial management and employment security department labor force, industry employment, and occupational forecasts; the results of scientifically based outcome, net-impact and cost-benefit evaluations; the needs of employers as evidenced in formal employer surveys and other employer input; and the needs of program participants and workers as evidenced in formal surveys and other input from program participants and the labor community.

(5) In consultation with the higher education coordinating board, review and make recommendations to the office of financial management and the legislature on operating and capital facilities budget requests for operating agencies of the state training system for purposes of consistency with the state comprehensive plan for work force training and education.

(6) Provide for coordination among the different operating agencies of the state training system at the state level and at the regional level.

(7) Develop a consistent and reliable data base on vocational education enrollments, costs, program activities, and job placements from publicly funded vocational education programs in this state.

(8) Establish standards for data collection and maintenance for the operating agencies of the state training system in a format that is accessible to use by the board. The board shall require a minimum of common core data to be collected by each operating agency of the state training system.

The board shall develop requirements for minimum common core data in consultation with the office of financial management and the operating agencies of the training system.

(9) Establish minimum standards for program evaluation for the operating agencies of the state training system, including, but not limited to, the use of common survey instruments and procedures for measuring perceptions of program participants and employers of program participants, and monitor such program evaluation.

(10) Every two years administer scientifically based outcome evaluations of the state training system, including, but not limited to, surveys of program participants, surveys of employers of program participants, and matches with employment security department payroll and wage files. Every five years administer scientifically based net-impact and cost-benefit evaluations of the state training system.

(11) In cooperation with the employment security department, provide for the improvement and maintenance of quality and utility in occupational information and forecasts for use in training system planning and evaluation. Improvements shall include, but not be limited to, development of state-based occupational change factors involving input by employers and employees, and delineation of skill and training requirements by education level associated with current and forecasted occupations.

(12) Provide for the development of common course description formats, common reporting requirements, and common definitions for operating agencies of the training system.

(13) Provide for effectiveness and efficiency reviews of the state training system.

(14) In cooperation with the higher education coordinating board, facilitate transfer of credit policies and agreements between institutions of the state training system, and encourage articulation agreements for programs encompassing two years of secondary work force education and two years of postsecondary work force education.

(15) In cooperation with the higher education coordinating board, facilitate transfer of credit policies and agreements between private training institutions and institutions of the state training system.

(16) Participate in the development of coordination criteria for activities under the job training partnership act with related programs and services provided by state and local education and training agencies.

(17) Make recommendations to the commission of student assessment, the state board of education, and the superintendent of public instruction, concerning basic skill competencies and essential core competencies for K-12 education. Basic skills for this purpose shall be reading, writing, computation, speaking, and critical thinking, essential core competencies for this purpose shall be English, math, science/technology, history, geography, and critical thinking. The board shall monitor the development of and provide advice concerning secondary curriculum which integrates vocational and academic education.

(18) Establish and administer programs for marketing and outreach to businesses and potential program participants.

(19) Facilitate the location of support services, including but not limited to, child care, financial aid, career counseling, and job placement services, for students and trainees at institutions in the state training system, and advocate for support services for trainees and students in the state training system.

(20) Facilitate private sector assistance for the state training system, including but not limited to: Financial assistance, rotation of private and public personnel, and vocational counseling.

(21) Facilitate programs for school-to-work transition that combine classroom education and on-the-job training in industries and occupations without a significant number of apprenticeship programs.

(22) Encourage and assess progress for the equitable representation of racial and ethnic minorities, women, and people with disabilities among the students, teachers, and administrators of the state training system. Equitable, for this purpose, shall mean substantially proportional to their percentage of the state population in the geographic area served. This function of the board shall in no way lessen more stringent state or federal requirements for representation of racial and ethnic minorities, women, and people with disabilities.

(23) Participate in the planning and policy development of governor set-aside grants under P.L. 97-300, as amended.

(24) Administer veterans' programs, licensure of private vocational schools, the job skills program, and the Washington award for vocational excellence.

(25) Allocate funding from the state job training trust fund.

(26) Work with the director of community, trade, and economic development to ensure coordination between work force training priorities and that department's economic development efforts.

(27) Adopt rules as necessary to implement this chapter.

The board may delegate to the director any of the functions of this section. [1993 c 280 § 17; 1991 c 238 § 7.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Chapter 28C.22
SKILL CENTERS

Sections

28C.22.005 Findings. As retraining becomes a common part of adult work life, it is important that all vocational education opportunities be used to the maximum extent possible. Skill centers established to provide vocational training for high school students are used during the morning and early afternoon. These facilities are idle during the late afternoon and evening hours. At the same time, community colleges have more students applying than they can accommodate. To assure that we meet the needs of our citizens in seeking training or retraining, all vocational training facilities should be used to the maximum extent possible. [1993 c 380 § 1.]

28C.22.010 Skill center program operation. Skill centers, to the extent funds are available, are encouraged to operate afternoon and evening programs. [1993 c 380 § 2.]

28C.22.020 Contracts with community colleges—Enrollment lid—Fees. The community colleges are encouraged to contract with skill centers to use the skill center facilities. The community colleges shall not be required to count the enrollments under these agreements toward the community college enrollment lid. Skill centers may charge fees to adult students under RCW 28A.225.220. [1993 c 380 § 3.]

Title 29
ELECTIONS

Chapters

Chapter 29.04
GENERAL PROVISIONS

Sections

29.04.150 Computer file of registered voters—County records to secretary of state—Reimbursement. (1) No later than June 15th or November 15th, any political party organization or any other individual may request in writing from the secretary of state to receive a copy of the subsequent state-wide computer file of registered voters compiled under subsection (2) of this section. At the time it makes this request, the political party or individual shall deposit sufficient funds with the secretary of state to pay for the cost of assembling, compiling, and distributing the computer file of registered voters and shall agree to the statutory restrictions regarding the commercial use of this data.

(2) Not earlier than January 1st or July 1st subsequent to the receipt of a request and deposit under subsection (1) of this section, each county auditor shall provide to the secretary of state, or a data processing agency designated by the secretary of state, a duplicate computer tape or data file of the records of the registered voters in that county, containing the information specified in RCW 29.07.220. The secretary of state shall reimburse each county for the actual cost of reproduction and mailing of the duplicate computer tape or data file. [1993 c 441 § 1; 1975-'76 2nd ex.s. c 46 § 2.]

Effective date—1993 c 441: "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, 1993." [1993 c 441 § 3.]

29.04.160 Computer tape or data file of records of registered voters—Master state-wide tape or file to political parties—Duplicate copies to statute law committee and department of information services—Restrictions and penalties (as amended by 1993 c 408). (Effective March 1, 1994.) No later than February 15th and no later than August 15th of each year, the secretary of state shall provide a duplicate copy of the master state-wide computer tape or data file of registered voters to the state central committee of each major political party((,)) at actual duplication cost, ((and)) shall provide a duplicate copy of the master state-wide computer tape or data file of registered voters to the statute law committee without cost, and shall provide a duplicate copy of the master state-wide computer tape or electronic data file of registered voters to the department of information services for purposes of creating the jury source list without cost. The master state-wide computer tape or data file of registered voters or portions of the tape or file shall be available to any other political party, at actual duplication cost, upon written request to the secretary of state. Restrictions as to the commercial use of the information on the state-wide computer tape or data file of registered voters, and penalties for its misuse, shall be the same as provided in RCW 29.04.110 and 29.04.120 as now existing or hereafter amended. [1993 c 408 § 10; 1977 ex.s. c 226 § 1; 1975-'76 2nd ex.s. c 46 § 3.]

Severability—Effective dates—1993 c 408: See notes following RCW 2.36.054.

29.04.160 Computer file of registered voters—Duplicate copy provided—Restrictions and penalties (as amended by 1993 c 441). ((~~No later than February 15th and no later than August 15th of each year~~)) As soon as any or all of the voter registration data from the counties has been received under RCW 29.04.150 and processed, the secretary of state shall provide a duplicate copy of ((~~the master state-wide computer tape or~~)) this data ((~~file of registered voters~~)) to the state central committee ((~~of each major political party~~)) or other individual making the request, at ((~~actual duplication~~)) cost((~~, and shall provide a duplicate copy of the master state-wide computer tape or data file of registered voters to the statute law committee without cost. The master state-wide computer tape or data file of registered voters or portions of the tape or file shall be available to any other political party, at actual duplication cost, upon written request to the secretary of state~~)). Restrictions as to the commercial use of the information on the state-wide computer tape or data file of registered voters, and penalties for its misuse, shall be the same as provided in RCW 29.04.110

and 29.04.120 as now existing or hereafter amended. [1993 c 441 § 2; 1977 ex.s. c 226 § 1; 1975-'76 2nd ex.s. c 46 § 3.]

Reviser's note: RCW 29.04.160 was amended twice during the 1993 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Effective date—1993 c 441: See note following RCW 29.04.150.

Chapter 29.07
REGISTRATION OF VOTERS

Sections

29.07.040 Repealed. (Effective January 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

29.07.152 Late registration—Special procedure. This section establishes a special procedure which an elector may use to register to vote during the period beginning after the closing of registration for voting at the polls under RCW 29.07.160 and ending on the fifteenth day before a primary, special election, or general election. During this period, the unregistered qualified elector may register to vote in person in the office of the county auditor or at a voter registration location specifically designated for this purpose by the county auditor of the county in which the applicant resides, and apply for an absentee ballot for that primary or election. The auditor or voter registrar shall register that individual in the manner provided in this chapter. The application for an absentee ballot executed by the newly registered voter for the primary or election that follows the execution of the registration shall be promptly transmitted to the auditor with the completed voter registration form. [1993 c 383 § 1.]

29.07.160 Closing registration files—Notice. The registration files of all precincts shall be closed against original registration or transfers for thirty days immediately preceding every primary, special election, and general election to be held in such precincts.

The county auditor shall give notice of the closing of the precinct files for original registration and transfer and notice of the special registration and voting procedure provided by RCW 29.07.152 by one publication in a newspaper of general circulation in the county at least five days before the closing of the precinct files.

No person may vote at any primary, special election, or general election in a precinct polling place unless he or she has registered to vote at least thirty days before that primary or election. If a person, otherwise qualified to vote in the state, county, and precinct in which he or she applies for registration, does not register at least thirty days before any primary, special election, or general election, he or she may register and vote by absentee ballot for that primary or election under RCW 29.07.152. [1993 c 383 § 2; 1980 c 3 § 4; 1974 ex.s. c 127 § 4; 1971 ex.s. c 202 § 20; 1965 c 9 § 29.07.160. Prior: 1947 c 68 § 2; 1933 c 1 § 9; Rem. Supp. 1947 § 5114-9.]

29.07.220 Computer file of voter registration records—Establishment—Duties of county auditor. (Effective September 1, 1994.) Each county auditor shall maintain a computer file on magnetic tape or disk, punched cards, or other form of data storage containing the records of all registered voters within the county. Where it is necessary or advisable, the auditor may provide for the establishment and maintenance of such files by private contract or through interlocal agreement as provided by chapter 39.34 RCW, as it now exists or is hereafter amended. The computer file shall include, but not be limited to, each voter's last name, first name, middle initial, date of birth, residence address, sex, date of registration, applicable taxing district and precinct codes and the last date on which the individual voted. The county auditor shall subsequently record each consecutive date upon which the individual has voted and retain at least the last five such consecutive dates: PROVIDED, That if the voter has not voted at least five times since establishing his or her current registration record, only the available dates shall be included. [1993 c 408 § 11; 1991 c 81 § 22; 1974 ex.s. c 127 § 12.]

Severability—Effective dates—1993 c 408: See notes following RCW 2.36.054.

Effective date—1991 c 81: See note following RCW 29.85.010.

Chapter 29.08
REGISTRATION BY MAIL
(Effective January 1, 1994)

Sections

29.08.010 Definition. Unless the context clearly requires otherwise, "by mail" means delivery of a completed original voter registration form by mail, by personal delivery, or by courier to a county auditor. [1993 c 434 § 1.]

29.08.020 Duties of county auditor—Application of remainder of title. The county auditor is responsible for the conduct of voter registration under this chapter within the county. Except where inconsistent with this chapter, the remaining provisions of Title 29 RCW apply to registration by mail. [1993 c 434 § 2.]

29.08.030 Authorization. Any elector of this state may register to vote by mail under this chapter. [1993 c 434 § 3.]

29.08.040 Forms. The county auditor shall distribute forms by which a person may register to vote by mail and cancel any previous registration in this state. The county auditor shall keep a supply of voter registration forms in his or her office at all times for political parties and others interested in assisting in voter registration, and shall make every effort to make these forms generally available to the public. The county auditor shall provide voter registration forms to city and town clerks, state offices, schools, fire stations, and any other locations considered appropriate by the auditor for extending registration opportunities to all areas of the county. After the initial distribution of voter registration forms to a given location, a representative designated by the official in charge of that location shall notify the county auditor of the need for additional voter registration supplies. [1993 c 434 § 4.]

29.08.050 Declaration and warning. In addition to the information required under RCW 29.07.070, when registering to vote by mail under this chapter, the applicant shall sign a portion of the form that can be used as an initiative signature card for the verification of petition signatures by the secretary of state and shall sign and attest to the following oath: "I declare that the facts relating to my qualifications as a voter recorded on this voter registration form are true. I am a citizen of the United States, I am not presently denied my civil rights as a result of being convicted of an infamous crime, I will have lived in this state, county, and precinct thirty days immediately preceding the next election at which I offer to vote, and I will be at least eighteen years of age at the time of voting."

The voter registration by mail form shall provide, in a conspicuous place, the following warning: "Knowingly providing false information on this voter registration form or knowingly making a false declaration about your qualifications for registration is a class C felony punishable by imprisonment for up to five years, or by a fine not to exceed ten thousand dollars, or by both such imprisonment and fine." [1993 c 434 § 5.]

29.08.060 Auditor's procedure. On receipt of an application for voter registration under this chapter, the county auditor shall review the application to determine whether the information supplied is complete. If it is not, the auditor shall promptly send notice of the deficiency to the applicant. If the information is complete, the applicant is registered as of the date of the application's postmark. If there is no postmark or if the postmark is illegible, the applicant is registered on the date the complete and correct application was received by the auditor. The auditor shall record the appropriate precinct identification, taxing district identification, and date of registration on the voter's record. Within forty-five days after the receipt of an application but no later than seven days before the next primary, special election, or general election, the auditor shall send to the applicant, by first class mail, a voter registration card identifying the registrant's precinct and containing such other information as may be required by the secretary of state. The postal service shall be instructed not to forward a voter registration card to any other address and to return to the auditor any card which is not deliverable.

If a voter registration card is properly mailed as required by this section to the address listed by the applicant as being the applicant's mailing address and the card is subsequently returned to the auditor by the postal service as being undeliverable to the applicant at that address, the auditor shall immediately cancel the voter registration of the applicant. The auditor shall promptly send the applicant a notice and explanation of the cancellation, and a registration application form. The postal service shall be requested to forward this notice as applicable. [1993 c 434 § 6.]

29.08.070 Form—Adoption, contents. The secretary of state shall adopt an application form for registering by mail under RCW 29.07.140. An applicant registering to vote by mail shall be required to complete only one form and to provide the required information, other than his or her signature, no more than once. The form shall also contain instructions on its use, a notification of filing deadlines, a warning to the applicant of the penalty for knowingly supplying false information, and space for the county auditor to enter the voter's precinct identification, taxing district identification, and registration number. The secretary of state shall develop the form in consultation with the county auditors. [1993 c 434 § 7.]

29.08.080 Forms—Supply and costs. The secretary of state shall furnish registration forms necessary to carry out the registration of voters as provided by this chapter without cost to the respective counties. However, costs incurred by the secretary of state during 1994 and 1995 in the printing and distribution of voter registration forms shall be reimbursed by the counties. This cost shall be considered an election cost under RCW 29.13.045 and be prorated as part of the 1994 and 1995 general election costs. [1993 c 434 § 8.]

29.08.090 Violations of chapter. Violations of this chapter shall be prosecuted under chapter 29.07 RCW or any other applicable provisions of law. [1993 c 434 § 9.]

29.08.900 Effective date—1993 c 434. Sections 1 through 9 and 12 of this act take effect on January 1, 1994. [1993 c 434 § 13.]

Chapter 29.10
REGISTRATION TRANSFERS AND CANCELLATIONS

Sections

29.10.180 Voter change-of-address—Inquiries of registration validity—Corrections and cancellations. (1) The county auditor may enter one or more contracts with the United States postal service, or its licensee, which permit the auditor to use postal service change-of-address information. If the auditor finds that information received under such a contract gives the appearance that a voter has changed his or her residence address, the auditor shall notify the voter

concerning the requirements of state and federal laws governing voter registration and residence.

(2) Whenever any vote-by-mail ballot, notification to voters following reprecincting of the county, notification to voters of selection to serve on jury duty, notification under subsection (1) of this section, or voter identification card other than a voter identification card issued under RCW 29.08.060 is returned by the postal service as undeliverable, the county auditor shall, in every instance, inquire into the validity of the registration of that voter.

(3) The county auditor shall initiate his or her inquiry by sending, by first-class mail, a written notice to the challenged voter at the address indicated on the voter's permanent registration record and to any other address at which the county auditor could reasonably expect mail to be received by the voter. The county auditor shall not request any restriction on the forwarding of such notice by the postal service. The notice shall contain the nature of the inquiry and provide a suitable form for reply. The notice shall also contain a warning that the county auditor must receive a response within ninety days from the date of mailing the notice of inquiry in a case resulting from a returned vote-by-mail ballot or forty-five days from the date of mailing in all other cases or the individual's voter registration will be canceled.

(4) The voter, in person or in writing, may state that the information on the permanent voter registration record is correct or may request a change in the address information on the permanent registration record no later than the ninetieth day or forty-fifth day, as appropriate, after the date of mailing the inquiry.

(5) Upon the timely receipt of a response signed by the voter, the county auditor shall consider the inquiry satisfied and will make any address corrections requested by the voter on the permanent registration record. The county auditor shall cancel the registration of a voter who fails to respond to the notice of inquiry within ninety days after the date of mailing the notice in a case resulting from a returned vote-by-mail ballot, or, in all other cases, within forty-five days after the date of mailing.

(6) The county auditor shall notify any voter whose registration has been canceled by sending, by first class mail, a written notice to the address indicated on the voter's permanent registration record and to any other address to which the original inquiry was sent. Upon receipt of a satisfactory voter response, the auditor shall reinstate the voter.

(7) A voter whose registration has been canceled under this section and who offers to vote at the next ensuing election shall be issued a questioned ballot. Upon receipt of such a questioned ballot the auditor shall investigate the circumstances surrounding the original cancellation. If he or she determines that the cancellation was in error, the voter's registration shall be immediately reinstated, and the voter's questioned ballot shall be counted. If the original cancellation was not in error, the voter shall be afforded the opportunity to reregister at his or her correct address, and the voter's questioned ballot shall not be counted. [1993 c 434 § 10; 1993 c 417 § 8; 1991 c 363 § 31; 1989 c 261 § 1; 1987 c 359 § 1.]

Reviser's note: This section was amended by 1993 c 417 § 8 and by 1993 c 434 § 10, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Chapter 29.15
FILING FOR OFFICE

Sections

29.15.025 Qualifications for filing, appearance on ballot. (Effective January 1, 1995.) (1) A person filing a declaration and affidavit of candidacy for an office shall, at the time of filing, possess the qualifications specified by law for persons who may be elected to the office.

(2) The name of a candidate for an office shall not appear on a ballot for that office unless, except as provided in RCW 3.46.067 and 3.50.057, the candidate is, at the time the candidate's declaration and affidavit of candidacy is filed, properly registered to vote in the geographic area represented by the office. For the purposes of this section, each geographic area in which registered voters may cast ballots for an office is represented by that office. If a person elected to an office must be nominated from a district or similar division of the geographic area represented by the office, the name of a candidate for the office shall not appear on a primary ballot for that office unless the candidate is, at the time the candidate's declaration and affidavit of candidacy is filed, properly registered to vote in that district or division. The officer with whom declarations and affidavits of candidacy must be filed under this title shall review each such declaration filed regarding compliance with this subsection.

(3) This section does not apply to the office of a member of the United States congress. [1993 c 317 § 10; 1991 c 178 § 1. Formerly RCW 29.18.021.]

Severability—Effective date—1993 c 317: See notes following RCW 3.46.155.

29.15.240 Rejection of ineligible persons. (1) The secretary of state or other election official authorized by law shall not accept or verify the signatures, nor accept a declaration of candidacy or a nomination paper, from or on behalf of a person who, by reason of RCW 43.01.015, 44.04.015, 29.68.015, or 29.68.016, is ineligible for the office, nor allow the person's name to appear on the ballot.

(2) No terms or years served in office before November 3, 1992, may be used to determine eligibility to appear on the ballot. [1993 c 1 § 7 (Initiative Measure No. 573, approved November 3, 1992).]

Preamble—Severability—1993 c 1 (Initiative Measure No. 573): See notes following RCW 43.01.015.

Chapter 29.27
CERTIFICATES AND NOTICES

Sections

29.27.060 Certification of measures—Ballot titles—Exceptions. (1) When a proposed constitution or constitutional amendment or other question is to be submitted to the people of the state for state-wide popular vote, the attorney general shall prepare a concise statement posed as a question and not exceeding twenty words containing the essential features thereof expressed in such a manner as to clearly identify the proposition to be voted upon.

Questions to be submitted to the people of a county or municipality shall also be advertised as provided for nominees for office, and in such cases there shall also be printed on the ballot a concise statement posed as a question and not exceeding seventy-five words containing the essential features thereof expressed in such a manner as to clearly identify the proposition to be voted upon, which statement shall be prepared by the city or town attorney for the city or town, and by the prosecuting attorney for the county or any other unit of local government, other than a city or town, the majority area of which is situated in the county.

The concise statement constitutes the ballot title.

(2) The secretary of state shall certify to the county auditors the ballot title for a proposed constitution, constitutional amendment or other state-wide question at the same time and in the same manner as the ballot titles to initiatives and referendums.

(3) Subsection (1) of this section does not apply to referendum measures filed on an enactment of the state legislature or on an enactment of the legislative authority of a unit of local government, nor does it apply to the extent that other provisions of state law provide otherwise for a specific type of ballot question or proposition. [1993 c 256 § 8; 1985 c 252 § 1; 1977 c 4 § 3; 1973 1st ex.s. c 118 § 1; 1965 c 9 § 29.27.060. Prior: 1953 c 242 § 1; 1913 c 135 § 1; 1889 p 405 § 14; RRS § 5271.]

Severability—Effective date—1993 c 256: See notes following RCW 29.79.500.

Severability—1977 c 4: See note following RCW 84.52.052.

Ballot titles to initiatives and referendums: RCW 29.79.040 through 29.79.070.

Review of proposed initiatives by code reviser: RCW 29.79.015.

29.27.065 Certification of measures—Notice of ballot title. Upon the filing of a ballot title as defined in RCW 29.27.060 or a concise statement as required under RCW 29.79.055, the secretary of state, in the event it is a state question, or the county auditor in the event it is a county or other local question, shall forthwith notify the persons proposing the measure of the exact language of the ballot title. [1993 c 256 § 11; 1965 c 9 § 29.27.065. Prior: 1953 c 242 § 3.]

Severability—Effective date—1993 c 256: See notes following RCW 29.79.500.

29.27.067 Certification of measures—Ballot title and statement—Appeal to superior court. If the persons filing any state or local question covered by RCW 29.27.060 or 29.79.055 are dissatisfied with the ballot title or concise statement formulated by the attorney general, city attorney, or prosecuting attorney preparing the same, they may at any time within ten days from the time of the filing of the ballot title or statement appeal to the superior court of Thurston county if it is a state-wide question, or to the superior court of the county where the question is to appear on the ballot, if it is a county or local question, by petition setting forth the measure, the ballot title or statement objected to, their objections to it and praying for amendment thereof. The time of the filing of the ballot title or statement, as used herein in determining the time for appeal, is the time the ballot title or statement is first filed with the secretary of state, if concerning a state-wide question, or the county auditor, if a local question, the secretary of state or the county officer being herein called the "filing officer."

A copy of the petition on appeal together with a notice that an appeal has been taken shall be served upon the filing officer and the official preparing the ballot title or statement. Upon the filing of the petition on appeal, the court shall forthwith, or at the time to which a hearing may be adjourned by consent of the appellants, examine the proposed measure, the ballot title or concise statement filed and the objections thereto and may hear arguments thereon, and shall as soon as possible render its decision and certify to and file with the filing officer such ballot title or statement as it determines will meet the requirements of this chapter. The decision of the superior court shall be final, and the title or statement so certified shall be the established ballot title or concise statement. Such appeal shall be heard without cost to either party. [1993 c 256 § 12; 1965 c 9 § 29.27.067. Prior: 1953 c 242 § 4.]

Severability—Effective date—1993 c 256: See notes following RCW 29.79.500.

Chapter 29.36
ABSENTEE VOTING

Sections

29.36.013 Ongoing absentee status—Request—Termination. Any voter may apply, in writing, for status as an ongoing absentee voter. Each qualified applicant shall automatically receive an absentee ballot for each ensuing election for which he or she is entitled to vote and need not submit a separate request for each election. Ballots received from ongoing absentee voters shall be validated, processed, and tabulated in the same manner as other absentee ballots.

Status as an ongoing absentee voter shall be terminated upon any of the following events:

(1) The written request of the voter;

(2) The death or disqualification of the voter;

(3) The cancellation of the voter's registration record; or

(4) The return of an ongoing absentee ballot as undeliverable. [1993 c 418 § 1; 1991 c 81 § 30; 1987 c 346 § 10; 1986 c 22 § 1; 1985 c 273 § 2.]

Effective date—1991 c 81: See note following RCW 29.85.010.

Legislative intent—Effective date—1987 c 346: See notes following RCW 29.36.010.

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

29.36.120 Election by mail—Small precincts—Notice and application form—Nonpartisan and special elections. At any primary or election, general or special, the county auditor may, in any precinct having fewer than two hundred registered voters at the time of closing of voter registration as provided in RCW 29.07.160, conduct the voting in that precinct by mail ballot. For any precinct having fewer than two hundred registered voters where voting at a primary or a general election is conducted by mail ballot, the county auditor shall, not less than fifteen days prior to the date of that primary or general election, mail or deliver to each registered voter within that precinct a notice that the voting in that precinct will be by mail ballot, an application form for a mail ballot, and a postage prepaid envelope, preaddressed to the issuing officer. A mail ballot shall be issued to each voter who returns a properly executed application to the county auditor no later than the day of that primary or general election. Such application is valid for all subsequent mail ballot elections in that precinct so long as the voter remains qualified to vote.

At any nonpartisan special election not being held in conjunction with a state primary or general election, the county, city, town, or district requesting the election pursuant to RCW 29.13.010 or 29.13.020 may also request that the election be conducted by mail ballot. The county auditor may honor the request or may determine that the election is not to be conducted by mail ballot. The decision of the county auditor in this regard is final.

In no instance shall any special election be conducted by mail ballot in any precinct with two hundred or more registered voters if candidates for partisan office are to be voted upon.

For all special elections not being held in conjunction with a state primary or state general election where voting is conducted by mail ballot, the county auditor shall, not less than fifteen days prior to the date of such election, mail or deliver to each registered voter a mail ballot and an envelope, preaddressed to the issuing officer. [1993 c 417 § 1; 1983 1st ex.s. c 71 § 1; 1974 ex.s. c 35 § 2; 1967 ex.s. c 109 § 6.]

29.36.121 Election by mail—Local elections—Nonpartisan special elections—Requirements—Duties of county auditor. (1) At any nonpartisan special election not being held in conjunction with a state primary or general election, the county, city, town, or district requesting the election pursuant to RCW 29.13.010 or 29.13.020 may also request that the election be conducted by mail ballot. The county auditor may honor the request or may determine that the election is not to be conducted by mail ballot. The decision of the county auditor in this regard is final.

(2) In an odd-numbered year, the county auditor may conduct by mail ballot a primary or a special election concurrently with the primary:

(a) For any office or ballot measure of a special purpose district which is entirely within the county;

(b) For any office or ballot measure of a special purpose district which lies in the county and one or more other counties if the auditor first secures the concurrence of the county auditors of those other counties to conduct the primary in this manner district-wide; and

(c) For any ballot measure or nonpartisan office of a county, city, or town if the auditor first secures the concurrence of the legislative authority of the county, city, or town involved.

A primary in an odd-numbered year may not be conducted by mail ballot in any precinct with two hundred or more registered voters if a partisan office or state office or state ballot measure is to be voted upon at that primary in the precinct.

(3) For all special elections not being held in conjunction with a state primary or state general election where voting is conducted by mail ballot, the county auditor shall, not less than fifteen days before the date of such election, mail or deliver to each registered voter a mail ballot and an envelope, preaddressed to the issuing officer. The county auditor shall notify an election jurisdiction for which a primary is to be held that the primary will be conducted by mail ballot.

(4) To the extent they are not inconsistent with subsections (1) through (3) of this section, the laws governing the conduct of mail ballot special elections apply to nonpartisan primaries conducted by mail ballot. [1993 c 417 § 2.]

29.36.122 Special election by mail—Sending ballots to voters. For any special election conducted by mail, the county auditor shall send a mail ballot with a return identification envelope to each registered voter of the district in which the special election is being conducted not sooner than the twenty-fifth day before the date of the election and not later than the fifteenth day before the date of the election. The envelope in which the ballot is mailed must clearly indicate that the ballot is not to be forwarded and is to be returned to the sender with return postage guaranteed. [1993 c 417 § 3; 1983 1st ex.s. c 71 § 2.]

29.36.126 Election by mail—Return of marked ballots. Upon receipt of the mail ballot, the voter shall mark it, sign the return identification envelope supplied with the ballot, and comply with the instructions provided with the ballot. The voter may return the marked ballot to the county auditor. The ballot must be returned in the return identification envelope. If mailed, a ballot must be postmarked not later than the date of the election. Otherwise, the ballot must be deposited at the office of the county auditor or the designated place of deposit not later than 8:00 p.m. on the date of the election. [1993 c 417 § 4; 1983 1st ex.s. c 71 § 4.]

29.36.130 Election by mail—Small precincts, nonpartisan special elections—Ballot contents, counting, secrecy, authorized observers. All mail ballots authorized by RCW 29.36.120 or 29.36.121 shall contain the same offices, names of candidates, and propositions to be voted upon, including precinct offices, as if the ballot had been voted in person at the polling place. Except as otherwise provided in this chapter, mail ballots shall be issued and canvassed in the same manner as absentee ballots issued pursuant to the request of the voter. The county canvassing board, at the request of the county auditor, may direct that mail ballots be counted on the day of the election. If such count is made, it must be done in secrecy in the presence of the canvassing board or their authorized representatives and the results not revealed to any unauthorized person until 8:00 p.m. or later if the auditor so directs. If electronic vote tallying devices are used, political party observers shall be afforded the opportunity to be present, and a test of the equipment must be performed as required by RCW 29.33.350 prior to the count of ballots. Political party observers may select at random ballots to be counted manually as provided by RCW 29.54.025. Any violation of the secrecy of such count shall be subject to the same penalties as provided for in RCW 29.85.225. [1993 c 417 § 5; 1990 c 59 § 76; 1983 1st ex.s. c 71 § 5; 1967 ex.s. c 109 § 7.]

Intent—Effective date—1990 c 59: See notes following RCW 29.01.006.

29.36.139 Mail ballots—Counting requirements—Challenge. (1) A mail ballot shall be counted only if it is returned in the return identification envelope, if the envelope is signed by the registered voter to whom the ballot is issued, and if the signature is verified as provided in this subsection. The county auditor shall verify the signature of each voter on the return identification envelope with the signature on the voter's registration record. A person who votes or attempts to vote more than once in a mail ballot election is subject to the penalties provided in chapter 29.85 RCW.

(2) Any mail ballot may be challenged in the same manner as an absentee ballot. [1993 c 417 § 6; 1983 1st ex.s. c 71 § 6.]

29.36.150 Rules for accuracy, secrecy, and uniformity—Out-of-state, overseas, service voters. The secretary of state shall adopt rules to:

(1) Establish standards and procedures to prevent fraud and to facilitate the accurate processing and canvassing of absentee ballots and mail ballots;

(2) Establish standards and procedures to guarantee the secrecy of absentee ballots and mail ballots;

(3) Provide uniformity among the counties of the state in the conduct of absentee voting and mail ballot elections; and

(4) Facilitate the operation of the provisions of this chapter regarding out-of-state voters, overseas voters, and service voters.

The secretary of state shall produce and furnish envelopes and instructions for out-of-state voters, overseas voters, and service voters to the county auditors. [1993 c 417 § 7; 1987 c 346 § 19; 1983 1st ex.s. c 71 § 8.]

Legislative intent—Effective date—1987 c 346: See notes following RCW 29.36.010.

Chapter 29.51
POLLING PLACE REGULATIONS DURING VOTING HOURS

Sections

29.51.173 Effect of term limitations on write-in voting. Nothing in RCW 43.01.015, 44.04.015, 29.68.015, or 29.68.016 prohibits a qualified voter of this state from casting a ballot for any person by writing the name of that person on the ballot in accordance with RCW 29.51.170 or from having such a ballot counted or tabulated, nor does anything in RCW 43.01.015, 44.04.015, 29.68.015, or 29.68.016 prohibit a person from standing or campaigning for an elective office by means of a write-in campaign. [1993 c 1 § 6 (Initiative Measure No. 573, approved November 3, 1992).]

Preamble—Severability—1993 c 1 (Initiative Measure No. 573): See notes following RCW 43.01.015.

Chapter 29.64
STATUTORY RECOUNT PROCEEDINGS

Sections

29.64.015 Mandatory recount. (1) If the official canvass of all of the returns for any office at any primary or election reveals that the difference in the number of votes cast for a candidate apparently nominated or elected to any office and the number of votes cast for the closest apparently defeated opponent is not more than one-half of one percent of the total number of votes cast for both candidates, the county canvassing board shall conduct a recount of all votes cast on that position.

(a) Whenever such a difference occurs in the number of votes cast for candidates for a position which appears on the ballot in more than one county, the secretary of state shall, within three business days of the day that the returns of the primary or election are first certified by the canvassing boards of those counties, direct those boards to recount all votes cast on the position.

(b) If the difference in the number of votes cast for the apparent winner and the closest apparently defeated opponent is less than one hundred fifty votes and also less than one-fourth of one percent of the total number of votes cast for both candidates, the votes shall be recounted manually or as provided in subsection (3) of this section.

(2) A mandatory recount shall be conducted in the manner provided by RCW 29.64.020, 29.64.030, and 29.64.040. No cost of a mandatory recount may be charged to any candidate.

(3) The apparent winner and closest apparently defeated opponent for an office for which a manual recount is

required under subsection (1)(b) of this section may select an alternative method of conducting the recount. To select such an alternative, the two candidates shall agree to the alternative in a signed, written statement filed with the election official for the office. The recount shall be conducted using the alternative method if: It is suited to the balloting system that was used for casting the votes for the office; it involves the use of a vote tallying system that is approved for use in this state by the secretary of state; and the vote tallying system is readily available in each county required to conduct the recount. If more than one balloting system was used in casting votes for the office, an alternative to a manual recount may be selected for each system. [1993 c 377 § 1; 1991 c 90 § 2; 1987 c 54 § 4; 1965 c 9 § 29.64.015. Prior: 1963 ex.s. c 25 § 2.]

Finding, purpose—1991 c 90: "The legislature finds that it is in the public interest to determine the winner of close contests for elective offices as expeditiously and as accurately as possible. It is the purpose of this act to provide procedures which promote the prompt and accurate recounting of votes for elective offices and which provide closure to the recount process." [1991 c 90 § 1.]

Chapter 29.68
UNITED STATES CONGRESSIONAL ELECTIONS

Sections

29.68.015 United States house of representatives—Term limits. (Contingent effective date.) No person is eligible to appear on the ballot or file a declaration of candidacy for the United States house of representatives who, by the end of the then current term of office will have served, or but for resignation would have served, as a member of the United States house of representatives during six of the previous twelve years. [1993 c 1 § 4 (Initiative Measure No. 573, approved November 3, 1992).]

Contingent effective date—1993 c 1 (Initiative Measure No. 573): "RCW 29.68.015 and 29.68.016, regarding candidates for federal legislative office, are not effective until nine states other than Washington have passed laws limiting ballot access or terms of federal legislative office, or both, based on length of service in federal legislative office." [1993 c 1 § 8 (Initiative Measure No. 573, approved November 3, 1992).]

Preamble—Severability—1993 c 1 (Initiative Measure No. 573): See notes following RCW 43.01.015.

29.68.016 United States senate—Term limits. (Contingent effective date.) No person is eligible to appear on the ballot or file a declaration of candidacy for the United States senate who, by the end of the then current term of office will have served, or but for resignation would have served, as a member of the United States senate during twelve of the previous eighteen years. [1993 c 1 § 5 (Initiative Measure No. 573, approved November 3, 1992).]

Contingent effective date—1993 c 1 (Initiative Measure No. 573): See note following RCW 29.68.015.

Preamble—Severability—1993 c 1 (Initiative Measure No. 573): See notes following RCW 43.01.015.

Chapter 29.79
INITIATIVE AND REFERENDUM

Sections

29.79.040 Ballot title and summary—Formulation by attorney general. Within seven calendar days after the receipt of an initiative or referendum measure the attorney general shall formulate and transmit to the secretary of state the concise statement required by RCW 29.27.060 or 29.79.055 bearing the serial number of the measure and a summary of the measure, not to exceed seventy-five words, to follow the statement. The statement may be distinct from the legislative title of the measure, and shall give a true and impartial statement of the purpose of the measure. Neither the statement nor the summary may intentionally be an argument, nor likely to create prejudice, either for or against the measure. Except as provided for in RCW 29.79.055, such a concise statement shall constitute the ballot title. The ballot title or, for a referendum on a state enactment, the concise statement formulated by the attorney general shall be the ballot title of or concise statement describing the measure unless changed on appeal. When practicable, the question posed by the ballot title shall be written in such a way that an affirmative answer to such question and an affirmative vote on the measure would result in a change in then current law, and a negative answer to the question and a negative vote on the measure would result in no change to then current law. [1993 c 256 § 9; 1982 c 116 § 4; 1973 1st ex.s. c 118 § 2; 1965 c 9 § 29.79.040. Prior: 1953 c 242 § 2; 1913 c 138 § 2; RRS § 5398.]

Severability—Effective date—1993 c 256: See notes following RCW 29.79.500.

Ballot titles to constitutional amendments and other measures: RCW 29.27.060 through 29.27.067.

29.79.055 Referendum ballot title—Concise statement—Local referendum advertising. (1) Except as provided to the contrary in RCW 82.14.036, 82.46.021, or 82.80.090, the ballot title of any referendum filed on an enactment or portion of an enactment of the state legislature or of the legislative authority of a unit of local government shall be composed of three elements: (a) An identification of the enacting legislative body; (b) a concise statement identifying the essential features of the enactment on which the referendum is filed; and (c) a question asking the voters whether the enactment should be approved or rejected by the people. The ballot issue shall be displayed on the ballot substantially as follows:

Referendum Measure No. XX. The (name of legislative body) has passed a law that (concise statement). Should this law be

APPROVED . . . . . .
OR
REJECTED . . . . . .

(2) For a referendum measure on a state enactment, the concise statement shall be prepared by the attorney general and shall not exceed twenty-five words.

(3) The concise statement for a referendum measure on an enactment of the legislative authority of a unit of local government shall not exceed seventy-five words. If the local governmental unit is a city or a town, the concise statement shall be prepared by the city or town attorney. If the local governmental unit is a county, the concise statement shall be prepared by the prosecuting attorney of the county. If the unit is a unit of local government other than a city, town, or county, the concise statement shall be prepared by the prosecuting attorney of the county within which the majority area of the unit is located.

(4) A referendum measure on the enactment of a unit of local government shall be advertised in the manner provided for nominees for elective office. [1993 c 256 § 7.]

Severability—Effective date—1993 c 256: See notes following RCW 29.79.500.

29.79.110 Referendum petitions—Form. Petitions ordering that acts or parts of acts passed by the legislature be referred to the people at the next ensuing general election, or special election ordered by the legislature, shall be substantially in the following form:

WARNING

Every person who signs this petition with any other than his or her true name, knowingly signs more than one of these petitions, signs this petition when he or she is not a legal voter, or makes any false statement on this petition may be punished by fine or imprisonment or both.

PETITION FOR REFERENDUM

To the Honorable . . . . . ., Secretary of State of the State of Washington:

We, the undersigned citizens and legal voters of the State of Washington, respectfully order and direct that Referendum Measure No. . . . . ., filed to revoke a (or part or parts of a) bill that (concise statement required by RCW 29.79.055) and that was passed by the . . . . . legislature of the State of Washington at the last regular (special) session of said legislature, shall be referred to the people of the state for their approval or rejection at the regular (special) election to be held on the . . . . day of November, 19. . .; and each of us for himself or herself says: I have personally signed this petition; I am a legal voter of the State of Washington, in the city (or town) and county written after my name, my residence address is correctly stated, and I have knowingly signed this petition only once.

Petitioner's signature	Print name for positive identification	Residence address, street and number, if any	City or Town	County
(Here follow 20 numbered lines divided into columns as below.)				
1				
2				
3				
etc.				

[1993 c 256 § 10; 1982 c 116 § 11; 1965 c 9 § 29.79.110. Prior: 1913 c 138 § 7, part; RRS § 5403, part.]

Severability—Effective date—1993 c 256: See notes following RCW 29.79.500.

29.79.115 Warning statement—Further requirements. The word "warning" and the warning statement regarding signing petitions that must appear on petitions as prescribed by RCW 29.79.090, 29.79.100, and 29.79.110 shall be printed on each petition sheet such that they occupy not less than four square inches of the front of the petition sheet. [1993 c 256 § 5.]

Severability—Effective date—1993 c 256: See notes following RCW 29.79.500.

29.79.200 Petitions—Verification and canvass of signatures, observers—Statistical sampling—Initiatives to legislature, certification of. Upon the filing of an initiative or referendum petition, the secretary of state shall proceed to verify and canvass the names of the legal voters on the petition. The verification and canvass of signatures on the petition may be observed by persons representing the advocates and opponents of the proposed measure so long as they make no record of the names, addresses, or other information on the petitions or related records during the verification process except upon the order of the superior court of Thurston county. The secretary of state may limit the number of observers to not less than two on each side, if in his or her opinion, a greater number would cause undue delay or disruption of the verification process. Any such limitation shall apply equally to both sides. The secretary of state may use any statistical sampling techniques for this verification and canvass which have been adopted by rule as provided by chapter 34.05 RCW. No petition will be rejected on the basis of any statistical method employed, and no petition will be accepted on the basis of any statistical method employed if such method indicates that the petition contains fewer than the requisite number of signatures of legal voters. If the secretary of state finds the same name signed to more than one petition, he or she shall reject all but the first such valid signature. For an initiative to the legislature, the secretary of state shall transmit a certified copy of the proposed measure to the legislature at the opening of its session and, as soon as the signatures on the petition have been verified and canvassed, the secretary of state shall send to the legislature a certificate of the facts relating to the filing, verification, and canvass of the petition. [1993 c 368 § 1; 1982 c 116 § 15; 1977 ex.s. c 361 § 105;

1969 ex.s. c 107 § 1; 1965 c 9 § 29.79.200. Prior: 1933 c 144 § 1; 1913 c 138 § 15; RRS § 5411.]

Effective date—1993 c 368: "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, 1993." [1993 c 368 § 2.]

Effective date—Severability—1977 ex.s. c 361: See notes following RCW 29.01.006.

29.79.440 Violations by signers. Every person who signs an initiative or referendum petition with any other than his or her true name shall be guilty of a class C felony punishable under RCW 9A.20.021. Every person who knowingly signs more than one petition for the same initiative or referendum measure or who signs an initiative or referendum petition knowing that he or she is not a legal voter or who makes a false statement as to his or her residence on any initiative or referendum petition, shall be guilty of a gross misdemeanor punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021. [1993 c 256 § 2; 1965 c 9 § 29.79.440. Prior: 1913 c 138 § 31; RRS § 5427. Formerly also RCW 29.79.450, 29.79.460, and 29.79.470.]

Severability—Effective date—1993 c 256: See notes following RCW 29.79.500.

Misconduct in signing a petition: RCW 9.44.080.

Only registered voters may vote—Exception: RCW 29.04.010.

Registration, information from voter as to qualifications: RCW 29.07.070.

Residence
contingencies affecting: State Constitution Art. 6 § 4.
defined: RCW 29.01.140.

29.79.480 Violations by officers. Every officer who willfully violates any of the provisions of this chapter or chapter 29.81 RCW, for the violation of which no penalty is herein prescribed, or who willfully fails to comply with the provisions of this chapter or chapter 29.81 RCW, shall be guilty of a gross misdemeanor punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021. [1993 c 256 § 3; 1965 c 9 § 29.79.480. Prior: 1913 c 138 § 32, part; RRS § 5428, part.]

Severability—Effective date—1993 c 256: See notes following RCW 29.79.500.

29.79.490 Violations—Corrupt practices. Every person shall be guilty of a gross misdemeanor who:

(1) For any consideration or gratuity or promise thereof, signs or declines to sign any initiative or referendum petition; or

(2) Provides or receives consideration for soliciting or procuring signatures on an initiative or referendum petition if any part of the consideration is based upon the number of signatures solicited or procured, or offers to provide or agrees to receive such consideration any of which is based on the number of signatures solicited or procured; or

(3) Gives or offers any consideration or gratuity to any person to induce him or her to sign or not to sign or to vote for or against any initiative or referendum measure; or

(4) Interferes with or attempts to interfere with the right of any voter to sign or not to sign an initiative or referendum petition or with the right to vote for or against an initiative or referendum measure by threats, intimidation, or any other corrupt means or practice; or

(5) Receives, handles, distributes, pays out, or gives away, directly or indirectly, money or any other thing of value contributed by or received from any person, firm, association, or corporation whose residence or principal office is, or the majority of whose members or stockholders have their residence outside, the state of Washington, for any service rendered for the purpose of aiding in procuring signatures upon any initiative or referendum petition or for the purpose of aiding in the adoption or rejection of any initiative or referendum measure: PROVIDED, That this subsection shall not apply to or prohibit any activity which is properly reported in accordance with the applicable provisions of chapter 42.17 RCW.

A gross misdemeanor under this section is punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021. [1993 c 256 § 4; 1975-'76 2nd ex.s. c 112 § 2; 1965 c 9 § 29.79.490. Prior: 1913 c 138 § 32, part; RRS § 5428, part.]

Severability—Effective date—1993 c 256: See notes following RCW 29.79.500.

Construction—Severability—1975-'76 2nd ex.s. c 112: See RCW 42.17.945 and 42.17.912.

29.79.500 Paid petition solicitors—Finding. The legislature finds that paying a worker, whose task it is to secure the signatures of voters on initiative or referendum petitions, on the basis of the number of signatures the worker secures on the petitions encourages the introduction of fraud in the signature gathering process. Such a form of payment may act as an incentive for the worker to encourage a person to sign a petition which the person is not qualified to sign or to sign a petition for a ballot measure even if the person has already signed a petition for the measure. Such payments also threaten the integrity of the initiative and referendum process by providing an incentive for misrepresenting the nature or effect of a ballot measure in securing petition signatures for the measure. [1993 c 256 § 1.]

Severability—1993 c 256: "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." [1993 c 256 § 15.]

Effective date—1993 c 250: "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 [May 7, 1993]." [1993 c 256 § 16.]

Title 30
BANKS AND TRUST COMPANIES

Chapters

Chapter 30.04
GENERAL PROVISIONS

Sections

30.04.650 Automated teller machines and night depositories security. Chapter 19.174 RCW applies to automated teller machines and night depositories regulated under this title. [1993 c 324 § 10.]

Effective date—1993 c 324: See RCW 19.174.900.

Chapter 30.22
FINANCIAL INSTITUTION INDIVIDUAL ACCOUNT DEPOSIT ACT

Sections

30.22.230 Authority to charge a customer for furnishing items or copies of items. (Effective July 1, 1994.) A financial institution may charge a customer for furnishing items or copies of items as defined in RCW 62A.4-104, in excess of the number of free items or copies of items provided for in RCW 62A.4-406(b), fifty cents per copy furnished plus fees for retrieval at a rate not to exceed the rate assessed when complying with summons issued by the Internal Revenue Service. [1993 c 229 § 118.]

Recovery of attorneys' fees—Effective date—1993 c 229: See RCW 62A.11-111 and 62A.11-112.

Title 31
MISCELLANEOUS LOAN AGENCIES

Chapters

Chapter 31.04
CONSUMER LOAN ACT
(Formerly: Industrial loan companies)

Sections

31.04.105 Licensee—Powers—Restrictions. Every licensee may:

(1) Lend money at a rate that does not exceed twenty-five percent per annum as determined by the simple interest method of calculating interest owed;

(2) In connection with the making of a loan, charge the borrower a nonrefundable, prepaid, loan origination fee not to exceed four percent of the first twenty thousand dollars and two percent thereafter of the principal amount of the loan advanced to or for the direct benefit of the borrower, which fee may be included in the principal balance of the loan;

(3) Agree with the borrower for the payment of fees for title insurance, appraisals, recording, reconveyance, and releasing when such fees are actually paid by the licensee to a third party for such services or purposes and may include such fees in the amount of the loan. However, no charge may be collected unless a loan is made, except for reasonable fees properly incurred in connection with the appraisal of property by a qualified, independent, professional, third-party appraiser selected by the borrower and approved by the lender or in the absence of borrower selection, selected by the lender;

(4) Charge and collect a penalty of ten cents or less on each dollar of any installment payment delinquent ten days or more;

(5) Collect from the debtor reasonable attorneys' fees, actual expenses, and costs incurred in connection with the collection of a delinquent debt, a repossession, or a foreclosure when a debt is referred for collection to an attorney who is not a salaried employee of the licensee;

(6) Make open-end loans as provided in this chapter;

(7) Charge and collect a fee for dishonored checks in an amount approved by the supervisor; and

(8) In accordance with Title 48 RCW, sell insurance covering real and personal property, covering the life or disability or both of the borrower, and covering the involuntary unemployment of the borrower. [1993 c 190 § 1; 1991 c 208 § 11.]

31.04.115 Open-end loan—Requirements—Restrictions—Options. (1) As used in this section, "open-end loan" means an agreement between a licensee and a borrower that expressly states that the loan is made in accordance with this chapter and that provides that:

(a) A licensee may permit the borrower to obtain advances of money from the licensee from time to time, or the licensee may advance money on behalf of the borrower from time to time as directed by the borrower;

(b) The amount of each advance and permitted charges and costs are debited to the borrower's account, and payments and other credits are credited to the same account;

(c) The charges are computed on the unpaid principal balance, or balances, of the account from time to time; and

(d) The borrower has the privilege of paying the account in full at any time without prepayment penalty or, if the account is not in default, in monthly installments of fixed or determinable amounts as provided in the agreement.

(2) Interest charges on an open-end loan shall not exceed twenty-five percent per annum computed in each billing cycle by any of the following methods:

(a) By converting the annual rate to a daily rate, and multiplying the daily rate by the daily unpaid principal balance of the account, in which case each daily rate is determined by dividing the annual rate by three hundred sixty-five;

(b) By multiplying a monthly rate by the average daily unpaid principal balance of the account in the billing cycle, in which case the monthly rate is one-twelfth of the annual rate, and the average daily unpaid principal balance is the

sum of the amount unpaid each day during the cycle divided by the number of days in the cycle; or

(c) By converting the annual rate to a daily rate, and multiplying the daily rate by the average daily unpaid principal balance of the account in the billing cycle, in which case the daily rate is determined by dividing the annual rate by three hundred sixty-five, and the average daily unpaid principal balance is the sum of the amount unpaid each day during the cycle divided by the number of days in the cycle.

For all of the methods of computation specified in this subsection, the billing cycle shall be monthly, and the unpaid principal balance on any day shall be determined by adding to the balance unpaid, as of the beginning of that day, all advances and other permissible amounts charged to the borrower, and deducting all payments and other credits made or received that day. A billing cycle is considered monthly if the closing date of the cycle is on the same date each month, or does not vary by more than four days from that date.

(3) In addition to the charges permitted under subsection (2) of this section, the licensee may contract for and receive an annual fee, payable each year in advance, for the privilege of opening and maintaining an open-end loan account. Except as prohibited or limited by this section, the licensee may also contract for and receive on an open-end loan any additional charge permitted by this chapter on other loans, subject to the conditions and restrictions otherwise pertaining to those charges.

(4)(a) If credit life or credit disability insurance is provided, the additional charge for credit life insurance or credit disability insurance shall be calculated in each billing cycle by applying the current monthly premium rate for the insurance, at the rate approved by the insurance commissioner to the entire outstanding balances in the borrower's open-end loan account, or so much thereof as the insurance covers using any of the methods specified in subsection (2) of this section for the calculation of interest charges; and

(b) The licensee shall not cancel credit life or disability insurance written in connection with an open-end loan because of delinquency of the borrower in the making of the required minimum payments on the loan, unless one or more of the payments is past due for a period of ninety days or more; and the licensee shall advance to the insurer the amounts required to keep the insurance in force during that period, which amounts may be debited to the borrower's account.

(5) A security interest in real or personal property may be taken to secure an open-end loan. Any such security interest may be retained until the open-end account is terminated. The security interest shall be promptly released if (a) there has been no outstanding balance in the account for twelve months and the borrower either does not have or surrenders the unilateral right to create a new outstanding balance; or (b) the account is terminated at the borrower's request and paid in full.

(6) The licensee may from time to time increase the rate of interest being charged on the unpaid principal balance of the borrower's open-end loans if the licensee mails or delivers written notice of the change to the borrower at least thirty days before the effective date of the increase unless the increase has been earlier agreed to by the borrower. However, the borrower may choose to terminate the open-end account and the licensee shall allow the borrower to repay the unpaid balance incurred before the effective date of the rate increase upon the existing open-end loan account terms and interest rate unless the borrower incurs additional debt on or after the effective date of the rate increase or otherwise agrees to the new rate.

(7) The licensee shall deliver a copy of the open-end loan agreement to the borrower at the time the open-end account is created. The agreement must contain the name and address of the licensee and of the principal borrower, and must contain such specific disclosures as may be required by rule of the supervisor. In adopting the rules the supervisor shall consider Regulation Z promulgated by the board of governors of the federal reserve system under the federal consumer credit protection act.

(8) Except in the case of an account that the licensee deems to be uncollectible, or with respect to which delinquency collection procedures have been instituted, the licensee shall deliver to the borrower at the end of each billing cycle in which there is an outstanding balance of more than one dollar in the account, or with respect to which interest is imposed, a periodic statement in the form required by the supervisor. In specifying such form the supervisor shall consider Regulation Z promulgated by the board of governors of the federal reserve system under the federal consumer credit protection act. [1993 c 405 § 1; 1991 c 208 § 12.]

Chapter 31.12
WASHINGTON STATE CREDIT UNION ACT

Sections

31.12.085 Filing upon approval—Fee—Notice to supervisor—Authority to commence business. (1) Upon the approval of the supervisor under RCW 31.12.075(2), the applicants shall file a copy of the articles of incorporation with the secretary of state. Upon receipt of the approved articles of incorporation and a twenty dollar filing fee to be provided by the applicants, the secretary of state shall file and record the articles of incorporation. The applicants shall in writing promptly notify the supervisor of the exact date of the filing.

(2) Upon the filing and recording of the approved articles of incorporation with the secretary of state, the persons named in the articles of incorporation and their successors may operate as a credit union, which shall have the powers and be subject to the duties and obligations of this chapter. A credit union shall not conduct business until the articles have been recorded by the secretary of state.

(3) A credit union shall organize and begin business within six months of the date that its articles of incorporation are filed and recorded with the secretary of state or its charter shall become void, unless the supervisor for cause grants an extension of the six-month period. The supervisor shall not grant a single extension exceeding three months,

but may grant as many extensions to a credit union as circumstances require. [1993 c 269 § 12; 1984 c 31 § 10.]

Effective date—1993 c 269: See note following RCW 23.86.070.

31.12.740 Automated teller machines and night depositories security. Chapter 19.174 RCW applies to automated teller machines and night depositories regulated under this title. [1993 c 324 § 11.]

Effective date—1993 c 324: See RCW 19.174.900.

Chapter 31.45
CHECK CASHERS AND SELLERS

Sections

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

(1) "Check casher" means an individual, partnership, unincorporated association, or corporation that, for compensation, engages, in whole or in part, in the business of cashing checks, drafts, money orders, or other commercial paper serving the same purpose.

(2) "Check seller" means an individual, partnership, unincorporated association, or corporation that, for compensation, engages, in whole or in part, in the business of or selling checks, drafts, money orders, or other commercial paper serving the same purpose.

(3) "Licensee" means a check casher or seller licensed by the supervisor to engage in business in accordance with this chapter. For purposes of the enforcement powers of this chapter, including the power to issue cease and desist orders under RCW 31.45.110, "licensee" also means a check casher or seller who fails to obtain the license required by this chapter.

(4) "Supervisor" means the supervisor of banking. [1993 c 143 § 1; 1991 c 355 § 1.]

31.45.030 License required—Application—Fee—Bond—Deposit in lieu of bond—Supervisor's duties. (1) Except as provided in RCW 31.45.020, no check casher or seller may engage in business without first obtaining a license from the supervisor in accordance with this chapter.

(2) Each application for a license shall be in writing in a form prescribed by the supervisor and shall contain the following information:

(a) The legal name, residence, and business address of the applicant and, if the applicant is a partnership, association, or corporation, of every member, officer, and director thereof;

(b) The location where the initial registered office of the applicant will be located in this state;

(c) The complete address of any other locations at which the applicant proposes to engage in business as a check casher or seller;

(d) Such other data, financial statements, and pertinent information as the supervisor may require with respect to the applicant, its directors, trustees, officers, members, or agents.

(3) Any information in the application regarding the personal residential address or telephone number of the applicant is exempt from the public records disclosure requirements of chapter 42.17 RCW.

(4) The application shall be filed together with an investigation and supervision fee established by rule by the supervisor. Such fees collected shall be deposited to the credit of the banking examination fund in accordance with *RCW 43.19.095.

(5)(a) Before granting a license to sell checks, drafts, or money orders under this chapter, the supervisor shall require that the licensee file with the supervisor a surety bond running to the state of Washington, which bond shall be issued by a surety insurer which meets the requirements of chapter 48.28 RCW, and be in a format acceptable to the supervisor. The supervisor shall adopt rules to determine the penal sum of the bond that shall be filed by each licensee. The bond shall be conditioned upon the licensee paying all persons who purchase checks, drafts, or money orders from the licensee the face value of any check, draft, or money order which is dishonored by the drawee bank, savings bank, or savings and loan association due to insufficient funds or by reason of the account having been closed. The bond shall only be liable for the face value of the dishonored check, draft, or money order, and shall not be liable for any interest or consequential damages.

The bond shall be continuous and may be canceled by the surety upon the surety giving written notice to the supervisor and licensee of its intent to cancel the bond. The cancellation is effective thirty days after the notice is received by the supervisor. Whether or not the bond is renewed, continued, reinstated, reissued, or otherwise extended, replaced, or modified, including increases or decreases in the penal sum, it shall be considered one continuous obligation, and the surety upon the bond shall not be liable in an aggregate or cumulative amount exceeding the penal sum set forth on the face of the bond. In no event shall the penal sum, or any portion thereof, at two or more points in time be added together in determining the surety's liability. The bond shall not be liable for any liability of the licensee for tortious acts, whether or not such liability is imposed by statute or common law, or is imposed by contract. The bond shall not be a substitute or supplement to any liability or other insurance required by law or by the contract. If the surety desires to make payment without awaiting court action against it, the penal sum of the bond shall be reduced to the extent of any payment made by the surety in good faith under the bond.

Any person who is a purchaser of a check, draft, or money order from the licensee having a claim against the licensee for the dishonor of any check, draft, or money order by the drawee bank, savings bank, or savings and loan association due to insufficient funds or by reason of the account having been closed, may bring suit upon such bond or deposit in the superior court of the county in which the check, draft, or money order was purchased, or in the superior court of a county in which the licensee maintains a place of business. Jurisdiction shall be exclusively in the superior court. Any such action must be brought not later than one year after the dishonor of the check, draft, or money order on which the claim is based. In the event valid claims against a bond or deposit exceed the amount of the

bond or deposit, each claimant shall only be entitled to a pro rata amount, based on the amount of the claim as it is valid against the bond, or deposit, without regard to the date of filing of any claim or action.

(b) In lieu of the surety bond required by this section, the applicant may file with the supervisor a deposit consisting of cash or other security acceptable to the supervisor in an amount equal to the penal sum of the required bond. The supervisor may adopt rules necessary for the proper administration of the security. A deposit given instead of the bond required by this section shall not be deemed an asset of the licensee for the purpose of complying with the liquid asset provisions of this chapter.

(c) Such security may be sold by the supervisor at public auction if it becomes necessary to satisfy the requirements of this chapter. Notice of the sale shall be served upon the licensee who placed the security personally or by mail. If notice is served by mail, service shall be addressed to the licensee at its address as it appears in the records of the supervisor. Bearer bonds of the United States or the state of Washington without a prevailing market price must be sold at public auction. Such bonds having a prevailing market price may be sold at private sale not lower than the prevailing market price. Upon any sale, any surplus above amounts due shall be returned to the licensee, and the licensee shall deposit with the supervisor additional security sufficient to meet the amount required by the supervisor. A deposit given instead of the bond required by this section shall not be deemed an asset of the licensee for the purpose of complying with the liquid asset provisions of this chapter. [1993 c 176 § 1; 1991 c 355 § 3.]

***Reviser's note:** RCW 43.19.095 was recodified as RCW 43.320.110 pursuant to 1993 c 472 § 30.

Effective date—1993 c 176: "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 [April 30, 1993]." [1993 c 176 § 2.]

Title 32
MUTUAL SAVINGS BANKS

Chapters

Chapter 32.04
GENERAL PROVISIONS

Sections

32.04.310 Automated teller machines and night depositories security. Chapter 19.174 RCW applies to automated teller machines and night depositories regulated under this title. [1993 c 324 § 12.]

Effective date—1993 c 324: See RCW 19.174.900.

Title 33
SAVINGS AND LOAN ASSOCIATIONS

Chapters

Chapter 33.04
GENERAL PROVISIONS

Sections

33.04.120 Automated teller machines and night depositories security. Chapter 19.174 RCW applies to automated teller machines and night depositories regulated under this title. [1993 c 324 § 13.]

Effective date—1993 c 324: See RCW 19.174.900.

Chapter 33.28
FEES AND TAXES

Sections

33.28.010 Filing and copy fees. The secretary of state shall collect fees of twenty dollars in advance for filing articles of incorporation. The secretary of state shall establish by rule, fees for amendments to articles of incorporation, other certificates required to be filed in his or her office, and for furnishing copies of papers filed in his or her office.

Every association shall also pay to the secretary of state, for filing any instrument with him or her, the same fees as are required of general corporations for filing similar papers. [1993 c 269 § 13; 1981 c 302 § 33; 1945 c 235 § 76; Rem. Supp. 1945 § 3717-195.]

Effective date—1993 c 269: See note following RCW 23.86.070.

Severability—1981 c 302: See note following RCW 19.76.100.

Corporations, fees in general: Chapter 23B.01 RCW.

Title 34
ADMINISTRATIVE LAW

Chapters

Chapter 34.05
ADMINISTRATIVE PROCEDURE ACT

Sections

34.05.030 Exclusions from chapter or parts of chapter. (1) This chapter shall not apply to:

(a) The state militia, or

(b) The board of clemency and pardons, or

(c) The department of corrections or the indeterminate sentencing review board with respect to persons who are in their custody or are subject to the jurisdiction of those agencies.

(2) The provisions of RCW 34.05.410 through 34.05.598 shall not apply:

(a) To adjudicative proceedings of the board of industrial insurance appeals except as provided in RCW 7.68.110 and 51.48.131;

(b) Except for actions pursuant to chapter 46.29 RCW, to the denial, suspension, or revocation of a driver's license by the department of licensing;

(c) To the department of labor and industries where another statute expressly provides for review of adjudicative proceedings of a department action, order, decision, or award before the board of industrial insurance appeals;

(d) To actions of the Washington personnel resources board, the director of personnel, or the personnel appeals board; or

(e) To the extent they are inconsistent with any provisions of chapter 43.43 RCW.

(3) Unless a party makes an election for a formal hearing pursuant to RCW 82.03.140 or 82.03.190, RCW 34.05.410 through 34.05.598 do not apply to a review hearing conducted by the board of tax appeals.

(4) All other agencies, whether or not formerly specifically excluded from the provisions of all or any part of the Administrative Procedure Act, shall be subject to the entire act. [1993 c 281 § 15; 1989 c 175 § 2; 1988 c 288 § 103; 1984 c 141 § 8; 1982 c 221 § 6; 1981 c 64 § 2; 1979 c 158 § 90; 1971 ex.s. c 57 § 17; 1971 c 21 § 1; 1967 ex.s. c 71 § 1; 1967 c 237 § 7; 1963 c 237 § 1; 1959 c 234 § 15. Formerly RCW 34.04.150.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Effective date—1989 c 175: See note following RCW 34.05.010.

34.05.310 Solicitation of comments, agreement among interested parties before notice and adoption hearing. To meet the intent of providing greater public access to administrative rule making and to promote consensus among interested parties, agencies are encouraged to:

(1) Solicit comments from the public on a subject of possible rule making before publication of a notice of proposed rule adoption under RCW 34.05.320. This process can be accomplished by having a notice published in the state register of the subject under active consideration and indicating where, when, and how persons may comment; and

(2) Develop and use new procedures for reaching agreement among interested parties before publication of notice and the adoption hearing on a proposed rule. Examples of new procedures include, but are not limited to:

(a) Identifying individuals and organizations that have a recognized interest in or will be significantly affected by the adoption of the proposed rule;

(b) Soliciting participation by persons who are capable, willing, and appropriately authorized to enter into such negotiations;

(c) Assuring that participants fully recognize the consequences of not participating in the process, are committed to negotiate in good faith, and recognize the alternatives available to other parties;

(d) Establishing guidelines to encourage consideration of all pertinent issues, to set reasonable completion deadlines, and to provide fair and objective settlement of disputes that may arise;

(e) Agreeing on a reasonable time period during which the agency will be bound to the rule resulting from the negotiations without substantive amendment; and

(f) Providing a mechanism by which one or more parties may withdraw from the process or the negotiations may be terminated if it appears that consensus cannot be reached on a draft rule that accommodates the needs of the agency, interested parties, and the general public and conforms to the legislative intent of the statute that the rule is intended to implement. [1993 c 202 § 2; 1989 c 175 § 5; 1988 c 288 § 301.]

Finding—Intent—1993 c 202: "The legislature finds that while the 1988 Administrative Procedure Act expanded public participation in the agency rule-making process, there continue to be instances when participants have developed adversarial relationships with each other, resulting in the inability to identify all of the issues, the failure to focus on solutions to problems, unnecessary delays, litigation, and added cost to the agency, affected parties, and the public in general.

When interested parties work together, it is possible to negotiate development of a rule that is acceptable to all affected, and that conforms to the intent of the statute the rule is intended to implement.

After a rule is adopted, unanticipated negative impacts may emerge. Examples include excessive costs of administration for the agency and compliance by affected parties, technical conditions that may be physically or economically unfeasible to meet, problems of interpretation due to lack of clarity, and reporting requirements that duplicate or conflict with those already in place.

It is therefore the intent of the legislature to encourage flexible approaches to developing administrative rules, including but not limited to negotiated rule making and a process for testing the feasibility of adopted rules, often called the pilot rule process. However, nothing in *this act shall be construed to create any mandatory duty for an agency to use the procedures in RCW 34.05.310 or 34.05.313 in any particular instance of rule making. Agencies shall determine, in their discretion, when it is appropriate to use these procedures." [1993 c 202 § 1.]

***Reviser's note:** This act [1993 c 202] consisted of the amendment of RCW 34.05.310 and the enactment of RCW 34.05.312 and 34.05.313.

Effective date—1989 c 175: See note following RCW 34.05.010.

Rules coordinator duties regarding business: RCW 43.17.310.

34.05.312 Rules coordinator. Each agency shall designate a rules coordinator, who shall have knowledge of the subjects of rules being proposed or prepared within the agency for proposal, maintain the records of any such action, and respond to public inquiries about possible or proposed rules and the identity of agency personnel working, reviewing, or commenting on them. The office and mailing address of the rules coordinator shall be published in the state register at the time of designation and in the first issue of each calendar year thereafter for the duration of the designation. The rules coordinator may be an employee of another agency. [1993 c 202 § 3.]

Finding—Intent—1993 c 202: See note following RCW 34.05.310.

34.05.313 Compliance feasibility studies—Pilot projects. If, during development of a rule or after its adoption, an agency determines that implementation may produce unreasonable economic, procedural, or technical burdens, agencies are encouraged to develop methods for measuring or testing the feasibility of compliance with the rule, including the use of voluntary pilot study groups. Measuring and testing methods should emphasize public notice, participation by persons who have a recognized interest in or are significantly affected by the adoption of the proposed rule, a high level of involvement from agency management, consensus on issues and procedures among participants in the pilot group, assurance of fairness, and reasonable completion dates, and a process by which one or more parties may withdraw from the process or the process may be terminated if consensus cannot be reached on the rule.

The findings of the pilot project should be widely shared and, where appropriate, adopted as amendments to the rule. [1993 c 202 § 4.]

Finding—Intent—1993 c 202: See note following RCW 34.05.310.

34.05.630 Review of existing rules—Policy statements, guidelines, issuances—Notice—Hearing. (1) All rules required to be filed pursuant to RCW 34.05.380, and emergency rules adopted pursuant to RCW 34.05.350, are subject to selective review by the legislature.

(2) The rules review committee may review an agency's use of policy statements, guidelines, and issuances that are of general applicability, or their equivalents to determine whether or not an agency has failed to adopt a rule or whether they are within the intent of the legislature as expressed by the governing statute.

(3) If the rules review committee finds by a majority vote of its members: (a) That an existing rule is not within the intent of the legislature as expressed by the statute which the rule implements, (b) that the rule has not been adopted in accordance with all applicable provisions of law, (c) that an agency is using a policy statement, guideline, or issuance in place of a rule, or (d) that the policy statement, guideline, or issuance is outside of legislative intent, the agency affected shall be notified of such finding and the reasons therefor. Within thirty days of the receipt of the rules review committee's notice, the agency shall file notice of a hearing on the rules review committee's finding with the code reviser and mail notice to all persons who have made timely request of the agency for advance notice of its rule-making proceedings as provided in RCW 34.05.320. The agency's notice shall include the rules review committee's findings and reasons therefor, and shall be published in the Washington state register in accordance with the provisions of chapter 34.08 RCW.

(4) The agency shall consider fully all written and oral submissions regarding (a) whether the rule in question is within the intent of the legislature as expressed by the statute which the rule implements, (b) whether the rule was adopted in accordance with all applicable provisions of law, (c) whether the agency is using a policy statement, guideline, or issuance in place of a rule, or (d) whether the policy statement, guideline, or issuance is within the legislative intent. [1993 c 277 § 1; 1988 c 288 § 603; 1987 c 451 § 2; 1981 c 324 § 7. Formerly RCW 34.04.230.]

Legislative affirmation—Severability—1981 c 324: See notes following RCW 34.05.010.

34.05.640 Committee objections to agency action or failure to adopt rule—Statement in register and WAC—Suspension of rule. (1) Within seven days of an agency hearing held after notification of the agency by the rules review committee pursuant to RCW 34.05.620 or 34.05.630, the affected agency shall notify the committee of its action on a proposed or existing rule to which the committee objected or on a committee finding of the agency's failure to adopt rules. If the rules review committee determines, by a majority vote of its members, that the agency has failed to provide for the required hearings or notice of its action to the committee, the committee may file notice of its objections, together with a concise statement of the reasons therefor, with the code reviser within thirty days of such determination.

(2) If the rules review committee finds, by a majority vote of its members: (a) That the proposed or existing rule in question has not been modified, amended, withdrawn, or repealed by the agency so as to conform with the intent of the legislature, or (b) that the agency is using a policy statement, guideline, or issuance in place of a rule, or that the policy statement, guideline, or issuance is outside of the legislative intent, the rules review committee may, within thirty days from notification by the agency of its action, file with the code reviser notice of its objections together with a concise statement of the reasons therefor. Such notice and statement shall also be provided to the agency by the rules review committee.

(3) If the rules review committee makes an adverse finding under subsection (2) of this section, the committee may, by a two-thirds vote of its members, recommend suspension of an existing rule. Within seven days of such vote the committee shall transmit to the governor, the code reviser, and the agency written notice of its objection and recommended suspension and the concise reasons therefor. Within thirty days of receipt of the notice, the governor shall transmit to the committee, the code reviser, and the agency written approval or disapproval of the recommended suspension. If the suspension is approved by the governor, it is effective from the date of that approval and continues until ninety days after the expiration of the next regular legislative session.

(4) The code reviser shall publish transmittals from the rules review committee or the governor issued pursuant to subsection (1), (2), or (3) of this section in the Washington state register and shall publish in the next supplement and compilation of the Washington Administrative Code a reference to the committee's objection or recommended suspension and the governor's action on it and to the issue of the Washington state register in which the full text thereof appears.

(5) The reference shall be removed from a rule published in the Washington Administrative Code if a subsequent adjudicatory proceeding determines that the rule is within the intent of the legislature or was adopted in accor-

dance with all applicable laws, whichever was the objection of the rules review committee. [1993 c 277 § 2; 1988 c 288 § 604; 1987 c 451 § 3; 1981 c 324 § 8. Formerly RCW 34.04.240.]

Legislative affirmation—Severability—1981 c 324: See notes following RCW 34.05.010.

Chapter 34.12
OFFICE OF ADMINISTRATIVE HEARINGS

Sections

34.12.020 Definitions.

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

(1) "Office" means the office of administrative hearings.

(2) "Administrative law judge" means any person appointed by the chief administrative law judge to conduct or preside over hearings as provided in this chapter.

(3) "Hearing" means an adjudicative proceeding within the meaning of RCW 34.05.010(1) conducted by a state agency under RCW 34.05.413 through 34.05.476.

(4) "State agency" means any state board, commission, department, or officer authorized by law to make rules or to conduct adjudicative proceedings, except those in the legislative or judicial branches, the pollution control hearings board, the shorelines hearings board, the forest practices appeals board, the environmental hearings office, the board of industrial insurance appeals, the Washington personnel resources board, the public employment relations commission, the personnel appeals board, and the board of tax appeals. [1993 c 281 § 16; 1989 c 175 § 33; 1982 c 189 § 1; 1981 c 67 § 2.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Effective date—1989 c 175: See note following RCW 34.05.010.

Effective date—1982 c 189: "This act shall take effect July 1, 1982." [1982 c 189 § 16.]

Effective dates—Severability—1981 c 67: See notes following RCW 34.12.010.

Title 35
CITIES AND TOWNS

Chapters

35.02 Incorporation proceedings.
35.10 Consolidation and annexation of cities and towns.
35.13 Annexation of unincorporated areas.
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Chapter 35.02
INCORPORATION PROCEEDINGS

Sections

35.02.190 Annexation of fire protection district—Transfer of assets when at least sixty percent of assessed valuation is annexed or incorporated in city or town.
35.02.205 Annexation of fire protection district—Distribution of assets of district when less than five percent of district annexed—Distribution agreement—Arbitration.

35.02.190 Annexation of fire protection district—Transfer of assets when at least sixty percent of assessed valuation is annexed or incorporated in city or town. If a portion of a fire protection district including at least sixty percent of the assessed valuation of the real property of the district is annexed to or incorporated into a city or town, ownership of all of the assets of the district shall be vested in the city or town, or, if the city or town has been annexed by another fire protection district, in the other fire protection district, upon payment in cash, properties or contracts for fire protection services to the district within one year of the date on which the city or town withdraws from the fire protection district pursuant to RCW 52.04.161, of a percentage of the value of said assets equal to the percentage of the value of the real property in entire district remaining outside the incorporated or annexed area. The fire protection district may elect, by a vote of a majority of the persons residing outside the annexed or incorporated area who vote on the proposition, to require the annexing or incorporating city or town or fire protection district to assume responsibility for the provision of fire protection, and for the operation and maintenance of the district's property, facilities, and equipment throughout the district and to pay the city or town or fire protection district a reasonable fee for such fire protection, operation, and maintenance. When at least sixty percent, but less than one hundred percent, valuation of the real estate of a district is annexed to or incorporated into a city or town, a proportionate share of the liabilities of the district at the time of such annexation or incorporation, equal to the percentage of the total assessed valuation of the real estate of the district that has been annexed or incorporated, shall be transferred to the annexing or incorporating city or town.

If all of a fire protection district is included in an area that incorporates as a city or town or is annexed to a city or town or fire protection district, all of the assets and liabilities of the fire protection district shall be transferred to the newly incorporated city or town on the date on which the fire protection district ceases to provide fire protection services pursuant to RCW 52.04.161 or to the city or town or fire protection district upon the annexation. [1993 c 262 § 3; 1989 c 76 § 2; 1986 c 234 § 18; 1981 c 332 § 5; 1965 c 7

§ 35.13.247. Prior: 1963 c 231 § 3. Formerly RCW 35.13.247.]

Severability—1981 c 332: See note following RCW 35.13.165.

35.02.205 Annexation of fire protection district—Distribution of assets of district when less than five percent of district annexed—Distribution agreement—Arbitration. (1) A distribution of assets from the fire protection district to the city or town shall occur as provided in this section upon the annexation or, in the case of an incorporation, on the date on which the city or town withdraws from the fire protection district pursuant to RCW 52.04.161, of an area by the city or town that constitutes less than five percent of the area of the fire protection district upon the adoption of a resolution by the city or town finding that the annexation or incorporation will impose a significant increase in the fire suppression responsibilities of the city or town with a corresponding reduction in fire suppression responsibilities by the fire protection district. Such a resolution must be adopted within sixty days of the effective date of the annexation, or within sixty days of the official date of incorporation of the city. If the fire protection district does not concur in the finding within sixty days of when a copy of the resolution is submitted to the board of commissioners, arbitration shall proceed under subsection (3) of this section over this issue.

(2) An agreement on the distribution of assets from the fire protection district to the city or town shall be entered into by the city or town and the fire protection district within ninety days of the concurrence by the fire protection district under subsection (1) of this section, or within ninety days of a decision by the arbitrators under subsection (3) of this section that a significant increase in the fire protection responsibilities will be imposed upon the city or town as a result of the incorporation or annexation. A distribution shall be based upon the extent of the increased fire suppression responsibilities with a corresponding reduction in fire suppression responsibilities by the fire protection district, and shall consider the impact of any debt obligation that may exist on the property that is so annexed or incorporated. If an agreement is not entered into after this ninety-day period, arbitration shall proceed under subsection (3) of this section concerning this issue unless both parties have agreed to an extension of this period.

(3) Arbitration shall proceed under this subsection over the issue of whether a significant increase in the fire protection responsibilities will be imposed upon the city or town as a result of the annexation or incorporation with a corresponding reduction in fire suppression responsibilities by the fire protection district, or over the distribution of assets from the fire protection district to the city or town if such a significant increase in fire protection responsibilities will be imposed. A board of arbitrators shall be established for an arbitration that is required under this section. The board of arbitrators shall consist of three persons, one of whom is appointed by the city or town within sixty days of the date when arbitration is required, one of whom is appointed by the fire protection district within sixty days of the date when arbitration is required, and one of whom is appointed by agreement of the other two arbitrators within thirty days of the appointment of the last of these other two arbitrators who is so appointed. If the two are unable to agree on the appointment of the third arbitrator within this thirty-day period, then the third arbitrator shall be appointed by a judge in the superior court of the county within which all or the greatest portion of the area that was so annexed or incorporated lies. The determination by the board of arbitrators shall be binding on both the city or town and the fire protection district. [1993 c 262 § 4; 1989 c 267 § 3.]

Chapter 35.10
CONSOLIDATION AND ANNEXATION OF CITIES AND TOWNS

Sections

35.10.540 Consolidation—Creation of community municipal corporation. Voters of one or more of the cities that are proposed to be consolidated may have a ballot proposition submitted to them authorizing the simultaneous creation of a community municipal corporation and election of community council members as provided for under chapter 35.14 RCW. The joint resolution that initiates a consolidation under RCW 35.10.410 may provide for the question of whether a community municipal corporation shall be created to be submitted to the voters of one or more of the cities that are proposed to be consolidated as a separate ballot measure from the ballot measure authorizing the consolidation or as part of the same ballot measure authorizing the consolidation. The petitions that are signed by the voters of each of the cities that are proposed to be consolidated under RCW 35.10.420 may provide for the question of whether to create a community municipal corporation to be submitted to the voters of that city as a separate ballot measure from the ballot measure authorizing the consolidation or as part of the same ballot measure authorizing the consolidation.

The ballots shall contain the words "For consolidation and creation of community municipal corporation" and "Against consolidation and creation of community municipal corporation," or "For creation of community municipal corporation" and "Against creation of community municipal corporation," as the case may be. Approval of either optional ballot proposition shall be by simple majority vote of the voters voting on the proposition, but the consolidation must be authorized by the voters of each city proposed to be consolidated before a community municipal corporation is created. [1993 c 75 § 2.]

Chapter 35.13
ANNEXATION OF UNINCORPORATED AREAS

Sections

35.13.360 Transfer of county sheriff's employees—Purpose. It is the purpose of RCW 35.13.360 through 35.13.400 to require the lateral transfer of any qualified county sheriff's employee who, by reason of annexation or incorporation of an unincorporated area of a county, will or is likely to be laid off due to sheriff's department cutbacks resulting from the loss of the unincorporated law enforcement responsibility. [1993 c 189 § 2.]

35.13.370 Transfer of county sheriff's employees—When authorized. When any portion of an unincorporated area of a county is to be annexed or incorporated into a city, code city, or town, any employee of the sheriff's office of the county may transfer his or her employment to the police department of the city, code city, or town as provided in RCW 35.13.360 through 35.13.400 if the employee: (1) Was, at the time the annexation or incorporation occurred, employed exclusively or principally in performing the powers, duties, and functions of the county sheriff's office; (2) will, as a direct consequence of the annexation or incorporation, be separated from the employ of the county; and (3) can perform the duties and meets the city's, code city's or town's minimum standards and qualifications of the position to be filled within their police department.

Nothing in this section or RCW 35.13.380 requires a city, code city, or town to accept the voluntary transfer of employment of a person who will not be laid off due to his or her seniority status. [1993 c 189 § 3.]

35.13.380 Transfer of county sheriff's employees—Conditions, limitations. (1) An eligible employee under RCW 35.13.370 may transfer into the civil service system for the police department by filing a written request with the civil service commission of the affected city, code city, or town and by giving written notice thereof to the legislative authority of the county. Upon receipt of such request by the civil service commission the transfer shall be made. The employee so transferring will: (a) Be on probation for the same period as are new employees in the same classification of the police department; (b) be eligible for promotion after completion of the probationary period in compliance with existing civil service rules pertaining to lateral transfers based upon combined service time; (c) receive a salary at least equal to that of other new employees in the same classification of the police department; and (d) in all other matters, such as sick leave and vacation, have, within the civil service system, all the rights, benefits, and privileges that the employee would have been entitled to had he or she been a member of the police department from the beginning of his or her employment with the county. The county is responsible for compensating an employee for benefits accrued while employed with the sheriff's office unless a different agreement is reached between the county and the city, code city, or town. No accrued benefits are transferable to the recipient agency unless the recipient agency agrees to accept the accrued benefits. All benefits shall then accrue based on the combined seniority of each employee in the recipient agency. The county shall, upon receipt of such notice, transmit to the civil service commission a record of the employee's service with the county which shall be credited to the employee as a part of his or her period of employment in the police department. For purposes of layoffs by the city, code city, or town, only the time of service accrued with the city, code city, or town shall apply unless an agreement is reached between the collective bargaining representatives of the police department and sheriff's office employees and the police department and sheriff's office.

(2) Only as many of the transferring employees shall be placed upon the payroll of the police department as the city, code city, or town determines are needed to provide an adequate level of law enforcement service. The needed employees shall be taken in order of seniority and the remaining employees who transfer as provided in RCW 35.13.360 through 35.13.400 shall head the list of their respective class or job listing exclusive of rank in the civil service system in order of their seniority, so that they shall be the first to be employed in the police department as vacancies become available. Employees who are not immediately hired by the city, code city, or town shall be placed on a reemployment list for a period not to exceed thirty-six months unless a longer period is authorized by an agreement reached between the collective bargaining representatives of the police department and sheriff's office employees and the police department and sheriff's office. The county sheriff's office must rehire former employees who are placed on the city's reemployment list before it can hire anyone else to perform the same duties previously performed by these employees who were laid off.

(3) The thirty-six month period contained in subsection (2) of this section shall commence:

(a) On the effective date of the annexation in cases of annexation; and

(b) On the date when the city creates its own police department in cases of incorporation.

(4) The city, code city, or town shall retain the right to select the police chief regardless of seniority. [1993 c 189 § 4.]

35.13.390 Transfer of county sheriff's employees—Rules. In addition to its other duties prescribed by law, the civil service commission shall make rules necessary to provide for the orderly integration of employees of a county sheriff's office to the police department of the city, code city, or town pursuant to RCW 35.13.360 through 35.13.400. [1993 c 189 § 5.]

35.13.400 Transfer of county sheriff's employees—Notification of right to transfer—Time for filing transfer request. When any portion of an unincorporated area of a county is to be annexed or incorporated into a city, code city, or town and layoffs will result in the county sheriff's office, employees so affected shall be notified of their right to transfer. The affected employees shall have ninety days after the commencement of the thirty-six month period as specified in RCW 35.13.380(3) to file a request to transfer their employment to the police department of the city, code city, or town under RCW 35.13.360 through 35.13.400. [1993 c 189 § 6.]

Chapter 35.14
COMMUNITY MUNICIPAL CORPORATIONS

Sections

35.14.010 When community municipal corporation may be organized—Service areas—Territory. Whenever unincorporated territory is annexed by a city or town pursuant to the provisions of chapter 35.13 RCW, or whenever unincorporated territory is annexed to a code city pursuant to the provisions of chapter 35A.14 RCW, community municipal corporations may be organized for the territory comprised of all or a part of an unincorporated area annexed to a city or town pursuant to chapter 35.13 or 35A.14 RCW, if: (1) The service area is such as would be eligible for incorporation as a city or town; or (2) the service area has a minimum population of not less than three hundred inhabitants and ten percent of the population of the annexing city or town; or (3) the service area has a minimum population of not less than one thousand inhabitants.

Whenever two or more cities are consolidated pursuant to the provisions of chapter 35.10 RCW, a community municipal corporation may be organized within one or more of the consolidating cities.

No territory shall be included in the service area of more than one community municipal corporation. Whenever a new community municipal corporation is formed embracing all of the territory of an existing community municipal corporation, the prior existing community municipal corporation shall be deemed to be dissolved on the effective date of the new corporation. [1993 c 75 § 1; 1985 c 281 § 24; 1967 c 73 § 1.]

Severability—1985 c 281: See RCW 35.10.905.

Chapter 35.17
COMMISSION FORM OF GOVERNMENT

Sections

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

Chapter 35.20
MUNICIPAL COURTS—CITIES OVER FOUR HUNDRED THOUSAND

Sections

35.20.030 Jurisdiction—Maximum penalties for criminal violations—Review—Costs. (Effective July 1, 1994.) The municipal court shall have jurisdiction to try violations of all city ordinances and all other actions brought to enforce or recover license penalties or forfeitures declared or given by any such ordinances. It is empowered to forfeit cash bail or bail bonds and issue execution thereon, to hear and determine all causes, civil or criminal, arising under such ordinances, and to pronounce judgment in accordance therewith: PROVIDED, That for a violation of the criminal provisions of an ordinance no greater punishment shall be imposed than a fine of five thousand dollars or imprisonment in the city jail not to exceed one year, or both such fine and imprisonment, but the punishment for any criminal ordinance shall be the same as the punishment provided in state law for the same crime. All civil and criminal proceedings in municipal court, and judgments rendered therein, shall be subject to review in the superior court by writ of review or on appeal: PROVIDED, That an appeal from the court's determination or order in a traffic infraction proceeding may be taken only in accordance with RCW 46.63.090(5). Costs in civil and criminal cases may be taxed as provided in district courts. [1993 c 83 § 3; 1984 c 258 § 801; 1979 ex.s. c 136 § 23; 1965 c 7 § 35.20.030. Prior: 1955 c 290 § 3.]

Effective date—1993 c 83: See note following RCW 35.21.163.

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 35.21
MISCELLANEOUS PROVISIONS AFFECTING ALL CITIES AND TOWNS

Sections

35.21.163 Penalty for act constituting a crime under state law—Limitation. (Effective July 1, 1994.) Except as limited by the maximum penalty authorized by law, no city, code city, or town, may establish a penalty for an act that constitutes a crime under state law that is different from the penalty prescribed for that crime by state statute. [1993 c 83 § 1.]

Effective date—1993 c 83: "This act shall take effect July 1, 1994." [1993 c 83 § 11.]

35.21.470 Building construction projects—City or town prohibited from requiring state agencies or local governments to provide bond or other security as a condition for issuance of permit. A city or town may not require any state agency or unit of local government to secure the performance of a permit requirement with a surety bond or other financial security device, including cash or assigned account, as a condition of issuing a permit to that unit of local government for a building construction project.

As used in this section, "building construction project" includes, in addition to its usual meaning, associated landscaping, street alteration, pedestrian or vehicular access

alteration, or other amenities or alterations necessarily associated with the project. [1993 c 439 § 1.]

35.21.687 Affordable housing—Inventory of suitable housing. (1) Every city and town, including every code city operating under Title 35A RCW, shall identify and catalog real property owned by the city or town that is no longer required for its purposes and is suitable for the development of affordable housing for very low-income, low-income, and moderate-income households as defined in RCW 43.63A.510. The inventory shall include the location, approximate size, and current zoning classification of the property. Every city and town shall provide a copy of the inventory to the department of community development by November 1, 1993, with inventory revisions each November 1 thereafter.

(2) By November 1 of each year, beginning in 1994, every city and town, including every code city operating under Title 35A RCW, shall purge the inventory of real property of sites that are no longer available for the development of affordable housing. The inventory revision shall also contain a list of real property that has become available since the last update. As used in this section, "real property" means buildings, land, or buildings and land. [1993 c 461 § 4.]

Finding—1993 c 461: See note following RCW 43.63A.510.

35.21.755 Public corporations—Exemption or immunity from taxation—In lieu excise tax. (1) A public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660 shall receive the same immunity or exemption from taxation as that of the city, town, or county creating the same: PROVIDED, That, except for (a) any property within a special review district established by ordinance prior to January 1, 1976, or listed on or which is within a district listed on any federal or state register of historical sites or (b) any property owned, operated, or controlled by a public corporation that is used primarily for low-income housing, or that is used as a convention center, performing arts center, public assembly hall, or public meeting place, any such public corporation, commission, or authority shall pay to the county treasurer an annual excise tax equal to the amounts which would be paid upon real property and personal property devoted to the purposes of such public corporation, commission, or authority were it in private ownership, and such real property and personal property is acquired and/or operated under RCW 35.21.730 through 35.21.755, and the proceeds of such excise tax shall be allocated by the county treasurer to the various taxing authorities in which such property is situated, in the same manner as though the property were in private ownership: PROVIDED FURTHER, That the provisions of chapter 82.29A RCW shall not apply to property within a special review district established by ordinance prior to January 1, 1976, or listed on or which is within a district listed on any federal or state register of historical sites and which is controlled by a public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660, which was in existence prior to January 1, 1987: AND PROVIDED FURTHER, That property within a special review district established by ordinance prior to January 1, 1976, or property which is listed on any federal or state register of historical sites and controlled by a public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660, which was in existence prior to January 1, 1976, shall receive the same immunity or exemption from taxation as if such property had been within a district listed on any such federal or state register of historical sites as of January 1, 1976, and controlled by a public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660 which was in existence prior to January 1, 1976.

(2) As used in this section:

(a) "Low-income" means a total annual income, adjusted for family size, not exceeding fifty percent of the area median income.

(b) "Area median income" means:

(i) For an area within a standard metropolitan statistical area, the area median income reported by the United States department of housing and urban development for that standard metropolitan statistical area; or

(ii) For an area not within a standard metropolitan statistical area, the county median income reported by the department of community development. [1993 c 220 § 1; 1990 c 131 § 1; 1987 c 282 § 1; 1985 c 332 § 5; 1984 c 116 § 1; 1979 ex.s. c 196 § 9; 1977 ex.s. c 35 § 1; 1974 ex.s. c 37 § 7.]

Effective date—1979 ex.s. c 196: See note following RCW 82.04.240.

Effective date—1977 ex.s. c 35: "This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1977." [1977 ex.s. c 35 § 2.]

35.21.770 Members of legislative bodies authorized to serve as volunteer fire fighters or reserve law enforcement officers. Notwithstanding any other provision of law, the legislative body of any city or town, by resolution adopted by a two-thirds vote of the full legislative body, may authorize any of its members to serve as volunteer fire fighters or reserve law enforcement officers, or both, and to receive the same compensation, insurance and other benefits as are applicable to other volunteer fire fighters or reserve law enforcement officers employed by the city or town. [1993 c 303 § 1; 1974 ex.s. c 60 § 1.]

Chapter 35.22
FIRST CLASS CITIES

Sections

35.22.280 Specific powers enumerated. (Effective July 1, 1994.) Any city of the first class shall have power:

(1) To provide for general and special elections, for questions to be voted upon, and for the election of officers;

(2) To provide for levying and collecting taxes on real and personal property for its corporate uses and purposes, and to provide for the payment of the debts and expenses of the corporation;

(3) To control the finances and property of the corporation, and to acquire, by purchase or otherwise, such lands and other property as may be necessary for any part of the corporate uses provided for by its charter, and to dispose of any such property as the interests of the corporation may, from time to time, require;

(4) To borrow money for corporate purposes on the credit of the corporation, and to issue negotiable bonds therefor, on such conditions and in such manner as shall be prescribed in its charter; but no city shall, in any manner or for any purpose, become indebted to an amount in the aggregate to exceed the limitation of indebtedness prescribed by chapter 39.36 RCW as now or hereafter amended;

(5) To issue bonds in place of or to supply means to meet maturing bonds or other indebtedness, or for the consolidation or funding of the same;

(6) To purchase or appropriate private property within or without its corporate limits, for its corporate uses, upon making just compensation to the owners thereof, and to institute and maintain such proceedings as may be authorized by the general laws of the state for the appropriation of private property for public use;

(7) To lay out, establish, open, alter, widen, extend, grade, pave, plank, establish grades, or otherwise improve streets, alleys, avenues, sidewalks, wharves, parks, and other public grounds, and to regulate and control the use thereof, and to vacate the same, and to authorize or prohibit the use of electricity at, in, or upon any of said streets, or for other purposes, and to prescribe the terms and conditions upon which the same may be so used, and to regulate the use thereof;

(8) To change the grade of any street, highway, or alley within its corporate limits, and to provide for the payment of damages to any abutting owner or owners who shall have built or made other improvements upon such street, highway, or alley at any point opposite to the point where such change shall be made with reference to the grade of such street, highway, or alley as the same existed prior to such change;

(9) To authorize or prohibit the locating and constructing of any railroad or street railroad in any street, alley, or public place in such city, and to prescribe the terms and conditions upon which any such railroad or street railroad shall be located or constructed; to provide for the alteration, change of grade, or removal thereof; to regulate the moving and operation of railroad and street railroad trains, cars, and locomotives within the corporate limits of said city; and to provide by ordinance for the protection of all persons and property against injury in the use of such railroads or street railroads;

(10) To provide for making local improvements, and to levy and collect special assessments on property benefited thereby, and for paying for the same or any portion thereof;

(11) To acquire, by purchase or otherwise, lands for public parks within or without the limits of such city, and to improve the same. When the language of any instrument by which any property is so acquired limits the use of said property to park purposes and contains a reservation of interest in favor of the grantor or any other person, and where it is found that the property so acquired is not needed for park purposes and that an exchange thereof for other property to be dedicated for park purposes is in the public interest, the city may, with the consent of the grantor or such other person, his heirs, successors, or assigns, exchange such property for other property to be dedicated for park purposes, and may make, execute, and deliver proper conveyances to effect the exchange. In any case where, owing to death or lapse of time, there is neither donor, heir, successor, or assignee to give consent, this consent may be executed by the city and filed for record with an affidavit setting forth all efforts made to locate people entitled to give such consent together with the facts which establish that no consent by such persons is attainable. Title to property so conveyed by the city shall vest in the grantee free and clear of any trust in favor of the public arising out of any prior dedication for park purposes, but the right of the public shall be transferred and preserved with like force and effect to the property received by the city in such exchange;

(12) To construct and keep in repair bridges, viaducts, and tunnels, and to regulate the use thereof;

(13) To determine what work shall be done or improvements made at the expense, in whole or in part, of the owners of the adjoining contiguous, or proximate property, or others specially benefited thereby; and to provide for the manner of making and collecting assessments therefor;

(14) To provide for erecting, purchasing, or otherwise acquiring waterworks, within or without the corporate limits of said city, to supply said city and its inhabitants with water, or authorize the construction of same by others when deemed for the best interests of such city and its inhabitants, and to regulate and control the use and price of the water so supplied;

(15) To provide for lighting the streets and all public places, and for furnishing the inhabitants thereof with gas or other lights, and to erect, or otherwise acquire, and to maintain the same, or to authorize the erection and maintenance of such works as may be necessary and convenient therefor, and to regulate and control the use thereof;

(16) To establish and regulate markets, and to provide for the weighing, measuring, and inspection of all articles of food and drink offered for sale thereat, or at any other place within its limits, by proper penalties, and to enforce the keeping of proper legal weights and measures by all vendors in such city, and to provide for the inspection thereof. Whenever the words "public markets" are used in this chapter, and the public market is managed in whole or in part by a public corporation created by a city, the words shall be construed to include all real or personal property located in a district or area designated by a city as a public market and traditionally devoted to providing farmers, crafts vendors and other merchants with retail space to market their wares to the public. Property located in such a district or area need not be exclusively or primarily used for such traditional public market retail activities and may include property used for other public purposes including, but not limited to, the provision of human services and low-income or moderate-income housing;

(17) To erect and establish hospitals and pesthouses, and to control and regulate the same;

(18) To provide for establishing and maintaining reform schools for juvenile offenders;

(19) To provide for the establishment and maintenance of public libraries, and to appropriate, annually, such percent

of all moneys collected for fines, penalties, and licenses as shall be prescribed by its charter, for the support of a city library, which shall, under such regulations as shall be prescribed by ordinance, be open for use by the public;

(20) To regulate the burial of the dead, and to establish and regulate cemeteries within or without the corporate limits, and to acquire land therefor by purchase or otherwise; to cause cemeteries to be removed beyond the limits of the corporation, and to prohibit their establishment within two miles of the boundaries thereof;

(21) To direct the location and construction of all buildings in which any trade or occupation offensive to the senses or deleterious to public health or safety shall be carried on, and to regulate the management thereof; and to prohibit the erection or maintenance of such buildings or structures, or the carrying on of such trade or occupation within the limits of such corporation, or within the distance of two miles beyond the boundaries thereof;

(22) To provide for the prevention and extinguishment of fires and to regulate or prohibit the transportation, keeping, or storage of all combustible or explosive materials within its corporate limits, and to regulate and restrain the use of fireworks;

(23) To establish fire limits and to make all such regulations for the erection and maintenance of buildings or other structures within its corporate limits as the safety of persons or property may require, and to cause all such buildings and places as may from any cause be in a dangerous state to be put in safe condition;

(24) To regulate the manner in which stone, brick, and other buildings, party walls, and partition fences shall be constructed and maintained;

(25) To deepen, widen, dock, cover, wall, alter, or change the channels of waterways and courses, and to provide for the construction and maintenance of all such works as may be required for the accommodation of commerce, including canals, slips, public landing places, wharves, docks, and levees, and to control and regulate the use thereof;

(26) To control, regulate, or prohibit the anchorage, moorage, and landing of all watercrafts and their cargoes within the jurisdiction of the corporation;

(27) To fix the rates of wharfage and dockage, and to provide for the collection thereof, and to provide for the imposition and collection of such harbor fees as may be consistent with the laws of the United States;

(28) To license, regulate, control, or restrain wharf boats, tugs, and other boats used about the harbor or within such jurisdiction;

(29) To require the owners of public halls or other buildings to provide suitable means of exit; to provide for the prevention and abatement of nuisances, for the cleaning and purification of watercourses and canals, for the drainage and filling up of ponds on private property within its limits, when the same shall be offensive to the senses or dangerous to health; to regulate and control, and to prevent and punish, the defilement or pollution of all streams running through or into its corporate limits, and for the distance of five miles beyond its corporate limits, and on any stream or lake from which the water supply of said city is taken, for a distance of five miles beyond its source of supply; to provide for the cleaning of areas, vaults, and other places within its corporate limits which may be so kept as to become offensive to the senses or dangerous to health, and to make all such quarantine or other regulations as may be necessary for the preservation of the public health, and to remove all persons afflicted with any infectious or contagious disease to some suitable place to be provided for that purpose;

(30) To declare what shall be a nuisance, and to abate the same, and to impose fines upon parties who may create, continue, or suffer nuisances to exist;

(31) To regulate the selling or giving away of intoxicating, malt, vinous, mixed, or fermented liquors as authorized by the general laws of the state: PROVIDED, That no license shall be granted to any person or persons who shall not first comply with the general laws of the state in force at the time the same is granted;

(32) To grant licenses for any lawful purpose, and to fix by ordinance the amount to be paid therefor, and to provide for revoking the same: PROVIDED, That no license shall be granted to continue for longer than one year from the date thereof;

(33) To regulate the carrying on within its corporate limits of all occupations which are of such a nature as to affect the public health or the good order of said city, or to disturb the public peace, and which are not prohibited by law, and to provide for the punishment of all persons violating such regulations, and of all persons who knowingly permit the same to be violated in any building or upon any premises owned or controlled by them;

(34) To restrain and provide for the punishment of vagrants, mendicants, prostitutes, and other disorderly persons;

(35) To provide for the punishment of all disorderly conduct, and of all practices dangerous to public health or safety, and to make all regulations necessary for the preservation of public morality, health, peace, and good order within its limits, and to provide for the arrest, trial, and punishment of all persons charged with violating any of the ordinances of said city. The punishment shall not exceed a fine of five thousand dollars or imprisonment in the city jail for one year, or both such fine and imprisonment. The punishment for any criminal ordinance shall be the same as the punishment provided in state law for the same crime. Such cities alternatively may provide that violations of ordinances constitute a civil violation subject to monetary penalties, but no act which is a state crime may be made a civil violation;

(36) To project or extend its streets over and across any tidelands within its corporate limits, and along or across the harbor areas of such city, in such manner as will best promote the interests of commerce;

(37) To provide in their respective charters for a method to propose and adopt amendments thereto. [1993 c 83 § 4; 1990 c 189 § 3; 1986 c 278 § 3; 1984 c 258 § 802; 1977 ex.s. c 316 § 20; 1971 ex.s. c 16 § 1; 1965 ex.s. c 116 § 2; 1965 c 7 § 35.22.280. Prior: 1890 p 218 § 5; RRS § 8966.]

Effective date—1993 c 83: See note following RCW 35.21.163.

Severability—1986 c 278: See note following RCW 36.01.010.

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

Severability—1977 ex.s. c 316: See note following RCW 70.48.020.

35.22.620 Public works or improvements—Limitations on work by public employees—Small works roster—Purchase of reused or recycled materials or products. (1) As used in this section, the term "public works" means as defined in RCW 39.04.010.

(2) A first class city may have public works performed by contract pursuant to public notice and call for competitive bids. As limited by subsection (3) of this section, a first class city may have public works performed by city employees in any annual or biennial budget period equal to a dollar value not exceeding ten percent of the public works construction budget, including any amount in a supplemental public works construction budget, over the budget period. The amount of public works that a first class city has a county perform for it under RCW 35.77.020 shall be included within this ten percent limitation.

If a first class city has public works performed by public employees in any budget period that are in excess of this ten percent limitation, the amount in excess of the permitted amount shall be reduced from the otherwise permitted amount of public works that may be performed by public employees for that city in its next budget period. Twenty percent of the motor vehicle fuel tax distributions to that city shall be withheld if two years after the year in which the excess amount of work occurred, the city has failed to so reduce the amount of public works that it has performed by public employees. The amount so withheld shall be distributed to the city when it has demonstrated in its reports to the state auditor that the amount of public works it has performed by public employees has been so reduced.

Whenever a first class city has had public works performed in any budget period up to the maximum permitted amount for that budget period, all remaining public works within that budget period shall be done by contract pursuant to public notice and call for competitive bids.

The state auditor shall report to the state treasurer any first class city that exceeds this amount and the extent to which the city has or has not reduced the amount of public works it has performed by public employees in subsequent years.

(3) In addition to the percentage limitation provided in subsection (2) of this section, a first class city with a population in excess of one hundred fifty thousand shall not have public employees perform a public works project in excess of fifty thousand dollars if more than a single craft or trade is involved with the public works project, or a public works project in excess of twenty-five thousand dollars if only a single craft or trade is involved with the public works project or the public works project is street signalization or street lighting. In addition to the percentage limitation provided in subsection (2) of this section, a first class city with a population of one hundred fifty thousand or less shall not have public employees perform a public works project in excess of thirty-five thousand dollars if more than one craft or trade is involved with the public works project, or a public works project in excess of twenty thousand dollars if only a single craft or trade is involved with the public works project or the public works project is street signalization or street lighting. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project.

(4) In addition to the accounting and record-keeping requirements contained in RCW 39.04.070, every first class city annually shall prepare a report for the state auditor indicating the total public works construction budget and supplemental public works construction budget for that year, the total construction costs of public works performed by public employees for that year, and the amount of public works that is performed by public employees above or below ten percent of the total construction budget. However, if a city budgets on a biennial basis, this annual report shall indicate the amount of public works that is performed by public employees within the current biennial period that is above or below ten percent of the total biennial construction budget.

After September 1, 1987, each first class city with a population of one hundred fifty thousand or less shall use the form required by RCW 43.09.205 to account and record costs of public works in excess of five thousand dollars that are not let by contract.

(5) The cost of a separate public works project shall be the costs of materials, supplies, equipment, and labor on the construction of that project. The value of the public works budget shall be the value of all the separate public works projects within the budget.

(6) When any emergency shall require the immediate execution of such public work, upon the finding of the existence of such emergency by the authority having power to direct such public work to be done and duly entered of record, publication of description and estimate may be made within seven days after the commencement of the work. Within two weeks of the finding that such an emergency existed, the city council shall adopt a resolution certifying the existence of this emergency situation.

(7) In lieu of the procedures of subsections (2) and (6) of this section, a first class city may use a small works roster process and award contracts for public works projects with an estimated value of one hundred thousand dollars or less as provided in RCW 39.04.155.

Whenever possible, the city shall invite at least one proposal from a minority or woman contractor who shall otherwise qualify under this section.

(8) The allocation of public works projects to be performed by city employees shall not be subject to a collective bargaining agreement.

(9) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A RCW.

(10) Nothing in this section shall prohibit any first class city from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused. [1993 c 198 § 9; 1989 c 431 § 59; 1987 c 120 § 1. Prior: 1985 c 219 § 1; 1985 c 169 § 6; 1979 ex.s. c 89 § 1; 1975 1st ex.s. c 56 § 1.]

Severability—1989 c 431: See RCW 70.95.901.

Competitive bidding violations by municipal officer, penalties: RCW 39.30.020.

Subcontractors to be identified by bidder, when: RCW 39.30.060.

Chapter 35.23
SECOND CLASS CITIES

Sections

35.23.352 Public works—Contracts—Bids—Small works roster—Purchasing requirements, recycled or reused materials or products. (1) Any second or third class city or any town may construct any public works, as defined in RCW 39.04.010, by contract or day labor without calling for bids therefor whenever the estimated cost of the work or improvement, including cost of materials, supplies and equipment will not exceed the sum of thirty thousand dollars if more than one craft or trade is involved with the public works, or twenty thousand dollars if a single craft or trade is involved with the public works or the public works project is street signalization or street lighting. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project.

Whenever the cost of the public work or improvement, including materials, supplies and equipment, will exceed these figures, the same shall be done by contract. All such contracts shall be let at public bidding upon publication of notice calling for sealed bids upon the work. The notice shall be published in the official newspaper, or a newspaper of general circulation most likely to bring responsive bids, at least thirteen days prior to the last date upon which bids will be received. The notice shall generally state the nature of the work to be done that plans and specifications therefor shall then be on file in the city or town hall for public inspections, and require that bids be sealed and filed with the council or commission within the time specified therein. Each bid shall be accompanied by a bid proposal deposit in the form of a cashier's check, postal money order, or surety bond to the council or commission for a sum of not less than five percent of the amount of the bid, and no bid shall be considered unless accompanied by such bid proposal deposit. The council or commission of the city or town shall let the contract to the lowest responsible bidder or shall have power by resolution to reject any or all bids and to make further calls for bids in the same manner as the original call.

When the contract is let then all bid proposal deposits shall be returned to the bidders except that of the successful bidder which shall be retained until a contract is entered into and a bond to perform the work furnished, with surety satisfactory to the council or commission, in accordance with RCW 39.08.030. If the bidder fails to enter into the contract in accordance with his or her bid and furnish a bond within ten days from the date at which he or she is notified that he or she is the successful bidder, the check or postal money order and the amount thereof shall be forfeited to the council or commission or the council or commission shall recover the amount of the surety bond.

If no bid is received on the first call the council or commission may readvertise and make a second call, or may enter into a contract without any further call or may purchase the supplies, material or equipment and perform the work or improvement by day labor.

(2) The allocation of public works projects to be performed by city or town employees shall not be subject to a collective bargaining agreement.

(3) In lieu of the procedures of subsection (1) of this section, a second or third class city or a town may use a small works roster process and award public works contracts with an estimated value of one hundred thousand dollars or less as provided in RCW 39.04.155.

Whenever possible, the city or town shall invite at least one proposal from a minority or woman contractor who shall otherwise qualify under this section.

(4) After September 1, 1987, each second class city, third class city, and town shall use the form required by RCW 43.09.205 to account and record costs of public works in excess of five thousand dollars that are not let by contract.

(5) The cost of a separate public works project shall be the costs of the materials, equipment, supplies, and labor on that construction project.

(6) Any purchase of supplies, material, equipment or services other than professional services, except for public work or improvement, where the cost thereof exceeds seven thousand five hundred dollars shall be made upon call for bids.

(7) Bids shall be called annually and at a time and in the manner prescribed by ordinance for the publication in a newspaper of general circulation in the city or town of all notices or newspaper publications required by law. The contract shall be awarded to the lowest responsible bidder.

(8) For advertisement and formal sealed bidding to be dispensed with as to purchases between seven thousand five hundred and fifteen thousand dollars, the city legislative authority must authorize by resolution, use of the uniform procedure provided in RCW 39.04.190.

(9) These requirements for purchasing may be waived by resolution of the city or town council which declared that the purchase is clearly and legitimately limited to a single source or supply within the near vicinity, or the materials, supplies, equipment, or services are subject to special market conditions, and recites why this situation exists. Such actions are subject to RCW 39.30.020.

(10) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A RCW.

(11) Nothing in this section shall prohibit any second or third class city or any town from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused. [1993 c 198 § 10; 1989 c 431 § 56; 1988 c 168 § 3; 1987 c 120 § 2. Prior: 1985 c 469 § 24; 1985 c 219 § 2; 1985 c 169 § 7; 1979 ex.s. c 89 § 2; 1977 ex.s. c 41 § 1; 1974 ex.s. c 74 § 2; 1965 c 114 § 1; 1965 c 7 § 35.23.352; prior: 1957 c 121 § 1; 1951 c 211 § 1; prior: (i) 1907 c 241 § 52; RRS § 9055. (ii) 1915 c 184 § 31; RRS § 9145. (iii) 1947 c 151 § 1; 1890 p 209 § 166; Rem. Supp. 1947 § 9185.]

Severability—1989 c 431: See RCW 70.95.901.

Competitive bidding violations by municipal officer, penalties: RCW 39.30.020.

Subcontractors to be identified by bidder, when: RCW 39.30.060.

35.23.440 Specific powers enumerated. (Effective July 1, 1994.) The city council of each second class city shall have power and authority:

(1) Ordinances: To make and pass all ordinances, orders, and resolutions not repugnant to the Constitution of the United States or the state of Washington, or the provisions of this title, necessary for the municipal government and management of the affairs of the city, for the execution of the powers vested in said body corporate, and for the carrying into effect of the provisions of this title.

(2) License of shows: To fix and collect a license tax, for the purposes of revenue and regulation, on theatres, melodeons, balls, concerts, dances, theatrical, circus, or other performances, and all performances where an admission fee is charged, or which may be held in any house or place where wines or liquors are sold to the participators; also all shows, billiard tables, pool tables, bowling alleys, exhibitions, or amusements.

(3) Hotels, etc., licenses: To fix and collect a license tax for the purposes of revenue and regulation on and to regulate all taverns, hotels, restaurants, banks, brokers, manufactories, livery stables, express companies and persons engaged in transmitting letters or packages, railroad, stage, and steamboat companies or owners, whose principal place of business is in such city, or who have an agency therein.

(4) Peddlers', etc., licenses: To license, for the purposes of revenue and regulation, tax, prohibit, suppress, and regulate all raffles, hawkers, peddlers, pawnbrokers, refreshment or coffee stands, booths, or sheds; and to regulate as authorized by state law all tippling houses, dram shops, saloons, bars, and barrooms.

(5) Dance houses: To prohibit or suppress, or to license and regulate all dance houses, fandango houses, or any exhibition or show of any animal or animals.

(6) License vehicles: To license for the purposes of revenue and regulation, and to tax hackney coaches, cabs, omnibuses, drays, market wagons, and all other vehicles used for hire, and to regulate their stands, and to fix the rates to be charged for the transportation of persons, baggage, and property.

(7) Hotel runners: To license or suppress runners for steamboats, taverns, or hotels.

(8) License generally: To fix and collect a license tax for the purposes of revenue and regulation, upon all occupations and trades, and all and every kind of business authorized by law not heretofore specified: PROVIDED, That on any business, trade, or calling not provided by law to be licensed for state and county purposes, the amount of license shall be fixed at the discretion of the city council, as they may deem the interests and good order of the city may require.

(9) Riots: To prevent and restrain any riot or riotous assemblages, disturbance of the peace, or disorderly conduct in any place, house, or street in the city.

(10) Nuisances: To declare what shall be deemed nuisances; to prevent, remove, and abate nuisances at the expense of the parties creating, causing, or committing or maintaining the same, and to levy a special assessment on the land or premises whereon the nuisance is situated to defray the cost or to reimburse the city for the cost of abating the same.

(11) Stock pound: To establish, maintain, and regulate a common pound for estrays, and to appoint a poundkeeper, who shall be paid out of the fines and fees imposed and collected of the owners of any animals impounded, and from no other source; to prevent and regulate the running at large of any and all domestic animals within the city limits or any parts thereof, and to regulate or prevent the keeping of such animals within any part of the city.

(12) Control of certain trades: To control and regulate slaughterhouses, washhouses, laundries, tanneries, forges, and offensive trades, and to provide for their exclusion or removal from the city limits, or from any part thereof.

(13) Street cleaning: To provide, by regulation, for the prevention and summary removal of all filth and garbage in streets, sloughs, alleys, back yards, or public grounds of such city, or elsewhere therein.

(14) Gambling, etc.: To prohibit and suppress all gaming and all gambling or disorderly houses, and houses of ill fame, and all immoral and indecent amusements, exhibitions, and shows.

(15) Markets: To establish and regulate markets and market places.

(16) Speed of railroad cars: To fix and regulate the speed at which any railroad cars, streetcars, automobiles, or other vehicles may run within the city limits, or any portion thereof.

(17) City commons: To provide for and regulate the commons of the city.

(18) Fast driving: To regulate or prohibit fast driving or riding in any portion of the city.

(19) Combustibles: To regulate or prohibit the loading or storage of gunpowder and combustible or explosive materials in the city, or transporting the same through its streets or over its waters.

(20) Property: To have, purchase, hold, use, and enjoy property of every name or kind whatsoever, and to sell, lease, transfer, mortgage, convey, control, or improve the same; to build, erect, or construct houses, buildings, or structures of any kind needful for the use or purposes of such city.

(21) Fire department: To establish, continue, regulate, and maintain a fire department for such city, to change or reorganize the same, and to disband any company or companies of the said department; also, to discontinue and disband said fire department, and to create, organize, establish, and maintain a paid fire department for such city.

(22) Water supply: To adopt, enter into, and carry out means for securing a supply of water for the use of such city or its inhabitants, or for irrigation purposes therein.

(23) Overflow of water: To prevent the overflow of the city or to secure its drainage, and to assess the cost thereof to the property benefited.

(24) House numbers: To provide for the numbering of houses.

(25) Health board: To establish a board of health; to prevent the introduction and spread of disease; to establish a city infirmary and to provide for the indigent sick; and to provide and enforce regulations for the protection of health, cleanliness, peace, and good order of the city; to establish and maintain hospitals within or without the city limits; to

control and regulate interments and to prohibit them within the city limits.

(26) Harbors and wharves: To build, alter, improve, keep in repair, and control the waterfront; to erect, regulate, and repair wharves, and to fix the rate of wharfage and transit of wharf, and levy dues upon vessels and commodities; and to provide for the regulation of berths, landing, stationing, and removing steamboats, sail vessels, rafts, barges, and all other watercraft; to fix the rate of speed at which steamboats and other steam watercraft may run along the waterfront of the city; to build bridges so as not to interfere with navigation; to provide for the removal of obstructions to the navigation of any channel or watercourses or channels.

(27) License of steamers: To license steamers, boats, and vessels used in any watercourse in the city, and to fix and collect a license tax thereon.

(28) Ferry licenses: To license ferries and toll bridges under the law regulating the granting of such license.

(29) Penalty for violation of ordinances: To provide that violations of ordinances with the punishment for any offense not exceeding a fine of five thousand dollars or imprisonment for more than one year, or both fine and imprisonment, but the punishment for any criminal ordinance shall be the same as the punishment provided in state law for the same crime. Alternatively, such a city may provide that a violation of an ordinance constitutes a civil violation subject to monetary penalties or to determine and impose fines for forfeitures and penalties, but no act which is a state crime may be made a civil violation. A violation of an order, regulation, or ordinance relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of an order, regulation, or ordinance equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor.

(30) Police department: To create and establish a city police; to prescribe their duties and their compensation; and to provide for the regulation and government of the same.

(31) Elections: To provide for conducting elections and establishing election precincts when necessary, to be as near as may be in conformity with the state law.

(32) Examine official accounts: To examine, either in open session or by committee, the accounts or doings of all officers or other persons having the care, management, or disposition of moneys, property, or business of the city.

(33) Contracts: To make all appropriations, contracts, or agreements for the use or benefit of the city and in the city's name.

(34) Streets and sidewalks: To provide by ordinance for the opening, laying out, altering, extending, repairing, grading, paving, planking, graveling, macadamizing, or otherwise improving of public streets, avenues, and other public ways, or any portion of any thereof; and for the construction, regulation, and repair of sidewalks and other street improvements, all at the expense of the property to be benefited thereby, without any recourse, in any event, upon the city for any portion of the expense of such work, or any delinquency of the property holders or owners, and to provide for the forced sale thereof for such purposes; to establish a uniform grade for streets, avenues, sidewalks, and squares, and to enforce the observance thereof.

(35) Waterways: To clear, cleanse, alter, straighten, widen, fill up, or close any waterway, drain, or sewer, or any watercourse in such city when not declared by law to be navigable, and to assess the expense thereof, in whole or in part, to the property specially benefited.

(36) Sewerage: To adopt, provide for, establish, and maintain a general system of sewerage, draining, or both, and the regulation thereof; to provide funds by local assessments on the property benefited for the purpose aforesaid and to determine the manner, terms, and place of connection with main or central lines of pipes, sewers, or drains established, and compel compliance with and conformity to such general system of sewerage or drainage, or both, and the regulations of said council thereto relating, by the infliction of suitable penalties and forfeitures against persons and property, or either, for nonconformity to, or failure to comply with the provisions of such system and regulations or either.

(37) Buildings and parks: To provide for all public buildings, public parks, or squares, necessary or proper for the use of the city.

(38) Franchises: To permit the use of the streets for railroad or other public service purposes.

(39) Payment of judgments: To order paid any final judgment against such city, but none of its lands or property of any kind or nature, taxes, revenue, franchise, or rights, or interest, shall be attached, levied upon, or sold in or under any process whatsoever.

(40) Weighing of fuel: To regulate the sale of coal and wood in such city, and may appoint a measurer of wood and weigher of coal for the city, and define his duties, and may prescribe his term of office, and the fees he shall receive for his services: PROVIDED, That such fees shall in all cases be paid by the parties requiring such service.

(41) Hospitals, etc.: To erect and establish hospitals and pesthouses and to control and regulate the same.

(42) Waterworks: To provide for the erection, purchase, or otherwise acquiring of waterworks within or without the corporate limits of the city to supply such city and its inhabitants with water, and to regulate and control the use and price of the water so supplied.

(43) City lights: To provide for lighting the streets and all public places of the city and for furnishing the inhabitants of the city with gas, electric, or other light, and for the ownership, purchase or acquisition, construction, or maintenance of such works as may be necessary or convenient therefor: PROVIDED, That no purchase of any such water plant or light plant shall be made without first submitting the question of such purchase to the electors of the city.

(44) Parks: To acquire by purchase or otherwise land for public parks, within or without the limits of the city, and to improve the same.

(45) Bridges: To construct and keep in repair bridges, and to regulate the use thereof.

(46) Power of eminent domain: In the name of and for the use and benefit of the city, to exercise the right of eminent domain, and to condemn lands and property for the purposes of streets, alleys, parks, public grounds, waterworks, or for any other municipal purpose and to acquire by purchase or otherwise such lands and property as may be deemed necessary for any of the corporate uses provided for

by this title, as the interests of the city may from time to time require.

(47) To provide for the assessment of taxes: To provide for the assessment, levying, and collecting of taxes on real and personal property for the corporate uses and purposes of the city and to provide for the payment of the debts and expenses of the corporation.

(48) Local improvements: To provide for making local improvements, and to levy and collect special assessments on the property benefited thereby and for paying the same or any portion thereof; to determine what work shall be done or improvements made, at the expense, in whole or in part, of the adjoining, contiguous, or proximate property, and to provide for the manner of making and collecting assessments therefor.

(49) Cemeteries: To regulate the burial of the dead and to establish and regulate cemeteries, within or without the corporate limits, and to acquire lands therefor by purchase or otherwise.

(50) Fire limits: To establish fire limits with proper regulations and to make all needful regulations for the erection and maintenance of buildings or other structures within the corporate limits as safety of persons or property may require, and to cause all such buildings and places as may from any cause be in a dangerous state to be put in a safe condition; to regulate the manner in which stone, brick, and other buildings, party walls, and partition fences shall be constructed and maintained.

(51) Safety and sanitary measures: To require the owners of public halls, theaters, hotels, and other buildings to provide suitable means of exit and proper fire escapes; to provide for the cleaning and purification of watercourses and canals and for the draining and filling up of ponds on private property within its limits when the same shall be offensive to the senses or dangerous to the health, and to charge the expense thereof to the property specially benefited, and to regulate and control and provide for the prevention and punishment of the defilement or pollution of all streams running in or through its corporate limits and a distance of five miles beyond its corporate limits, and of any stream or lake from which the water supply of the city is or may be taken and for a distance of five miles beyond its source of supply, and to make all quarantine and other regulations as may be necessary for the preservation of the public health and to remove all persons afflicted with any contagious disease to some suitable place to be provided for that purpose.

(52) To regulate liquor traffic: To regulate the selling or giving away of intoxicating, spirituous, malt, vinous, mixed, or fermented liquors as authorized by the general laws of the state.

(53) To establish streets on tidelands: To project or extend or establish streets over and across any tidelands within the limits of such city.

(54) To provide for the general welfare. [1993 c 83 § 5; 1986 c 278 § 4. Prior: 1984 c 258 § 803; 1984 c 189 § 5; 1979 ex.s. c 136 § 28; 1977 ex.s. c 316 § 21; 1965 ex.s. c 116 § 7; 1965 c 7 § 35.23.440; prior: 1907 c 241 § 29; 1890 p 148 § 38; RRS § 9034.]

Effective date—1993 c 83: See note following RCW 35.21.163.

Severability—1986 c 278: See note following RCW 36.01.010.

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Severability—1977 ex.s. c 316: See note following RCW 70.48.020.

Chapter 35.24
THIRD CLASS CITIES

Sections

35.24.020 City officers enumerated—Compensation—Appointment and removal. The government of a third class city shall be vested in a mayor, a city council of seven members, a city attorney, a clerk, a treasurer, all elective; and a chief of police, municipal judge, city engineer, street superintendent, health officer and such other appointive officers as may be provided for by statute or ordinance: PROVIDED, That the council may enact an ordinance providing for the appointment of the city clerk, city attorney, and treasurer by the mayor, which appointment shall be subject to confirmation by a majority vote of the city council. Such ordinance shall be enacted and become effective not later than thirty days prior to the first day allowed for filing declarations of candidacy for such offices when such offices are subject to an approaching city primary election. Elective incumbent city clerks, city attorneys, and city treasurers shall serve for the remainder of their unexpired term notwithstanding any appointment made pursuant to RCW 35.24.020 and 35.24.050. If a free public library and reading room is established, five library trustees shall be appointed. The city council by ordinance shall prescribe the duties and fix the compensation of all officers and employees: PROVIDED, That the provisions of any such ordinance shall not be inconsistent with any statute: PROVIDED FURTHER, That where the city council finds that the appointment of a full time city engineer is unnecessary, it may in lieu of such appointment, by resolution provide for the performance of necessary engineering services on either a part time, temporary or periodic basis by a qualified engineering firm, pursuant to any reasonable contract.

The mayor shall appoint and at his or her pleasure may remove all appointive officers except as otherwise provided herein: PROVIDED, That municipal judges shall be removed only upon conviction of misconduct or malfeasance in office, or because of physical or mental disability rendering the judge incapable of performing the duties of his or her office. Every appointment or removal must be in writing signed by the mayor and filed with the city clerk. [1993 c 47 § 1; 1987 c 3 § 9; 1969 c 116 § 1; 1965 ex.s. c 116 § 9; 1965 c 7 § 35.24.020. Prior: 1961 c 81 § 1; 1955 c 365 § 2; 1955 c 55 § 5; prior: (i) 1915 c 184 § 2; 1891 c 156 § 4; 1890 p 179 § 105; RRS § 9115. (ii) 1929 c 182 § 1, part; 1927 c 159 § 1; 1915 c 184 § 3, part; 1893 c 57 § 1; 1891 c 156 § 1; 1890 p 179 § 106; RRS § 9116, part. (iii) 1915 c 184 § 28; 1890 p 196 § 137; RRS § 9142.]

Severability—1987 c 3: See note following RCW 3.46.020.

35.24.180 City council—Oath—Meetings. The city council and mayor shall meet in January next succeeding the date of each general municipal election, and shall take the oath of office, and shall hold regular meetings at least once during each month but not to exceed one regular meeting in each week, at such times as may be fixed by ordinance.

Special meetings may be called by the mayor by written notice as provided in RCW 42.30.080. No ordinances shall be passed or contract let or entered into, or bill for the payment of money allowed at any special meeting.

All meetings of the city council shall be held at such place as may be designated by the city council. All final actions on resolutions and ordinances must take place within the corporate limits of the city. All meetings of the city council must be public. [1993 c 199 § 2; 1965 c 7 § 35.24.180. Prior: 1915 c 184 § 10, part; 1893 c 70 § 3; 1890 p 181 § 113; RRS § 9123, part.]

35.24.230 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

35.24.290 Specific powers enumerated. (Effective July 1, 1994.) The city council of each third class city shall have power:

(1) To pass ordinances not in conflict with the Constitution and laws of this state or of the United States;

(2) To prevent and regulate the running at large of any or all domestic animals within the city limits or any part thereof and to cause the impounding and sale of any such animals;

(3) To establish, build and repair bridges, to establish, lay out, alter, keep open, open, widen, vacate, improve and repair streets, sidewalks, alleys, squares and other public highways and places within the city, and to drain, sprinkle and light the same; to remove all obstructions therefrom; to establish and reestablish the grades thereof; to grade, plank, pave, macadamize, gravel and curb the same, in whole or in part; to construct gutters, culverts, sidewalks and crosswalks therein or upon any part thereof; to cultivate and maintain parking strips therein, and generally to manage and control all such highways and places; to provide by local assessment for the leveling up and surfacing and oiling or otherwise treating for the laying of dust, all streets within the city limits;

(4) To establish, construct and maintain drains and sewers, and shall have power to compel all property owners on streets and alleys or within two hundred feet thereof along which sewers shall have been constructed to make proper connections therewith and to use the same for proper purposes, and in case the owners of the property on such streets and alleys or within two hundred feet thereof fail to make such connections within the time fixed by such council, it may cause such connections to be made and assess against the property served thereby the costs and expenses thereof;

(5) To provide fire engines and all other necessary or proper apparatus for the prevention and extinguishment of fires;

(6) To impose and collect an annual license on every dog within the limits of the city, to prohibit dogs running at large and to provide for the killing of all dogs not duly licensed found at large;

(7) To license, for the purposes of regulation and revenue, all and every kind of business authorized by law, and transacted and carried on in such city, and all shows, exhibitions and lawful games carried on therein and within one mile of the corporate limits thereof, to fix the rate of license tax upon the same, and to provide for the collection of the same by suit or otherwise;

(8) To improve rivers and streams flowing through such city, or adjoining the same; to widen, straighten and deepen the channel thereof, and remove obstructions therefrom; to improve the water-front of the city, and to construct and maintain embankments and other works to protect such city from overflow; to prevent the filling of the water of any bay, except such filling over tide or shorelands as may be provided for by order of the city council; to purify and prevent the pollution of streams of water, lakes or other sources of supply, and for this purpose shall have jurisdiction over all streams, lakes or other sources of supply, both within and without the city limits. Such city shall have power to provide by ordinance and to enforce such punishment or penalty as the city council may deem proper for the offense of polluting or in any manner obstructing or interfering with the water supply of such city or source thereof;

(9) To erect and maintain buildings for municipal purposes;

(10) To permit, under such restrictions as it may deem proper, and to grant franchises for, the laying of railroad tracks, and the running of cars propelled by electric, steam or other power thereon, and the laying of gas and water pipes and steam mains and conduits for underground wires, and to permit the construction of tunnels or subways in the public streets, and to construct and maintain and to permit the construction and maintenance of telegraph, telephone and electric lines therein;

(11) In its discretion to divide the city by ordinance, into a convenient number of wards, not exceeding six, to fix the boundaries thereof, and to change the same from time to time: PROVIDED, That no change in the boundaries of any ward shall be made within sixty days next before the date of a general municipal election, nor within twenty months after the wards have been established or altered. Whenever such city is so divided into wards, the city council shall designate by ordinance the number of councilmen to be elected from each ward, apportioning the same in proportion to the population of the wards. Thereafter the councilmen so designated shall be elected by the qualified electors resident in such ward, or by general vote of the whole city as may be designated in such ordinance. When additional territory is added to the city it may by act of the council, be annexed to contiguous wards without affecting the right to redistrict at the expiration of twenty months after last previous division. The removal of a councilman from the ward for which he was elected shall create a vacancy in such office;

(12) To impose fines, penalties and forfeitures for any and all violations of ordinances, and for any breach or violation of any ordinance to fix the penalty by fine or imprisonment, or both, but no such fine shall exceed five thousand dollars nor the term of such imprisonment exceed the term of one year, except that the punishment for any criminal ordinance shall be the same as the punishment

provided in state law for the same crime; or to provide that violations of ordinances constitute a civil violation subject to monetary penalty, but no act that is a state crime may be made a civil violation;

(13) To establish fire limits, with proper regulations;

(14) To establish and maintain a free public library;

(15) To establish and regulate public markets and market places;

(16) To punish the keepers and inmates and lessors of houses of ill fame, gamblers and keepers of gambling tables, patrons thereof or those found loitering about such houses and places;

(17) To make all such ordinances, bylaws, rules, regulations and resolutions, not inconsistent with the Constitution and laws of the state of Washington, as may be deemed expedient to maintain the peace, good government and welfare of the corporation and its trade, commerce and manufactures, and to do and perform any and all other acts and things necessary or proper to carry out the provisions of this chapter, and to enact and enforce within the limits of such city all other local, police, sanitary and other regulations as do not conflict with general laws;

(18) To license steamers, boats and vessels used in any bay or other watercourse in the city and to fix and collect such license; to provide for the regulation of berths, landings, and stations, and for the removing of steamboats, sail boats, sail vessels, rafts, barges and other watercraft; to provide for the removal of obstructions to navigation and of structures dangerous to navigation or to other property, in or adjoining the waterfront, except in municipalities in counties in which there is a city of the first class. [1993 c 83 § 6; 1986 c 278 § 5; 1984 c 258 § 804; 1977 ex.s. c 316 § 23; 1965 ex.s. c 116 § 10; 1965 c 7 § 35.24.290. Prior: 1915 c 184 § 14; 1893 c 70 § 3; 1891 c 56 § 3; 1890 p 183 § 17; RRS § 9127.]

Effective date—1993 c 83: See note following RCW 35.21.163.

Severability—1986 c 278: See note following RCW 36.01.010.

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

Severability—1977 ex.s. c 316: See note following RCW 70.48.020.

Chapter 35.27
TOWNS

Sections

35.27.070 Town officers enumerated. The government of a town shall be vested in a mayor and a council consisting of five members and a treasurer, all elective; the mayor shall appoint a clerk and a marshal; and may appoint a town attorney, pound master, street superintendent, a civil engineer, and such police and other subordinate officers and employees as may be provided for by ordinance. All appointive officers and employees shall hold office at the pleasure of the mayor and shall not be subject to confirmation by the town council. [1993 c 47 § 2; 1987 c 3 § 12; 1965 ex.s. c 116 § 14; 1965 c 7 § 35.27.070. Prior: 1961 c 89 § 3; prior: (i) 1903 c 113 § 4; 1890 p 198 § 143; RRS § 9164. (ii) 1941 c 108 § 2; 1939 c 87 § 2; Rem. Supp. 1941 § 9165-1a. (iii) 1943 c 183 § 1, part; 1941 c 91 § 1, part; 1911 c 33 § 1, part; 1903 c 113 § 5, part; 1890 p 198 § 144, part; Rem. Supp. 1943 § 9165.]

Severability—1987 c 3: See note following RCW 3.46.020.

35.27.130 Compensation of officers and employees—Expenses—Nonstate pensions. The mayor and members of the town council may be reimbursed for actual expenses incurred in the discharge of their official duties upon presentation of a claim therefor and its allowance and approval by resolution of the town council. The mayor and members of the council may also receive such salary as the council may fix by ordinance.

The treasurer and treasurer-clerk shall severally receive at stated times a compensation to be fixed by ordinance.

The compensation of all other officers and employees shall be fixed from time to time by the council.

Any town that provides a pension for any of its employees under a plan not administered by the state must notify the state auditor of the existence of the plan at the time of an audit of the town by the auditor. No town may establish a pension plan for its employees that is not administered by the state, except that any defined contribution plan in existence as of January 1, 1990, is deemed to have been authorized. No town that provides a defined contribution plan for its employees as authorized by this section may make any material changes in the terms or conditions of the plan after June 7, 1990. [1993 c 47 § 3; 1990 c 212 § 2; 1973 1st ex.s. c 87 § 2; 1969 ex.s. c 270 § 9; 1965 c 105 § 2; 1965 c 7 § 35.27.130. Prior: 1961 c 89 § 5; prior: (i) 1941 c 115 § 2; 1890 p 200 § 147; Rem. Supp. 1941 § 9168. (ii) 1921 c 24 § 1, part; 1890 p 209 § 168, part; RRS § 9187, part. (iii) 1890 p 214 § 173; RRS § 9191. (iv) 1943 c 183 § 1, part; 1941 c 91 § 1, part; 1911 c 33 § 1, part; 1903 c 113 § 5, part; 1890 p 198 § 144, part; RRS § 9165, part.]

35.27.270 Town council—Oath—Meetings. The town council shall meet in January succeeding the date of the general municipal election, shall take the oath of office, and shall hold regular meetings at least once each month at such times as may be fixed by ordinance. Special meetings may be called at any time by the mayor or by three councilmembers, by written notice as provided in RCW 42.30.080. No resolution or order for the payment of money shall be passed at any other than a regular meeting. No such resolution or order shall be valid unless passed by the votes of at least three councilmembers.

All meetings of the council shall be held at such places as may be designated by the town council. All final actions on resolutions and ordinances must take place within the corporate limits of the town. All meetings of the town council must be public. [1993 c 199 § 1; 1965 c 7 § 35.27.270. Prior: (i) 1890 p 200 § 150; RRS § 9171. (ii) 1890 p 201 § 153, part; RRS § 9174, part.]

Times for holding elections: Chapter 29.13 RCW.

35.27.320 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

35.27.370 Specific powers enumerated. (Effective July 1, 1994.) The council of said town shall have power:

(1) To pass ordinances not in conflict with the Constitution and laws of this state, or of the United States;

(2) To purchase, lease or receive such real estate and personal property as may be necessary or proper for municipal purposes, and to control, dispose of and convey the same for the benefit of the town; to acquire, own, and hold real estate for cemetery purposes either within or without the corporate limits, to sell and dispose of such real estate, to plat or replat such real estate into cemetery lots and to sell and dispose of any and all lots therein, and to operate, improve and maintain the same as a cemetery;

(3) To contract for supplying the town with water for municipal purposes, or to acquire, construct, repair and manage pumps, aqueducts, reservoirs, or other works necessary or proper for supplying water for use of such town or its inhabitants, or for irrigating purposes therein;

(4) To establish, build and repair bridges, to establish, lay out, alter, widen, extend, keep open, improve, and repair streets, sidewalks, alleys, squares and other public highways and places within the town, and to drain, sprinkle and light the same; to remove all obstructions therefrom; to establish the grades thereof; to grade, pave, plank, macadamize, gravel and curb the same, in whole or in part, and to construct gutters, culverts, sidewalks and crosswalks therein, or on any part thereof; to cause to be planted, set out and cultivated trees therein, and generally to manage and control all such highways and places;

(5) To establish, construct and maintain drains and sewers, and shall have power to compel all property owners on streets along which sewers are constructed to make proper connections therewith, and to use the same for proper purposes when such property is improved by the erection thereon of a building or buildings; and in case the owners of such improved property on such streets shall fail to make such connections within the time fixed by such council, they may cause such connections to be made, and to assess against the property in front of which such connections are made the costs and expenses thereof;

(6) To provide fire engines and all other necessary or proper apparatus for the prevention and extinguishment of fires;

(7) To impose and collect an annual license on every dog within the limits of the town, to prohibit dogs running at large, and to provide for the killing of all dogs found at large and not duly licensed;

(8) To levy and collect annually a property tax, for the payment of current expenses and for the payment of indebtedness (if any indebtedness exists) within the limits authorized by law;

(9) To license, for purposes of regulation and revenue, all and every kind of business, authorized by law and transacted and carried on in such town; and all shows, exhibitions and lawful games carried on therein and within one mile of the corporate limits thereof; to fix the rate of license tax upon the same, and to provide for the collection of the same, by suit or otherwise; to regulate, restrain, or prohibit the running at large of any and all domestic animals within the city limits, or any part or parts thereof, and to regulate the keeping of such animals within any part of the city; to establish, maintain and regulate a common pound for estrays, and to appoint a poundkeeper, who shall be paid out of the fines and fees imposed on, and collected from, the owners of any impounded stock;

(10) To improve the rivers and streams flowing through such town or adjoining the same; to widen, straighten and deepen the channels thereof, and to remove obstructions therefrom; to prevent the pollution of streams or water running through such town, and for this purpose shall have jurisdiction for two miles in either direction; to improve the waterfront of the town, and to construct and maintain embankments and other works to protect such town from overflow;

(11) To erect and maintain buildings for municipal purposes;

(12) To grant franchises or permits to use and occupy the surface, the overhead and the underground of streets, alleys and other public ways, under such terms and conditions as it shall deem fit, for any and all purposes, including but not being limited to the construction, maintenance and operation of railroads, street railways, transportation systems, water, gas and steam systems, telephone and telegraph systems, electric lines, signal systems, surface, aerial and underground tramways;

(13) To punish the keepers and inmates and lessors of houses of ill fame, and keepers and lessors of gambling houses and rooms and other places where gambling is carried on or permitted, gamblers and keepers of gambling tables;

(14) To impose fines, penalties and forfeitures for any and all violations of ordinances, and for any breach or violation of any ordinance, to fix the penalty by fine or imprisonment, or both; but no such fine shall exceed five thousand dollars, nor the term of imprisonment exceed one year, except that the punishment for any criminal ordinance shall be the same as the punishment provided in state law for the same crime; or to provide that violations of ordinances constitute a civil violation subject to a monetary penalty, but no act which is a state crime may be made a civil violation;

(15) To operate ambulance service which may serve the town and surrounding rural areas and, in the discretion of the council, to make a charge for such service;

(16) To make all such ordinances, bylaws, rules, regulations and resolutions not inconsistent with the Constitution and laws of the state of Washington, as may be deemed expedient to maintain the peace, good government and welfare of the town and its trade, commerce and manufacturers, and to do and perform any and all other acts and things necessary or proper to carry out the provisions of this chapter. [1993 c 83 § 7; 1986 c 278 § 6; 1984 c 258 § 805; 1977 ex.s. c 316 § 25; 1965 ex.s. c 116 § 15; 1965 c 127 § 1; 1965 c 7 § 35.27.370. Prior: 1955 c 378 § 4; 1949 c 151 § 1; 1945 c 214 § 1; 1941 c 74 § 1; 1927 c 207 § 1; 1925 ex.s. c 159 § 1; 1895 c 32 § 1; 1890 p 201 § 154; Rem. Supp. 1949 § 9175.]

Effective date—1993 c 83: See note following RCW 35.21.163.

Severability—1986 c 278: See note following RCW 36.01.010.

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

Severability—1977 ex.s. c 316: See note following RCW 70.48.020.

Validating—1925 ex.s. c 159: "All franchises, permits and rights of way heretofore granted by any municipality of the fourth class to any person, firm or corporation, to construct, maintain or operate surface, underground and aerial tramways and other means of conveyance over, above, across, upon and along its streets, highways and alleys are hereby validated, ratified and confirmed." [1925 ex.s. c 159 § 2.]

Chapter 35.31
ACCIDENT CLAIMS AND FUNDS

Sections

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

35.31.020 Charter cities—Manner of filing. The provisions of chapter 35.31 RCW shall be applied notwithstanding any provisions to the contrary in any charter of any city permitted by law to have a charter; however, charter provisions not inconsistent herewith shall continue to apply. All claims for damages against a charter city shall be filed in the manner set forth in chapter 4.96 RCW. [1993 c 449 § 7; 1967 c 164 § 12; 1965 c 7 § 35.31.020. Prior: 1957 c 224 § 3; 1917 c 96 § 1; 1915 c 148 § 1; 1909 c 83 § 2; RRS § 9479.]

Purpose—Severability—1993 c 449: See notes following RCW 4.96.010.

Purpose—Severability—1967 c 164: See notes following RCW 4.96.010.

Tortious conduct of political subdivisions and municipal corporations, liability for damages: Chapter 4.96 RCW.

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

35.31.040 Noncharter cities and towns—Manner of filing—Report. All claims for damages against noncharter cities and towns shall be filed in the manner set forth in chapter 4.96 RCW.

No ordinance or resolution shall be passed allowing such claim or any part thereof, or appropriating any money or other property to pay or satisfy the same or any part thereof, until the claim has first been referred to the proper department or committee, nor until such department or committee has made its report to the council thereon pursuant to such reference. [1993 c 449 § 8; 1989 c 74 § 1; 1967 c 164 § 13; 1965 c 7 § 35.31.040. Prior: 1957 c 224 § 4; 1915 c 148 § 2; 1909 c 167 § 1; RRS § 9481.]

Purpose—Severability—1993 c 449: See notes following RCW 4.96.010.

Purpose—Severability—1967 c 164: See notes following RCW 4.96.010.

Actions against political subdivisions, municipal corporations, and quasi municipal corporations: Chapter 4.96 RCW.

Limitation of actions: Chapter 4.16 RCW.

Chapter 35.58
METROPOLITAN MUNICIPAL CORPORATIONS

Sections

35.58.030 Corporations authorized—Limitation on boundaries. Any area of the state containing two or more cities, at least one of which is of ten thousand or more population, may organize as a metropolitan municipal corporation for the performance of certain functions, as provided in this chapter. The boundaries of a metropolitan municipal corporation may not be expanded to include territory located in a county other than a component county except as a result of the consolidation of two or more contiguous metropolitan municipal corporations. [1993 c 240 § 1; 1965 c 7 § 35.58.030. Prior: 1957 c 213 § 3.]

Inclusion of code cities in metropolitan municipal corporations: Chapter 35A.57 RCW.

35.58.040 Territory which must be included or excluded—Boundaries. At the time of its formation no metropolitan municipal corporation shall include only a part of any city, and every city shall be either wholly included or wholly excluded from the boundaries of such corporation. If subsequent to the formation of a metropolitan municipal corporation a part only of any city shall be included within the boundaries of a metropolitan municipal corporation such part shall be deemed to be "unincorporated" for the purpose of selecting a member of the metropolitan council pursuant to *RCW 35.58.120(3) and such city shall neither select nor participate in the selection of a member on the metropolitan council pursuant to RCW 35.58.120.

Any metropolitan municipal corporation now existing within a county with a population of one million or more shall, upon May 21, 1971, have the same boundaries as those of the respective central county of such metropolitan corporation. The boundaries of such metropolitan corporation may not be enlarged or diminished after such date by annexation as provided in chapter 35.58 RCW and any

purported annexation of territory shall be deemed void. Any contiguous metropolitan municipal corporations may be consolidated into a single metropolitan municipal corporation upon such terms, for the purpose of performing such metropolitan function or functions, and to be effective at such time as may be approved by resolutions of the respective metropolitan councils. In the event of such consolidation the component city with the largest population shall be the central city of such consolidated metropolitan municipal corporation and the component county with the largest population shall be the central county of such consolidated metropolitan municipal corporation. [1993 c 240 § 2; 1991 c 363 § 39; 1971 ex.s. c 303 § 3; 1967 c 105 § 1; 1965 c 7 § 35.58.040. Prior: 1957 c 213 § 4.]

***Reviser's note:** RCW 35.58.120(3) was deleted by 1993 c 240 § 4.

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

35.58.090 Election procedure to form corporation and levy tax—Qualified voters—Establishment of corporation—First meeting of council. The election on the formation of the metropolitan municipal corporation shall be conducted by the auditor of the central county in accordance with the general election laws of the state and the results thereof shall be canvassed by the county canvassing board of the central county, which shall certify the result of the election to the county legislative authority of the central county, and shall cause a certified copy of such canvass to be filed in the office of the secretary of state. Notice of the election shall be published in one or more newspapers of general circulation in each component county in the manner provided in the general election laws. No person shall be entitled to vote at such election unless that person is a qualified voter under the laws of the state in effect at the time of such election and has resided within the metropolitan area for at least thirty days preceding the date of the election. The ballot proposition shall be in substantially the following form:

"FORMATION OF METROPOLITAN MUNICIPAL CORPORATION

Shall a metropolitan municipal corporation be established for the area described in a resolution of the county legislative authority of . . . . . county adopted on the . . . . day of . . . . . ., 19. . ., to perform the metropolitan functions of . . . . . (here insert the title of each of the functions to be authorized as set forth in the petition or initial resolution).

YES . . . . . ☐
NO . . . . . ☐"

If a majority of the persons voting on the proposition residing within the central city shall vote in favor thereof and a majority of the persons voting on the proposition residing in the metropolitan area outside of the central city shall vote in favor thereof, the metropolitan municipal corporation shall thereupon be established and the county legislative authority of the central county shall adopt a resolution setting a time and place for the first meeting of the metropolitan council which shall be held not later than sixty days after the date of such election. A copy of such resolution shall be transmitted to the legislative body of each component city and county and of each special district which shall be affected by the particular metropolitan functions authorized.

At the same election there shall be submitted to the voters residing within the metropolitan area, for their approval or rejection, a proposition authorizing the metropolitan municipal corporation, if formed, to levy at the earliest time permitted by law on all taxable property located within the metropolitan municipal corporation a general tax, for one year, of twenty-five cents per thousand dollars of assessed value in excess of any constitutional or statutory limitation for authorized purposes of the metropolitan municipal corporation. The proposition shall be expressed on the ballots in substantially the following form:

"ONE YEAR TWENTY-FIVE CENTS PER THOUSAND DOLLARS OF ASSESSED VALUE LEVY

Shall the metropolitan municipal corporation, if formed, levy a general tax of twenty-five cents per thousand dollars of assessed value for one year upon all the taxable property within said corporation in excess of the constitutional and/or statutory tax limits for authorized purposes of the corporation?

YES . . . . . ☐
NO . . . . . ☐"

Such proposition to be effective must be approved by a majority of at least three-fifths of the persons voting on the proposition to levy such tax, with a forty percent validation requirement, in the manner set forth in Article VII, section 2(a) of the Constitution of this state. [1993 c 240 § 3; 1973 1st ex.s. c 195 § 23; 1965 c 7 § 35.58.090. Prior: 1957 c 213 § 9.]

Severability—Effective dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Canvassing the returns, generally: Chapter 29.62 RCW.

Conduct of elections—Canvass: RCW 29.13.040.

Notice of elections: RCW 29.27.080.

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

35.58.120 Metropolitan council—Composition. Unless the rights, powers, functions, and obligations of a metropolitan municipal corporation have been assumed by a county as provided in chapter 36.56 RCW, a metropolitan municipal corporation shall be governed by a metropolitan council composed of elected officials of the component counties and component cities, and possibly other persons, as determined by agreement of each of the component counties and the component cities equal in number to at least twenty-five percent of the total number of component cities that have at least seventy-five percent of the combined component city populations. The agreement shall remain in effect until altered in the same manner as the initial composition is determined. [1993 c 240 § 4; 1983 c 92 § 1; 1981 c 190 § 3; 1974 ex.s. c 70 § 5; 1971 ex.s. c 303 § 5; 1969

ex.s. c 135 § 1; 1967 c 105 § 3; 1965 c 7 § 35.58.120. Prior: 1957 c 213 § 12.]

35.58.230 Metropolitan water advisory committee. If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan water supply, the metropolitan council shall, prior to the effective date of the assumption of such function, cause a metropolitan water advisory committee to be formed by notifying the legislative body of each component city which operates a water system to appoint one person to serve on such advisory committee and the board of commissioners of each water district, any portion of which lies within the metropolitan area, to appoint one person to serve on such committee who shall be a water district commissioner. The metropolitan water advisory committee shall meet at the time and place provided in the notice and elect a chairman. The members of such committee shall serve at the pleasure of the appointing bodies and shall receive no compensation other than reimbursement for expenses actually incurred in the performance of their duties. The function of such advisory committee shall be to advise the metropolitan council with respect to matters relating to the performance of the water supply function.

The requirement to create a metropolitan water advisory committee shall not apply to a county that has assumed the rights, powers, functions, and obligations of the metropolitan municipal corporation under chapter 36.56 RCW. [1993 c 240 § 5; 1965 c 7 § 35.58.230. Prior: 1957 c 213 § 23.]

35.58.270 Metropolitan transit commission. If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan transportation with a commission form of management, a metropolitan transit commission shall be formed prior to the effective date of the assumption of such function. Except as provided in this section, the metropolitan transit commission shall exercise all powers of the metropolitan municipal corporation with respect to metropolitan transportation facilities, including but not limited to the power to construct, acquire, maintain, operate, extend, alter, repair, control and manage a local public transportation system within and without the metropolitan area, to establish new passenger transportation services and to alter, curtail, or abolish any services as the commission may deem desirable and to fix tolls and fares.

The comprehensive plan for public transportation service and any amendments thereof shall be adopted by the metropolitan council and the metropolitan transit commission shall provide transportation facilities and service consistent with such plan. The metropolitan transit commission shall authorize expenditures for transportation purposes within the budget adopted by the metropolitan council. Tolls and fares may be fixed or altered by the commission only after approval thereof by the metropolitan council. Bonds of the metropolitan municipal corporation for public transportation purposes shall be issued by the metropolitan council as provided in this chapter.

The metropolitan transit commission shall consist of seven members. Six of such members shall be appointed by the metropolitan council and the seventh member shall be the chairman of the metropolitan council who shall be ex officio the chairman of the metropolitan transit commission. Three of the six appointed members of the commission shall be residents of the central city and three shall be residents of the metropolitan area outside of the central city. The three central city members of the first metropolitan transit commission shall be selected from the existing transit commission of the central city, if there be a transit commission in such city. The terms of first appointees shall be for one, two, three, four, five and six years, respectively. Thereafter, commissioners shall serve for a term of four years. Compensation of transit commissioners shall be determined by the metropolitan council.

The requirement to create a metropolitan transit commission shall not apply to a county that has assumed the rights, powers, functions, and obligations of the metropolitan municipal corporation under chapter 36.56 RCW. [1993 c 240 § 6; 1967 c 105 § 12; 1965 c 7 § 35.58.270. Prior: 1957 c 213 § 27.]

35.58.300 Metropolitan park board. If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan parks and parkways, a metropolitan park board shall be formed prior to the effective date of the assumption of such function. Except as provided in this section, the metropolitan park board shall exercise all powers of the metropolitan municipal corporation with respect to metropolitan park and parkway facilities.

The metropolitan park board shall authorize expenditures for park and parkway purposes within the budget adopted by the metropolitan council. Bonds of the metropolitan municipal corporation for park and parkway purposes shall be issued by the metropolitan council as provided in this chapter.

The metropolitan park board shall consist of five members appointed by the metropolitan council at least two of whom shall be residents of the central city. The terms of first appointees shall be for one, two, three, four and five years, respectively. Thereafter members shall serve for a term of four years. Compensation of park board members shall be determined by the metropolitan council.

The requirement to create a metropolitan park board shall not apply to a county that has assumed the rights, powers, functions, and obligations of the metropolitan municipal corporation under chapter 36.56 RCW. [1993 c 240 § 7; 1965 c 7 § 35.58.300. Prior: 1957 c 213 § 30.]

35.58.320 Eminent domain. A metropolitan municipal corporation shall have power to acquire by purchase and condemnation all lands and property rights, both within and without the metropolitan area, which are necessary for its purposes. Such right of eminent domain shall be exercised by the metropolitan council in the same manner and by the same procedure as is or may be provided by law for cities, except insofar as such laws may be inconsistent with the provisions of this chapter. [1993 c 240 § 8; 1965 c 7 § 35.58.320. Prior: 1957 c 213 § 32.]

Eminent domain by cities: Chapter 8.12 RCW.

35.58.340 Disposition of unneeded property. Except as otherwise provided herein, a metropolitan municipal corporation may sell, or otherwise dispose of any real or personal property acquired in connection with any authorized

metropolitan function and which is no longer required for the purposes of the metropolitan municipal corporation in the same manner as provided for cities. When the metropolitan council determines that a metropolitan facility or any part thereof which has been acquired from a component city or county without compensation is no longer required for metropolitan purposes, but is required as a local facility by the city or county from which it was acquired, the metropolitan council shall by resolution transfer it to such city or county. [1993 c 240 § 9; 1965 c 7 § 35.58.340. Prior: 1957 c 213 § 34.]

35.58.350 Powers and functions of metropolitan municipal corporation—Where vested—Powers of metropolitan council. All the powers and functions of a metropolitan municipal corporation shall be vested in the metropolitan council unless expressly vested in specific officers, boards, or commissions by this chapter, or vested in the county legislative authority of a county that has assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation as provided in chapter 36.56 RCW. Without limitation of the foregoing authority, or of other powers given it by this chapter, the metropolitan council shall have the following powers:

(1) To establish offices, departments, boards and commissions in addition to those provided by this chapter which are necessary to carry out the purposes of the metropolitan municipal corporation, 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 metropolitan municipal corporation except those whose appointment or removal is otherwise provided by this chapter.

(3) To fix the salaries, wages and other compensation of all officers and employees of the metropolitan municipal corporation unless the same shall be otherwise fixed in this chapter.

(4) To employ such engineering, legal, financial, or other specialized personnel as may be necessary to accomplish the purposes of the metropolitan municipal corporation. [1993 c 240 § 10; 1965 c 7 § 35.58.350. Prior: 1957 c 213 § 35.]

35.58.410 Budget—Expenditures—Revenue estimates—Requirements for a county assuming the powers of a metropolitan municipal corporation. (1) On or before the third Monday in June of each year, each metropolitan municipal corporation shall adopt a budget for the following calendar year. Such budget shall include a separate section for each authorized metropolitan function. Expenditures shall be segregated as to operation and maintenance expenses and capital and betterment outlays. Administrative and other expense general to the corporation shall be allocated between the authorized metropolitan functions. The budget shall contain an estimate of all revenues to be collected during the following budget year, including any surplus funds remaining unexpended from the preceding year. The metropolitan council shall not be required to confine capital or betterment expenditures made from bond proceeds or emergency expenditures to items provided in the budget. The affirmative vote of three-fourths of all members of the metropolitan council shall be required to authorize emergency expenditures.

(2) Subsection (1) of this section shall not apply to a county that has assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation under chapter 36.56 RCW. This subsection (2) shall apply only to each county that has assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation under chapter 36.56 RCW.

Each county that has assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation under chapter 36.56 RCW shall, on or before the third Monday in June of each year, prepare an estimate of all revenues to be collected during the following calendar year, including any surplus funds remaining unexpended from the preceding year for each authorized metropolitan function.

By June 30 of each year, the county shall adopt the rate for sewage disposal that will be charged to component cities and sewer districts during the following budget year.

As long as any general obligation indebtedness remains outstanding that was issued by the metropolitan municipal corporation prior to the assumption by the county, the county shall continue to impose the taxes authorized by RCW 82.14.045 and 35.58.273(5) at the maximum rates and on all of the taxable events authorized by law. If, despite the continued imposition of those taxes, the estimate of revenues made on or before the third Monday in June shows that estimated revenues will be insufficient to make all debt service payments falling due in the following calendar year on all general obligation indebtedness issued by the metropolitan municipal corporation prior to the assumption by the county of the rights, powers, functions, and obligations of the metropolitan municipal corporation, the remaining amount required to make the debt service payments shall be designated as "supplemental income" and shall be obtained from component cities and component counties as provided under RCW 35.58.420.

The county shall prepare and adopt a budget each year in accordance with applicable general law or county charter. If supplemental income has been designated under this subsection, the supplemental income shall be reflected in the budget that is adopted. If during the budget year the actual tax revenues from the taxes imposed under the authority of RCW 82.14.045 and 35.58.273(5) exceed the estimates upon which the supplemental income was based, the difference shall be refunded to the component cities and component counties in proportion to their payments promptly after the end of the budget year. A county that has assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation under chapter 36.56 RCW shall not be required to confine capital or betterment expenditures for authorized metropolitan functions from bond proceeds or emergency expenditures to items provided in the budget. [1993 c 240 § 11; 1965 c 7 § 35.58.410. Prior: 1957 c 213 § 41.]

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

35.58.450 General obligation bonds—Issuance, sale, form, term, election, payment. Notwithstanding the limitations of chapter 39.36 RCW and any other statutory limitations otherwise applicable and limiting municipal debt, a metropolitan municipal corporation shall have the power to contract indebtedness and issue general obligation bonds and to pledge the full faith and credit of the corporation to the payment thereof, for any authorized capital purpose of the metropolitan municipal corporation, not to exceed an amount, together with any outstanding nonvoter approved general indebtedness, equal to three-fourths of one percent of the value of the taxable property within the metropolitan municipal corporation, as the term "value of the taxable property" is defined in RCW 39.36.015. A metropolitan municipal corporation may additionally contract indebtedness and issue general obligation bonds, for any authorized capital purpose of a metropolitan municipal corporation, together with any other outstanding general indebtedness, not to exceed an amount equal to five percent of the value of the taxable property within the corporation, as the term "value of the taxable property" is defined in RCW 39.36.015, when a proposition authorizing the indebtedness has been approved by three-fifths of the persons voting on said proposition at said election at which such election the total number of persons voting on such bond proposition shall constitute not less than forty percent of the total number of voters voting within the area of said metropolitan municipal corporation at the last preceding state general election. Such general obligation bonds may be authorized in any total amount in one or more propositions and the amount of such authorization may exceed the amount of bonds which could then lawfully be issued. Such bonds may be issued in one or more series from time to time out of such authorization. The elections shall be held pursuant to RCW 39.36.050.

Whenever the voters of a metropolitan municipal corporation have, pursuant to RCW 84.52.056, approved excess property tax levies to retire such bond issues, both the principal of and interest on such general obligation bonds may be made payable from annual tax levies to be made upon all the taxable property within the metropolitan municipal corporation in excess of the constitutional and/or statutory tax limit. The principal of and interest on any general obligation bond may be made payable from any other taxes or any special assessments which the metropolitan municipal corporation may be authorized to levy or from any otherwise unpledged revenue which may be derived from the ownership or operation of properties or facilities incident to the performance of the authorized function for which such bonds are issued or may be made payable from any combination of the foregoing sources. The metropolitan council may include in the principal amount of such bond issue an amount for engineering, architectural, planning, financial, legal, urban design and other services incident to acquisition or construction solely for authorized capital purposes.

General obligation bonds shall be issued and sold by the metropolitan council as provided in chapter 39.46 RCW and shall mature in not to exceed forty years from the date of issue. [1993 c 240 § 13; 1984 c 186 § 18; 1983 c 167 § 47; 1973 1st ex.s. c 195 § 24; 1971 ex.s. c 303 § 9; 1970 ex.s. c 56 § 38; 1970 ex.s. c 42 § 13; 1970 ex.s. c 11 § 1. Prior: 1969 ex.s. c 255 § 17; 1969 ex.s. c 232 § 16; 1967 c 105 § 13; 1965 c 7 § 35.58.450; prior: 1957 c 213 § 45.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

Severability—Effective dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Purpose—1970 ex.s. c 56: See note following RCW 39.52.020.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.52.020.

Limitations upon indebtedness: State Constitution Art. 7 § 2 (Amendments 55, 59), Art. 8 § 6 (Amendment 27), chapter 39.36 RCW, RCW 84.52.050.

35.58.460 Revenue bonds—Issuance, sale, form, term, payment, reserves, actions. (1) A metropolitan municipal corporation may issue revenue bonds to provide funds to carry out its authorized metropolitan water pollution abatement, water supply, garbage disposal or transportation purposes, without submitting the matter to the voters of the metropolitan municipal corporation. The metropolitan council 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 metropolitan council may obligate the metropolitan municipal corporation to pay such amounts of the gross revenue of the particular utility constructed, acquired, improved, added to, or repaired out of the proceeds of sale of such bonds, as the metropolitan council shall determine and may obligate the metropolitan municipal corporation to pay such amounts out of otherwise unpledged revenue which 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 metropolitan council 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 utility 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 metropolitan municipal corporation.

Each such revenue bond shall state upon its face that it is payable from such special fund or funds, and all revenue bonds issued under this chapter shall be negotiable securities within the provisions of the law of this state. Such revenue bonds may be registered either as to principal only or as to principal and interest as provided in RCW 39.46.030, or may be bearer bonds; shall be in such denominations as the metropolitan council shall deem proper; shall be payable at such time or times and at such places as shall be determined by the metropolitan council; shall bear interest at such rate or rates as shall be determined by the metropolitan council; shall be signed by the chairman and attested by the secretary of the metropolitan council, any of which signatures may be

facsimile signatures, and the seal of the metropolitan municipal corporation shall be impressed or imprinted thereon; any attached interest coupons shall be signed by the facsimile signatures of said officials.

Such revenue bonds shall be sold in such manner, at such price and at such rate or rates of interest as the metropolitan council shall deem to be for the best interests of the metropolitan municipal corporation, either at public or private sale.

The metropolitan council may at the time of the issuance of such revenue bonds make such covenants with the owners of said bonds as it may deem necessary to secure and guarantee the payment of the principal thereof and the interest thereon, including but not being limited to covenants to set aside adequate reserves to secure or guarantee the payment of such principal and interest, to maintain rates sufficient to pay such principal and interest and to maintain adequate coverage over debt service, to appoint a trustee or trustees for the bond owners to safeguard the expenditure of the proceeds of sale of such bonds and to fix the powers and duties of such trustee or trustees and to make such other covenants as the metropolitan council may deem necessary to accomplish the most advantageous sale of such bonds. The metropolitan council may also provide that revenue bonds payable out of the same source may later be issued on a parity with revenue bonds being issued and sold.

The metropolitan council may include in the principal amount of any such revenue bond issue an amount to establish necessary reserves, an amount for working capital and an amount necessary for interest during the period of construction of any such metropolitan facilities plus six months. The metropolitan council may, if it deems it to the best interest of the metropolitan municipal corporation, provide in any contract for the construction or acquisition of any metropolitan facilities or additions or improvements thereto or replacements or extensions thereof that payment therefor shall be made only in such revenue bonds at the par value thereof.

If the metropolitan municipal corporation shall fail to carry out or perform any of its obligations or covenants made in the authorization, issuance and sale of such bonds, the owner of any such bond may bring action against the metropolitan municipal corporation and compel the performance of any or all of such covenants.

(2) Notwithstanding subsection (1) of this section, such bonds may be issued and sold in accordance with chapter 39.46 RCW. [1993 c 240 § 14; 1983 c 167 § 48; 1974 ex.s. c 70 § 8; 1970 ex.s. c 56 § 39; 1970 ex.s. c 11 § 2; 1969 ex.s. c 255 § 18; 1969 ex.s. c 232 § 17; 1967 c 105 § 14; 1965 c 7 § 35.58.460. Prior: 1957 c 213 § 46.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

Purpose—1970 ex.s. c 56: See note following RCW 39.52.020.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.52.020.

35.58.490 Interest bearing warrants. A metropolitan council shall have the power to authorize the issuance of interest bearing warrants on such terms and conditions as the metropolitan council shall provide and to repay the interest bearing warrants with any moneys legally authorized for such purposes, including tax receipts where appropriate. [1993 c 240 § 15; 1965 c 7 § 35.58.490. Prior: 1957 c 213 § 49.]

35.58.500 Local improvement districts—Utility local improvement districts. The metropolitan municipal corporation shall have the power to levy special assessments payable over a period of not exceeding twenty years on all property within the metropolitan area specially benefited by any improvement, on the basis of special benefits conferred, to pay in whole, or in part, the damages or costs of any such improvement, and for such purpose may establish local improvement districts and enlarged local improvement districts, issue local improvement warrants and bonds to be repaid by the collection of local improvement assessments and generally to exercise with respect to any improvements which it may be authorized to construct or acquire the same powers as may now or hereafter be conferred by law upon cities. Such local improvement districts shall be created and such special assessments levied and collected and local improvement warrants and bonds issued and sold in the same manner as shall now or hereafter be provided by law for cities. The duties imposed upon the city treasurer under such acts shall be imposed upon the treasurer of the county in which such local improvement district shall be located.

A metropolitan municipal corporation may provide that special benefit assessments levied in any local improvement district may be paid into such revenue bond redemption fund or funds as may be designated by the metropolitan council to secure the payment of revenue bonds issued to provide funds to pay the cost of improvements for which such assessments were levied. If local improvement district assessments shall be levied for payment into a revenue bond fund, the local improvement district created therefor shall be designated a utility local improvement district. A metropolitan municipal corporation that creates a utility local improvement district shall conform with the laws relating to utility local improvement districts created by a city. [1993 c 240 § 16; 1965 c 7 § 35.58.500. Prior: 1957 c 213 § 50.]

Local improvements, supplemental authority: Chapter 35.51 RCW.

Special assessments or taxation for local improvements: State Constitution Art. 7 § 9.

35.58.520 Investment of corporate funds. A metropolitan municipal corporation shall have the power to invest its funds held in reserves or sinking funds or any such funds which are not required for immediate disbursement, in any investments in which a city is authorized to invest, as provided in RCW 35.39.030. [1993 c 240 § 17; 1965 c 7 § 35.58.520. Prior: 1957 c 213 § 52.]

35.58.530 Annexation—Requirements, procedure. Territory located within a component county that is annexed to a component city after the establishment of a metropolitan municipal corporation shall by such act be annexed to the metropolitan municipal corporation. Territory within a metropolitan municipal corporation may be annexed to a city which is not within such metropolitan municipal corporation in the manner provided by law and in such event either (1) such city may be annexed to such metropolitan municipal corporation by ordinance of the legislative body of the city concurred in by resolution of the metropolitan council, or (2)

if such city shall not be so annexed such territory shall remain within the metropolitan municipal corporation unless such city shall by resolution of its legislative body request the withdrawal of such territory subject to any outstanding indebtedness of the metropolitan corporation and the metropolitan council shall by resolution consent to such withdrawal.

Any territory located within a component county that is contiguous to a metropolitan municipal corporation and lying wholly within an incorporated city or town may be annexed to such metropolitan municipal corporation by ordinance of the legislative body of such city or town requesting such annexation concurred in by resolution of the metropolitan council.

Any other territory located within a component county that is adjacent to a metropolitan municipal corporation may be annexed thereto by vote of the qualified electors residing in the territory to be annexed, in the manner provided in this chapter. An election to annex such territory may be called pursuant to a petition or resolution in the following manner:

(1) A petition calling for such an election shall be signed by at least four percent of the qualified voters residing within the territory to be annexed and shall be filed with the auditor of the central county.

(2) A resolution calling for such an election may be adopted by the metropolitan council.

Any resolution or petition calling for such an election shall describe the boundaries of the territory to be annexed, and state that the annexation of such territory to the metropolitan municipal corporation will be conducive to the welfare and benefit of the persons or property within the metropolitan municipal corporation and within the territory proposed to be annexed.

Upon receipt of such a petition, the auditor shall examine the same and certify to the sufficiency of the signatures thereon. Within thirty days following the receipt of such petition, the auditor shall transmit the same to the metropolitan council, together with his certificate as to the sufficiency thereof. [1993 c 240 § 18; 1969 ex.s. c 135 § 3; 1967 c 105 § 15; 1965 c 7 § 35.58.530. Prior: 1957 c 213 § 53.]

Chapter 35.61
METROPOLITAN PARK DISTRICTS

Sections

35.61.100 Indebtedness limit—Without popular vote. Every metropolitan park district through its board of commissioners may contract indebtedness and evidence such indebtedness by the issuance and sale of warrants, short-term obligations as provided by chapter 39.50 RCW, or general obligation bonds, for park, boulevard, aviation landings, playgrounds, and parkway purposes, and the extension and maintenance thereof, not exceeding, together with all other outstanding nonvoter approved general indebtedness, one-quarter of one percent of the value of the taxable property in such metropolitan park district, as the term "value of the taxable property" is defined in RCW 39.36.015. General obligation bonds shall not be issued with a maximum term in excess of twenty years. Such general obligation bonds shall be issued and sold in accordance with chapter 39.46 RCW. [1993 c 247 § 1; 1989 c 319 § 2; 1984 c 186 § 21; 1983 c 61 § 1; 1970 ex.s. c 42 § 14; 1965 c 7 § 35.61.100. Prior: 1943 c 264 § 6; Rem. Supp. 1943 § 6741-6; prior: 1927 c 268 § 1; 1907 c 98 § 6; RRS § 6725.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

Chapter 35.63
PLANNING COMMISSIONS

Sections

35.63.210 Accessory apartments. Any local government, as defined in RCW 43.63A.215, that is planning under this chapter shall comply with RCW 43.63A.215(3). [1993 c 478 § 8.]

35.63.220 Treatment of residential structures occupied by persons with handicaps. No city may enact or maintain an ordinance, development regulation, zoning regulation or official control, policy, or administrative practice which treats a residential structure occupied by persons with handicaps differently than a similar residential structure occupied by a family or other unrelated individuals. As used in this section, "handicaps" are as defined in the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3602). [1993 c 478 § 20.]

Chapter 35.82
HOUSING AUTHORITIES LAW

Sections

35.82.070 Powers of authority. An authority shall constitute a public body corporate and politic, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers in addition to others herein granted:

(1) To sue and be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments, including but not limited to partnership agreements and joint venture agreements, necessary or convenient to the exercise of the powers of the authority; to participate in the organization or the operation of a nonprofit corporation which has as one of its purposes to provide or assist in the provision of housing for persons of low income; and to make and from time to time amend and repeal bylaws, rules and regulations, not inconsistent with this chapter, to carry into effect the powers and purposes of the authority.

(2) Within its area of operation: To prepare, carry out, acquire, lease and operate housing projects; to provide for

the construction, reconstruction, improvement, alteration or repair of any housing project or any part thereof; to agree to rent or sell dwellings forming part of the projects to or for persons of low income. Where an agreement or option is made to sell a dwelling to a person of low income, the authority may convey the dwelling to the person upon fulfillment of the agreement irrespective of whether the person is at the time of the conveyance a person of low income. Leases, options, agreements, or conveyances may include such covenants as the authority deems appropriate to assure the achievement of the objectives of this chapter.

(3) To acquire, lease, rent, sell, or otherwise dispose of any commercial space located in buildings or structures containing a housing project or projects.

(4) To arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works, or facilities for, or in connection with, a housing project or the occupants thereof; and (notwithstanding anything to the contrary contained in this chapter or in any other provision of law) to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the federal government may have attached to its financial aid of the project.

(5) To lease or rent any dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any housing project and (subject to the limitations contained in this chapter) to establish and revise the rents or charges therefor; to own or manage buildings containing a housing project or projects as well as commercial space or other dwelling units that do not constitute a housing project as that term is defined in this chapter: PROVIDED, That notwithstanding the provisions under subsection (1) of this section, dwelling units made available or sold to persons of low income, together with functionally related and subordinate facilities, shall occupy at least fifty percent of the interior space in the total development owned by the authority or at least fifty percent of the total number of units in the development owned by the authority, whichever produces the greater number of units for persons of low income, and for mobile home parks, the mobile home lots made available to persons of low income shall be at least fifty percent of the total number of mobile home lots in the park owned by the authority; to own, hold, and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, or otherwise including financial assistance and other aid from the state or any public body, person or corporation, any real or personal property or any interest therein; to acquire by the exercise of the power of eminent domain any real property; to sell, lease, exchange, transfer, assign, pledge, or dispose of any real or personal property or any interest therein; to sell, lease, exchange, transfer, or dispose of any real or personal property or interest therein at less than fair market value to a governmental entity for any purpose when such action assists the housing authority in carrying out its powers and purposes under this chapter, to a low-income person or family for the purpose of providing housing for that person or family, or to a nonprofit corporation provided the nonprofit corporation agrees to sell the property to a low-income person or family or to use the property for the provision of housing for persons of low income for at least twenty years; to insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards; to procure or agree to the procurement of insurance or guarantees from the federal government of the payment of any bonds or parts thereof issued by an authority, including the power to pay premiums on any such insurance.

(6) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control; to purchase its bonds at a price not more than the principal amount thereof and accrued interest, all bonds so purchased to be canceled.

(7) Within its area of operation: To investigate into living, dwelling and housing conditions and into the means and methods of improving such conditions; to determine where slum areas exist or where there is a shortage of decent, safe and sanitary dwelling accommodations for persons of low income; to make studies and recommendations relating to the problem of clearing, replanning and reconstructing of slum areas, and the problem of providing dwelling accommodations for persons of low income, and to cooperate with the city, the county, the state or any political subdivision thereof in action taken in connection with such problems; and to engage in research, studies and experimentation on the subject of housing.

(8) Acting through one or more commissioners or other person or persons designated by the authority: To conduct examinations and investigations and to hear testimony and take proof under oath at public or private hearings on any matter material for its information; to administer oaths, issue subpoenas requiring the attendance of witnesses or the production of books and papers and to issue commissions for the examination of witnesses who are outside of the state or unable to attend before the authority, or excused from attendance; to make available to appropriate agencies (including those charged with the duty of abating or requiring the correction of nuisances or like conditions, or of demolishing unsafe or insanitary structures within its area of operation) its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, morals, safety or welfare.

(9) To initiate eviction proceedings against any tenant as provided by law. Activity occurring in any housing authority unit that constitutes a violation of chapter 69.41, 69.50 or 69.52 RCW shall constitute a nuisance for the purpose of RCW 59.12.030(5).

(10) To exercise all or any part or combination of powers herein granted.

No provisions of law with respect to the acquisition, operation or disposition of property by other public bodies shall be applicable to an authority unless the legislature shall specifically so state.

(11) To agree (notwithstanding the limitation contained in RCW 35.82.210) to make such payments in lieu of taxes as the authority finds consistent with the achievement of the purposes of this chapter.

(12) Upon the request of a county or city, to exercise any powers of an urban renewal agency under chapter 35.81 RCW or a public corporation, commission, or authority under chapter 35.21 RCW. However, in the exercise of any

such powers the housing authority shall be subject to any express limitations contained in this chapter.

(13) To exercise the powers granted in this chapter within the boundaries of any city, town, or county not included in the area in which such housing authority is originally authorized to function: PROVIDED, HOWEVER, The governing or legislative body of such city, town, or county, as the case may be, adopts a resolution declaring that there is a need for the authority to function in such territory.

(14) To administer contracts for assistance payments to persons of low income in accordance with section 8 of the United States Housing Act of 1937, as amended by Title II, section 201 of the Housing and Community Development Act of 1974, P.L. 93-383.

(15) To sell at public or private sale, with or without public bidding, for fair market value, any mortgage or other obligation held by the authority.

(16) To the extent permitted under its contract with the holders of bonds, notes, and other obligations of the authority, to consent to any modification with respect to rate of interest, time and payment of any installment of principal or interest security, or any other term of any contract, mortgage, mortgage loan, mortgage loan commitment, contract or agreement of any kind to which the authority is a party.

(17) To make, purchase, participate in, invest in, take assignments of, or otherwise acquire loans to persons of low income to enable them to acquire, construct, reconstruct, rehabilitate, improve, lease, or refinance their dwellings, and to take such security therefor as is deemed necessary and prudent by the authority.

(18) To make, purchase, participate in, invest in, take assignments of, or otherwise acquire loans for the acquisition, construction, reconstruction, rehabilitation, improvement, leasing, or refinancing of land, buildings, or developments for housing for persons of low income. For purposes of this subsection, development shall include either land or buildings or both.

(a) Any development financed under this subsection shall be subject to an agreement that for at least twenty years the dwelling units made available to persons of low income together with functionally related and subordinate facilities shall occupy at least fifty percent of the interior space in the total development or at least fifty percent of the total number of units in the development, whichever produces the greater number of units for persons of low income. For mobile home parks, the mobile home lots made available to persons of low income shall be at least fifty percent of the total number of mobile home lots in the park. During the term of the agreement, the owner shall use its best efforts in good faith to maintain the dwelling units or mobile home lots required to be made available to persons of low income at rents affordable to persons of low income. The twenty-year requirement under this subsection (18)(a) shall not apply when an authority finances the development by nonprofit corporations or governmental units of dwellings or mobile home lots intended for sale to persons of low and moderate income, and shall not apply to construction or other short-term financing provided to nonprofit corporations or governmental units when the financing has a repayment term of one year or less.

(b) In addition, if the development is owned by a for-profit entity, the dwelling units or mobile home lots required to be made available to persons of low income shall be rented to persons whose incomes do not exceed fifty percent of the area median income, adjusted for household size, and shall have unit or lot rents that do not exceed fifteen percent of area median income, adjusted for household size, unless rent subsidies are provided to make them affordable to persons of low income.

For purposes of this subsection (18)(b), if the development is owned directly or through a partnership by a governmental entity or a nonprofit organization, which nonprofit organization is itself not controlled by a for-profit entity or affiliated with any for-profit entity that a nonprofit organization itself does not control, it shall not be treated as being owned by a for-profit entity when the governmental entity or nonprofit organization exercises legal control of the ownership entity and in addition, (i) the dwelling units or mobile home lots required to be made available to persons of low income are rented to persons whose incomes do not exceed sixty percent of the area median income, adjusted for household size, and (ii) the development is subject to an agreement that transfers ownership to the governmental entity or nonprofit organization or extends an irrevocable right of first refusal to purchase the development under a formula for setting the acquisition price that is specified in the agreement.

(c) Commercial space in any building financed under this subsection that exceeds four stories in height shall not constitute more than twenty percent of the interior area of the building. Before financing any development under this subsection the authority shall make a written finding that financing is important for project feasibility or necessary to enable the authority to carry out its powers and purposes under this chapter.

(19) To contract with a public authority or corporation, created by a county, city, or town under RCW 35.21.730 through 35.21.755, to act as the developer for new housing projects or improvement of existing housing projects. [1993 c 478 § 17; 1991 c 167 § 1; 1989 c 363 § 2; 1985 c 386 § 1; 1983 c 225 § 2; 1977 ex.s. c 274 § 2; 1965 c 7 § 35.82.070. Prior: 1945 c 43 § 1; 1939 c 23 § 8; Rem. Supp. 1945 § 6889-8. Formerly RCW 74.24.070.]

Severability—1983 c 225: See note following RCW 35.82.020.

Chapter 35.87A
PARKING AND BUSINESS IMPROVEMENT AREAS

Sections

35.87A.010 Authorized—Purposes—Special assessments. To aid general economic development and neighborhood revitalization, and to facilitate the cooperation of merchants, businesses, and residential property owners which assists trade, economic viability, and liveability, the legislature hereby authorizes all counties and all incorporated cities and towns, including unclassified cities and towns operating under special charters:

(1) To establish, after a petition submitted by the operators responsible for sixty percent of the assessments by businesses and multifamily residential or mixed-use projects within the area, parking and business improvement areas, hereafter referred to as area or areas, for the following purposes:

(a) The acquisition, construction or maintenance of parking facilities for the benefit of the area;

(b) Decoration of any public place in the area;

(c) Promotion of public events which are to take place on or in public places in the area;

(d) Furnishing of music in any public place in the area;

(e) Providing professional management, planning, and promotion for the area, including the management and promotion of retail trade activities in the area; or

(f) Providing maintenance and security for common, public areas.

(2) To levy special assessments on all businesses and multifamily residential or mixed-use projects within the area and specially benefited by a parking and business improvement area to pay in whole or in part the damages or costs incurred therein as provided in this chapter. [1993 c 429 § 1; 1985 c 128 § 1; 1981 c 279 § 1; 1971 ex.s. c 45 § 1.]

35.87A.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Business" means all types of business, including professions.

(2) "Legislative authority" means the legislative authority of any city or town including unclassified cities or towns operating under special charters or the legislative authority of any county.

(3) "Multifamily residential or mixed-use project" means any building or buildings containing four or more residential units or a combination of residential and commercial units, whether title to the entire property is held in single or undivided ownership or title to individual units is held by owners who also, directly or indirectly through an association, own real property in common with the other unit owners.

(4) "Residential operator" means the owner or operator of a multifamily residential or mixed-use project if title is held in single or undivided ownership, or, if title is held in a form of common interest ownership, the association of unit owners, condominium association, homeowners' association, property owners' association, or residential cooperative corporation. [1993 c 429 § 2; 1971 ex.s. c 45 § 2.]

35.87A.030 Initiation petition or resolution—Contents. For the purpose of establishing a parking and business improvement area, an initiation petition may be presented to the legislative authority having jurisdiction of the area in which the proposed parking and business improvement area is to be located or the legislative authority may by resolution initiate a parking and business improvement area. The initiation petition or resolution shall contain the following:

(1) A description of the boundaries of the proposed area;

(2) The proposed uses and projects to which the proposed special assessment revenues shall be put and the total estimated cost thereof;

(3) The estimated rate of levy of special assessment with a proposed breakdown by class of business and multifamily residential or mixed-use project if such classification is to be used.

The initiating petition shall also contain the signatures of the persons who operate businesses and residential operators in the proposed area which would pay fifty percent of the proposed special assessments. [1993 c 429 § 3; 1971 ex.s. c 45 § 3.]

35.87A.050 Notice of hearing. Notice of a hearing held under the provisions of this chapter shall be given by:

(1) One publication of the resolution of intention in a newspaper of general circulation in the city; and

(2) Mailing a complete copy of the resolution of intention to each business and multifamily residential or mixed-use project in the proposed, or established, area. Publication and mailing shall be completed at least ten days prior to the time of the hearing. [1993 c 429 § 4; 1971 ex.s. c 45 § 5.]

35.87A.060 Hearings. Whenever a hearing is held under this chapter, the legislative authority shall hear all protests and receive evidence for or against the proposed action. The legislative authority may continue the hearing from time to time. Proceedings shall terminate if protest is made by businesses and residential operators in the proposed area which would pay a majority of the proposed special assessments. [1993 c 429 § 5; 1971 ex.s. c 45 § 6.]

35.87A.080 Special assessments—Legislative authority may make reasonable classifications—Assessments for separate purposes. For purposes of the special assessments to be imposed pursuant to this chapter, the legislative authority may make a reasonable classification of businesses and multifamily residential or mixed-use projects, giving consideration to various factors such as business and occupation taxes imposed, square footage of the business, number of employees, gross sales, or any other reasonable factor relating to the benefit received, including the degree of benefit received from parking. Whenever it is proposed that a parking and business improvement area provide more than one of the purposes listed in RCW 35.87A.010, special assessments may be imposed in a manner that measures benefit from each of the separate purposes, or any combination of the separate purposes. Special assessments shall be imposed and collected annually, or on another basis specified in the ordinance establishing the parking and business improvement area. [1993 c 429 § 6; 1985 c 128 § 2; 1981 c 279 § 2; 1971 ex.s. c 45 § 8.]

35.87A.090 Special assessments—Same basis or rate for classes not required—Factors as to parking facilities. The special assessments need not be imposed on different classes of business and multifamily residential or mixed-use projects, as determined pursuant to RCW 35.87A.080, on the same basis or the same rate. The special assessments imposed for the purpose of the acquisition, construction or maintenance of parking facilities for the benefit of the area shall be imposed on the basis of benefit determined by the legislative authority after giving consideration to the total cost to be recovered from the businesses and multifamily residential or mixed-use projects upon which the special assessment is to be imposed, the total area within the boundaries of the parking and business improvement area, the assessed value of the land and improvements within the area, the total business volume generated within the area and within each business, and such other factors as the legislative authority may find and determine to be a reasonable measure of such benefit. [1993 c 429 § 7; 1971 ex.s. c 45 § 9.]

35.87A.100 Ordinance to establish—Adoption—Contents. If the legislative authority, following the hearing, decides to establish the proposed area, it shall adopt an ordinance to that effect. This ordinance shall contain the following information:

(1) The number, date and title of the resolution of intention pursuant to which it was adopted;

(2) The time and place the hearing was held concerning the formation of such area;

(3) The description of the boundaries of such area;

(4) A statement that the businesses and multifamily residential or mixed-use projects in the area established by the ordinance shall be subject to the provisions of the special assessments authorized by RCW 35.87A.010;

(5) The initial or additional rate or levy of special assessment to be imposed with a breakdown by classification of business and multifamily residential or mixed-use project, if such classification is used; and

(6) A statement that a parking and business improvement area has been established.

(7) The uses to which the special assessment revenue shall be put. Uses shall conform to the uses as declared in the initiation petition presented pursuant to RCW 35.87A.030. [1993 c 429 § 8; 1971 ex.s. c 45 § 10.]

35.87A.140 Changes in assessment rates. Changes may be made in the rate or additional rate of special assessment as specified in the ordinance establishing the area, by ordinance adopted after a hearing before the legislative authority.

The legislative authority shall adopt a resolution of intention to change the rate or additional rate of special assessment at least fifteen days prior to the hearing required by this section. This resolution shall specify the proposed change and shall give the time and place of the hearing. Proceedings to change the rate or impose an additional rate of special assessments shall terminate if protest is made by businesses or multifamily residential or mixed-use projects in the proposed area which would pay a majority of the proposed increase or additional special assessments. [1993 c 429 § 9; 1971 ex.s. c 45 § 14.]

35.87A.170 Exemption period for new businesses and projects. Businesses or multifamily residential or mixed-use projects established after the creation of an area within the area may be exempted from the special assessments imposed pursuant to this chapter for a period not exceeding one year from the date they commenced business in the area. [1993 c 429 § 10; 1971 ex.s. c 45 § 17.]

Chapter 35.92
MUNICIPAL UTILITIES

Sections

35.92.355 Energy conservation—Legislative findings. The conservation of energy in all forms and by every possible means is found and declared to be a public purpose of highest priority. The legislature further finds and declares that all municipal corporations, quasi municipal corporations, and other political subdivisions of the state which are engaged in the generation, sale, or distribution of energy should be granted the authority to develop and carry out programs which will conserve resources, reduce waste, and encourage more efficient use of energy by consumers.

In order to establish the most effective state-wide program for energy conservation, the legislature hereby encourages any company, corporation, or association engaged in selling or furnishing utility services to assist their customers in the acquisition and installation of materials and equipment, for compensation or otherwise, for the conservation or more efficient use of energy. The use of appropriate tree plantings for energy conservation is encouraged as part of these programs. [1993 c 204 § 5; 1979 ex.s. c 239 § 1.]

Findings—1993 c 204: See note following RCW 35.92.390.

Effective date—Contingency—1979 ex.s. c 239: See note following RCW 35.92.360.

35.92.390 Municipal utilities encouraged to provide customers with landscaping information and to request voluntary donations for urban forestry. (1) Municipal utilities under this chapter are encouraged to provide information to their customers regarding landscaping that includes tree planting for energy conservation.

(2) Municipal utilities under this chapter are encouraged to request voluntary donations from their customers for the purposes of urban forestry. The request may be in the form of a check-off on the billing statement or other form of request for a voluntary donation. [1993 c 204 § 2.]

Findings—1993 c 204: "The legislature finds that large-scale reduction of tree cover increases the temperature of urban areas, known as the "heat island effect." Planting trees in urban areas for shading and cooling mitigates the urban heat island effect and reduces energy consumption. Tree planting also can benefit the environment by combating global climate change, reducing soil erosion, and improving air quality. Urban forestry programs can improve urban aesthetics that will improve public and private property values.

The legislature also finds that urban forestry programs should consider the relationship between urban forests and public service facilities such as water, sewer, natural gas, telephone, and electric power lines. Urban forestry programs should promote the use of appropriate tree species that

will not interfere with or cause damage to such public service facilities." [1993 c 204 § 1.]

Title 35A
OPTIONAL MUNICIPAL CODE

Chapters

Labor relations consultants: RCW 43.09.230.

Chapter 35A.11
LAWS GOVERNING NONCHARTER CODE CITIES AND CHARTER CODE CITIES—POWERS

Sections

35A.11.020 Powers vested in legislative bodies of noncharter and charter code cities. (Effective July 1, 1994.) The legislative body of each code city shall have power to organize and regulate its internal affairs within the provisions of this title and its charter, if any; and to define the functions, powers, and duties of its officers and employees; within the limitations imposed by vested rights, to fix the compensation and working conditions of such officers and employees and establish and maintain civil service, or merit systems, retirement and pension systems not in conflict with the provisions of this title or of existing charter provisions until changed by the people: PROVIDED, That nothing in this section or in this title shall permit any city, whether a code city or otherwise, to enact any provisions establishing or respecting a merit system or system of civil service for firemen and policemen which does not substantially accomplish the same purpose as provided by general law in chapter 41.08 RCW for firemen and chapter 41.12 RCW for policemen now or as hereafter amended, or enact any provision establishing or respecting a pension or retirement system for firemen or policemen which provides different pensions or retirement benefits than are provided by general law for such classes.

Such body may adopt and enforce ordinances of all kinds relating to and regulating its local or municipal affairs and appropriate to the good government of the city, and may impose penalties of fine not exceeding five thousand dollars or imprisonment for any term not exceeding one year, or both, for the violation of such ordinances, constituting a misdemeanor or gross misdemeanor as provided therein. However, the punishment for any criminal ordinance shall be the same as the punishment provided in state law for the same crime. Such a body alternatively may provide that violation of such ordinances constitutes a civil violation subject to monetary penalty, but no act which is a state crime may be made a civil violation.

The legislative body of each code city shall have all powers possible for a city or town to have under the Constitution of this state, and not specifically denied to code cities by law. By way of illustration and not in limitation, such powers may be exercised in regard to the acquisition, sale, ownership, improvement, maintenance, protection, restoration, regulation, use, leasing, disposition, vacation, abandonment or beautification of public ways, real property of all kinds, waterways, structures, or any other improvement or use of real or personal property, in regard to all aspects of collective bargaining as provided for and subject to the provisions of chapter 41.56 RCW, as now or hereafter amended, and in the rendering of local social, cultural, recreational, educational, governmental, or corporate services, including operating and supplying of utilities and municipal services commonly or conveniently rendered by cities or towns.

In addition and not in limitation, the legislative body of each code city shall have any authority ever given to any class of municipality or to all municipalities of this state before or after the enactment of this title, such authority to be exercised in the manner provided, if any, by the granting statute, when not in conflict with this title. Within constitutional limitations, legislative bodies of code cities shall have within their territorial limits all powers of taxation for local purposes except those which are expressly preempted by the state as provided in RCW 66.08.120, 82.36.440, 48.14.020, and 48.14.080. [1993 c 83 § 8; 1986 c 278 § 7; 1984 c 258 § 807; 1969 ex.s. c 29 § 1; 1967 ex.s. c 119 § 35A.11.020.]

Effective date—1993 c 83: See note following RCW 35.21.163.

Severability—1986 c 278: See note following RCW 36.01.010.

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

Effective date—1969 ex.s. c 29: "The effective date of this act is July 1, 1969." [1969 ex.s. c 29 § 2.]

35A.11.110 Members of legislative bodies authorized to serve as volunteer fire fighters or reserve law enforcement officers. Notwithstanding any other provision of law, the legislative body of any code city, by resolution adopted by a two-thirds vote of the full legislative body, may authorize any of its members to serve as volunteer fire fighters or reserve law enforcement officers, or both, and to receive the same compensation, insurance and other benefits as are applicable to other volunteer fire fighters or reserve law enforcement officers employed by the code city. [1993 c 303 § 2; 1974 ex.s. c 60 § 2.]

Chapter 35A.12
MAYOR-COUNCIL PLAN OF GOVERNMENT

Sections

35A.12.110 Council meetings. The city council and mayor shall meet regularly, at least once a month, at a place and at such times as may be designated by the city council. All final actions on resolutions and ordinances must take place within the corporate limits of the city. Special meetings may be called by the mayor or any three members of the council by written notice delivered to each member of the council at least twenty-four hours before the time specified for the proposed meeting. All actions that have heretofore been taken at special council meetings held pursuant to this section, but for which the number of hours of notice given has been at variance with requirements of RCW 42.30.080, are hereby validated. All council meetings shall be open to the public except as permitted by chapter 42.30 RCW. No ordinance or resolution shall be passed, or contract let or entered into, or bill for the payment of money allowed at any meeting not open to the public, nor at any public meeting the date of which is not fixed by ordinance, resolution, or rule, unless public notice of such meeting has been given by such notice to each local newspaper of general circulation and to each local radio or television station, as provided in RCW 42.30.080 as now or hereafter amended. Meetings of the council shall be presided over by the mayor, if present, or otherwise by the mayor pro tempore, or deputy mayor if one has been appointed, or by a member of the council selected by a majority of the council members at such meeting. Appointment of a council member to preside over the meeting shall not in any way abridge his right to vote on matters coming before the council at such meeting. In the absence of the clerk, a deputy clerk or other qualified person appointed by the clerk, the mayor, or the council, may perform the duties of clerk at such meeting. A journal of all proceedings shall be kept, which shall be a public record. [1993 c 199 § 3; 1979 ex.s. c 18 § 23; 1967 ex.s. c 119 § 35A.12.110.]

Severability—1979 ex.s. c 18: See note following RCW 35A.01.070.

Chapter 35A.14
ANNEXATION BY CODE CITIES

Sections

35A.14.025 Election method—Creation of community municipal corporation. The resolution initiating the annexation of territory under RCW 35A.14.015, and the petition initiating the annexation of territory under RCW 35A.14.020, may provide for the simultaneous creation of a community municipal corporation and election of community council members as provided for in chapter 35.14 RCW, as separate ballot measures or as part of the same ballot measure authorizing the annexation, or for the simultaneous inclusion of the annexed area into a named existing community municipal corporation operating under chapter 35.14 RCW, as separate ballot measures or as part of the same ballot measure authorizing the annexation. If the petition so provides for the creation of a community municipal corporation and election of community council members, the petition shall describe the boundaries of the proposed service area, state the number of voters residing therein as nearly as may be, and pray for the election of community council members by the voters residing in the service area.

The ballots shall contain the words "For annexation and creation of community municipal corporation" and "Against annexation and creation of community municipal corporation," or "For creation of community municipal corporation" and "Against creation of community municipal corporation," as the case may be. Approval of either optional ballot proposition shall be by simple majority vote of the voters voting on the proposition, but the annexation must be authorized before a community municipal corporation is created. [1993 c 75 § 3.]

Chapter 35A.21
PROVISIONS AFFECTING ALL CODE CITIES

Sections

Limitation on penalty for act constituting a crime under state law: RCW 35.21.163.

35A.21.250 Building construction projects—Code city prohibited from requiring state agencies or local governments to provide bond or other security as a condition for issuance of permit. A code city may not require any state agency or unit of local government to secure the performance of a permit requirement with a surety bond or other financial security device, including cash or assigned account, as a condition of issuing a permit to that unit of local government for a building construction project.

As used in this section, "building construction project" includes, in addition to its usual meaning, associated landscaping, street alteration, pedestrian or vehicular access alteration, or other amenities or alterations necessarily associated with the project. [1993 c 439 § 2.]

Chapter 35A.29
MUNICIPAL ELECTIONS IN CODE CITIES

Sections

35A.29.120 Ballot titles. When any question is to be submitted to the voters of a code city, or when a proposition is to be submitted to the voters of an area under provisions of this title, the question or proposition shall be advertised as provided for nominees for office, and in such cases there shall also be printed on the ballot a ballot title for the question or proposition in the form applicable under RCW 29.79.055, 29.27.060, 82.14.036, 82.46.021, or 82.80.090 or as otherwise expressly required by state law. The ballot title shall be prepared by the attorney for the code city, or as specified in RCW 29.27.060 for elections held outside of a code city. [1993 c 256 § 13; 1979 ex.s. c 18 § 31; 1967 ex.s. c 119 § 35A.29.120.]

Severability—Effective date—1993 c 256: See notes following RCW 29.79.500.

Severability—1979 ex.s. c 18: See note following RCW 35A.01.070.

Chapter 35A.31
ACCIDENT CLAIMS AND FUNDS

Sections

35A.31.030 Report—Manner of filing.

35A.31.030 Report—Manner of filing. No ordinance or resolution shall be passed allowing such claim or any part thereof, or appropriating any money or other property to pay or satisfy the same or any part thereof, until the claim has first been referred to the proper department or committee, nor until such department or committee has made its report thereon to the legislative body of the code city pursuant to such reference.

No action shall be maintained against any code city for any claim for damages until the claim has been filed in the manner set forth in chapter 4.96 RCW. [1993 c 449 § 9; 1967 ex.s. c 119 § 35A.31.030.]

Purpose—Severability—1993 c 449: See notes following RCW 4.96.010.

Chapter 35A.57
INCLUSION OF CODE CITIES IN METROPOLITAN MUNICIPAL CORPORATIONS

Sections

35A.57.010 Repealed.

35A.57.010 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 35A.63
PLANNING AND ZONING IN CODE CITIES

Sections

35A.63.230 Accessory apartments.

35A.63.240 Treatment of residential structures occupied by persons with handicaps.

35A.63.230 Accessory apartments. Any local government, as defined in RCW 43.63A.215, that is planning under this chapter shall comply with RCW 43.63A.215(3). [1993 c 478 § 9.]

35A.63.240 Treatment of residential structures occupied by persons with handicaps. No city may enact or maintain an ordinance, development regulation, zoning regulation or official control, policy, or administrative practice which treats a residential structure occupied by persons with handicaps differently than a similar residential structure occupied by a family or other unrelated individuals. As used in this section, "handicaps" are as defined in the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3602). [1993 c 478 § 21.]

Chapter 35A.80
PUBLIC UTILITIES

Sections

35A.80.040 Code cities encouraged to provide utility customers with landscaping information and to request voluntary donations for urban forestry.

35A.80.040 Code cities encouraged to provide utility customers with landscaping information and to request voluntary donations for urban forestry. (1) Code cities providing utility services under this chapter are encouraged to provide information to their customers regarding landscaping that includes tree planting for energy conservation.

(2) Code cities providing utility services under this chapter are encouraged to request voluntary donations from their customers for the purposes of urban forestry. The request may be in the form of a check-off on the billing statement or other form of a request for a voluntary donation. [1993 c 204 § 3.]

Findings—1993 c 204: See note following RCW 35.92.390.

Title 36
COUNTIES

Chapters

Labor relations consultants: RCW 43.09.230.

Chapter 36.01
GENERAL PROVISIONS

Sections

36.01.160 Penalty for act constituting a crime under state law—Limitation. (Effective July 1, 1994.)

36.01.160 Penalty for act constituting a crime under state law—Limitation. (Effective July 1, 1994.) Except as limited by the maximum penalty authorized by law, no

county may establish a penalty for an act that constitutes a crime under state law that is different from the penalty prescribed for that crime by state statute. [1993 c 83 § 2.]

Effective date—1993 c 83: See note following RCW 35.21.163.

Chapter 36.16
COUNTY OFFICERS—GENERAL

Sections

36.16.134 Recodified as RCW 4.96.041.

36.16.134 Recodified as RCW 4.96.041. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 36.18
FEES OF COUNTY OFFICERS

Sections

36.18.020 Clerk's fees.

36.18.020 Clerk's fees. 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 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 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 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 fifty dollars; if the demand is for a jury of twelve the fee shall be 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 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 twenty 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 twenty 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 one hundred ten dollars: PROVIDED, HOWEVER, A fee of twenty 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 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 the clerk may collect an execution fee as authorized by the federal government.

(16) For clerks' special services such as processing ex parte orders by mail, performing historical searches, compiling statistical reports, and conducting exceptional record searches the clerk may collect a fee not to exceed twenty dollars per hour or portion of an hour.

(17) For duplicated recordings of court's proceedings there shall be a fee of ten dollars for each audio tape and twenty-five dollars for each video tape.

(18) 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 one hundred ten dollars.

(19) 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.

(20) 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. [1993 c 435 § 1; 1992 c 54 § 1; 1989 c 342 § 1. Prior: 1987 c 382 § 3; 1987 c 202 § 201; 1987 c 56 § 3; prior: 1985 c 24 § 1; 1985 c 7 § 104; 1984 c 263 § 29; 1981 c 330 § 5; 1980 c 70 § 1; 1977 ex.s. c 107 § 1; 1975 c 30 § 1; 1973 c 16 § 1; 1973 c 38 § 1; prior: 1972 ex.s. c 57 § 5; 1972 ex.s. c 20 § 1; 1970 ex.s. c 32 § 1; 1967 c 26 § 9; 1963 c 4 § 36.18.020; prior: 1961 c 304 § 1; 1961 c 41 § 1; 1951 c 51 § 5; 1907 c 56 § 1, part, p 89; 1903 c 151 § 1, part, p 294; 1893 c 130 § 1, part, p 421; Code 1881 § 2086, part, p 355; 1869 p 364 § 1, part; 1863 p 391 § 1, part; 1861 p 34 § 1, part; 1854 p 368 § 1, part; RRS § 497, part.]

Rules of court: Cf. RAP 14.3, 18.22.

Effective date—1992 c 54: "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." [1992 c 54 § 7.]

Severability—Effective date—1989 c 342: See RCW 59.18.910 and 59.18.911.

Intent—1987 c 202: See note following RCW 2.04.190.

Effective date—Severability—1984 c 263: See RCW 26.50.901 and 26.50.902.

Severability—1981 c 330: See note following RCW 3.62.060.

Effective date—1972 ex.s. c 20: "This act shall take effect July 1, 1972." [1972 ex.s. c 20 § 3.]

Effective date—1967 c 26: See note following RCW 43.70.150.

Chapter 36.22
COUNTY AUDITOR

Sections

36.22.170 Surcharge for preservation of historical documents—Fifty percent to state treasurer—Creation of account. A surcharge of two dollars per instrument shall be charged by the county auditor for each document recorded, which will be in addition to any other charge authorized by law. Fifty percent of the revenue generated through this surcharge shall be transmitted monthly to the state treasurer who shall distribute such funds to each county treasurer within the state in July of each year in accordance with the formula described in RCW 36.22.190. The county treasurer shall place the funds received in a special account titled the auditor's centennial document preservation and modernization account to be used solely for ongoing preservation of historical documents of all county offices and departments and shall not be added to the county current expense fund. Fifty percent of the revenue generated by this surcharge shall be retained by the county and deposited in the auditor's operation and maintenance fund for ongoing preservation of historical documents of all county offices and departments.

The centennial document preservation and modernization account is hereby created in the custody of the state treasurer and shall be classified as a treasury trust account. State distributions from the centennial document preservation and modernization account shall be made without appropriation. [1993 c 37 § 1; 1989 c 204 § 3.]

Findings—1989 c 204: See note following RCW 36.22.160.

Chapter 36.28A
ASSOCIATION OF SHERIFFS AND POLICE CHIEFS

Sections

36.28A.030 Malicious harassment—Information reporting and dissemination. (1) The Washington association of sheriffs and police chiefs shall establish and maintain a central repository for the collection and classification of information regarding violations of RCW 9A.36.080. Upon establishing such a repository, the association shall develop a procedure to monitor, record, and classify information relating to violations of RCW 9A.36.080 and any other crimes of bigotry or bias apparently directed against other persons because the people committing the crimes perceived that their victims were of a particular race, color, religion, ancestry, national origin, gender, sexual orientation, or had a mental, physical, or sensory handicap.

(2) All local law enforcement agencies shall report monthly to the association concerning all violations of RCW 9A.36.080 and any other crimes of bigotry or bias in such form and in such manner as prescribed by rules adopted by the association. Agency participation in the association's reporting programs, with regard to the specific data requirements associated with violations of RCW 9A.36.080 and any other crimes of bigotry or bias, shall be deemed to meet agency reporting requirements. The association must summarize the information received and file an annual report with the governor and the senate law and justice committee and the house of representatives judiciary committee.

(3) The association shall disseminate the information according to the provisions of chapters 10.97 and 10.98 RCW, and all other confidentiality requirements imposed by federal or Washington law. [1993 c 127 § 4.]

Severability—1993 c 127: See note following RCW 9A.36.078.

Chapter 36.32
COUNTY COMMISSIONERS

Sections

36.32.120 Powers of legislative authority. (Effective July 1, 1994.) The legislative authorities of the several counties shall:

(1) Provide for the erection and repairing of court houses, jails, and other necessary public buildings for the use of the county;

(2) Lay out, discontinue, or alter county roads and highways within their respective counties, and do all other necessary acts relating thereto according to law, except within cities and towns which have jurisdiction over the roads within their limits;

(3) License and fix the rates of ferriage; grant grocery and other licenses authorized by law to be by them granted at fees set by the legislative authorities which shall not exceed the costs of administration and operation of such licensed activities;

(4) Fix the amount of county taxes to be assessed according to the provisions of law, and cause the same to be collected as prescribed by law: PROVIDED, That the legislative authority of a county may permit all moneys, assessments, and taxes belonging to or collected for the use of the state or any county, including any amounts representing estimates for future assessments and taxes, to be deposited by any taxpayer prior to the due date thereof with the treasurer or other legal depository for the benefit of the funds to which they belong to be credited against any future tax or assessment that may be levied or become due from the taxpayer: PROVIDED FURTHER, That the taxpayer, with the concurrence of the county legislative authority, may designate the particular fund against which such prepayment of future tax or assessment shall be credited;

(5) Allow all accounts legally chargeable against the county not otherwise provided for, and audit the accounts of all officers having the care, management, collection, or disbursement of any money belonging to the county or appropriated to its benefit;

(6) Have the care of the county property and the management of the county funds and business and in the name of the county prosecute and defend all actions for and against the county, and such other powers as are or may be conferred by law;

(7) Make and enforce, by appropriate resolutions or ordinances, all such police and sanitary regulations as are not in conflict with state law, and within the unincorporated area of the county may adopt by reference Washington state statutes and recognized codes and/or compilations printed in book form relating to the construction of buildings, the installation of plumbing, the installation of electric wiring, health, or other subjects, and may adopt such codes and/or compilations or portions thereof, together with amendments thereto, or additions thereto: PROVIDED, That except for Washington state statutes, there shall be filed in the county auditor's office one copy of such codes and compilations ten days prior to their adoption by reference, and additional copies may also be filed in library or city offices within the county as deemed necessary by the county legislative authority: PROVIDED FURTHER, That no such regulation, code, compilation, and/or statute shall be effective unless before its adoption, a public hearing has been held thereon by the county legislative authority of which at least ten days' notice has been given. Any violation of such regulations, ordinances, codes, compilations, and/or statutes or resolutions shall constitute a misdemeanor or a civil violation subject to a monetary penalty: PROVIDED FURTHER, That violation of a regulation, ordinance, code, compilation, and/or statute relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of a regulation, ordinance, code, compilation, and/or statute equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor. However, the punishment for any criminal ordinance shall be the same as the punishment provided in state law for the same crime and no act that is a state crime may be made a civil violation. The notice must set out a copy of the proposed regulations or summarize the content of each proposed regulation; or if a code is adopted by reference the notice shall set forth the full official title and a statement describing the general purpose of such code. For purposes of this subsection, a summary shall mean a brief description which succinctly describes the main points of the proposed regulation. When the county publishes a summary, the publication shall include a statement that the full text of the proposed regulation will be mailed upon request. An inadvertent mistake or omission in publishing the text or a summary of the content of a proposed regulation shall not render the regulation invalid if it is adopted. The notice shall also include the day, hour, and place of hearing and must be given by publication in the newspaper in which legal notices of the county are printed;

(8) Have power to compound and release in whole or in part any debt due to the county when in their opinion the interest of their county will not be prejudiced thereby, except in cases where they or any of them are personally interested;

(9) Have power to administer oaths or affirmations necessary in the discharge of their duties and commit for contempt any witness refusing to testify before them with the same power as district judges. [1993 c 83 § 9; 1989 c 378 § 39; 1988 c 168 § 8; 1987 c 202 § 206; 1986 c 278 § 2; 1985 c 91 § 1; 1982 c 226 § 3; 1979 ex.s. c 136 § 35; 1975 1st ex.s. c 216 § 1; 1967 ex.s. c 59 § 1; 1963 c 4 § 36.32.120. Prior: 1961 c 27 § 2; prior: (i) 1947 c 61 § 1; 1943 c 99 § 1; Code 1881 § 2673; 1869 p 305 § 11; 1867 p 54 § 11; 1863 p 542 § 11; 1854 p 421 § 11; Rem. Supp. 1947 § 4056. (ii) Code 1881 § 2681; 1869 p 307 § 20; 1867 p 56 § 20; 1863 p 543 § 20; 1854 p 422 § 20; RRS § 4061. (iii) Code 1881 § 2687; 1869 p 308 § 26; 1867 p 57 § 26; 1863 p 545 § 28; 1854 p 423 § 22; RRS § 4071.]

Effective date—1993 c 83: See note following RCW 35.21.163.

Intent—1987 c 202: See note following RCW 2.04.190.

Severability—1986 c 278: See note following RCW 36.01.010.

Effective date—1982 c 226: See note following RCW 35.21.180.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

36.32.240 Competitive bids—Purchasing department. In any county the county legislative authority may by resolution establish a county purchasing department. In each county which exercises this option, the purchasing department shall contract on a competitive basis for all public works, enter into leases of personal property on a competitive basis, and purchase all supplies, materials, and equipment, on a competitive basis, for all departments of the

county, as provided in this chapter and chapter 39.04 RCW, except that the county purchasing department is not required to make purchases for the county hospital, or make purchases that are paid from the county road fund or equipment rental and revolving fund. [1993 c 198 § 5; 1991 c 363 § 57; 1985 c 169 § 8; 1983 c 3 § 77; 1974 ex.s. c 52 § 1; 1967 ex.s. c 144 § 15; 1963 c 4 § 36.32.240. Prior: 1961 c 169 § 1; 1949 c 33 § 1; 1945 c 61 § 1; Rem. Supp. 1949 § 10322-15.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Severability—1967 ex.s. c 144: See note following RCW 36.900.030.

36.32.245 Competitive bids—Requirements—Advertisements—Exceptions—Recycled materials. (1) No contract for the purchase of materials, equipment, or supplies may be entered into by the county legislative authority or by any elected or appointed officer of the county until after bids have been submitted to the county. Bid specifications shall be in writing and shall be filed with the clerk of the county legislative authority for public inspection. An advertisement shall be published in the official newspaper of the county stating the time and place where bids will be opened, the time after which bids will not be received, the materials, equipment, supplies, or services to be purchased, and that the specifications may be seen at the office of the clerk of the county legislative authority. The advertisement shall be published at least once at least thirteen days prior to the last date upon which bids will be received.

(2) The bids shall be in writing and filed with the clerk. The bids shall be opened and read in public at the time and place named in the advertisement. Contracts requiring competitive bidding under this section may be awarded only to the lowest responsible bidder. Immediately after the award is made, the bid quotations shall be recorded and open to public inspection and shall be available by telephone inquiry. Any or all bids may be rejected for good cause.

(3) For advertisement and formal sealed bidding to be dispensed with as to purchases between two thousand five hundred and twenty-five thousand dollars, the county legislative authority must use the uniform process to award contracts as provided in RCW 39.04.190. Advertisement and formal sealed bidding may be dispensed with as to purchases of less than two thousand five hundred dollars upon the order of the county legislative authority.

(4) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A RCW; or contracts and purchases for the printing of election ballots, voting machine labels, and all other election material containing the names of candidates and ballot titles.

(5) Nothing in this section shall prohibit the legislative authority of any county from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

(6) This section does not apply to contracting for public defender services by a county. [1993 c 233 § 1; 1993 c 198 § 7; 1991 c 363 § 62.]

Reviser's note: This section was amended by 1993 c 198 § 7 and by 1993 c 233 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

36.32.250 Competitive bids—Contract procedure—Contracts under ten thousand dollars—Small works roster process. No contract for public works may be entered into by the county legislative authority or by any elected or appointed officer of the county until after bids have been submitted to the county upon specifications therefor. Such specifications shall be in writing and shall be filed with the clerk of the county legislative authority for public inspection. An advertisement shall be published in the county official newspaper stating the time and place where bids will be opened, the time after which bids will not be received, the character of the work to be done, the materials and equipment to be furnished, and that specifications therefor may be seen at the office of the clerk of the county legislative authority. An advertisement shall also be published in a legal newspaper of general circulation in or as near as possible to that part of the county in which such work is to be done. If the county official newspaper is a newspaper of general circulation covering at least forty percent of the residences in that part of the county in which such public works are to be done, then the publication of an advertisement of the applicable specifications in the county official newspaper shall be sufficient. Such advertisements shall be published at least once at least thirteen days prior to the last date upon which bids will be received. The bids shall be in writing, shall be filed with the clerk, shall be opened and read in public at the time and place named therefor in the advertisements, and after being opened, shall be filed for public inspection. No bid may be considered for public work unless it is accompanied by a bid deposit in the form of a surety bond, postal money order, cash, cashier's check, or certified check in an amount equal to five percent of the amount of the bid proposed. The contract for the public work shall be awarded to the lowest responsible bidder. Any or all bids may be rejected for good cause. The county legislative authority shall require from the successful bidder for such public work a contractor's bond in the amount and with the conditions imposed by law. If the bidder to whom the contract is awarded fails to enter into the contract and furnish the contractor's bond as required within ten days after notice of the award, exclusive of the day of notice, the amount of the bid deposit shall be forfeited to the county and the contract awarded to the next lowest and best bidder. The bid deposit of all unsuccessful bidders shall be returned after the contract is awarded and the required contractor's bond given by the successful bidder is accepted by the county legislative authority. In the letting of any contract for public works involving less than ten thousand dollars, advertisement and competitive bidding may be dispensed with on order of the county legislative authority. 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.

For advertisement and competitive bidding to be dispensed with as to public works projects with an estimated value of ten thousand dollars up to one hundred thousand

dollars, a county must use a small works roster process as provided in RCW 39.04.155.

This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A RCW. [1993 c 198 § 8; 1991 c 363 § 58. Prior: 1989 c 431 § 57; 1989 c 244 § 6; prior: 1985 c 369 § 1; 1985 c 169 § 9; 1977 ex.s. c 267 § 1; 1975 1st ex.s. c 230 § 1; 1967 ex.s. c 144 § 16; 1967 c 97 § 1; 1965 c 113 § 1; 1963 c 4 § 36.32.250; prior: 1945 c 61 § 2; Rem. Supp. 1945 § 10322-16.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Severability—1989 c 431: See RCW 70.95.901.

Severability—1967 ex.s. c 144: See note following RCW 36.900.030.

Subcontractors to be identified by bidder, when: RCW 39.30.060.

36.32.253 Competitive bids—Leases of personal property. No lease of personal property may be entered into by the county legislative authority or by any elected or appointed officer of the county except upon use of the procedures specified in this chapter and chapter 39.04 RCW for awarding contracts for purchases when it leases personal property from the lowest responsible bidder. [1993 c 198 § 6; 1991 c 363 § 63.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

36.32.590 Building construction projects—County prohibited from requiring state agencies or local governments to provide bond or other security as a condition for issuance of permit. A county legislative authority may not require any state agency or unit of local government to secure the performance of a permit requirement with a surety bond or other financial security device, including cash or assigned account, as a condition of issuing a permit to that unit of local government for a building construction project.

As used in this section, "building construction project" includes, in addition to its usual meaning, associated landscaping, street alteration, pedestrian or vehicular access alteration, or other amenities or alterations necessarily associated with the project. [1993 c 439 § 3.]

Chapter 36.34
COUNTY PROPERTY

Sections

36.34.080 Sales to be at public auction. All sales of county property ordered after a public hearing upon the proposal to dispose thereof must be supervised by the county treasurer and may be sold at a county or other government agency's public auction, at a privately operated consignment auction that is open to the public, or by sealed bid to the highest and best bidder meeting or exceeding the minimum sale price as directed by the county legislative authority. [1993 c 8 § 1. Prior: 1991 c 363 § 68; 1991 c 245 § 10; 1965 ex.s. c 23 § 1; 1963 c 4 § 36.34.080; prior: 1945 c 254 § 7; Rem. Supp. 1945 § 4014-7; prior: 1891 c 76 § 4, part; RRS § 4010, part.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Public auction sales, where held: RCW 36.16.140.

36.34.135 Leases of county property—Affordable housing. If a county owns property that is located anywhere within the county, including within the limits of a city or town, and that is suitable for affordable housing, the legislative authority of the county may, by negotiation, lease the property for affordable housing for a term not to exceed seventy-five years to any public housing authority or nonprofit organization that has demonstrated its ability to construct or operate housing for very low-income, low-income, or moderate-income households as defined in RCW 43.63A.510 and special needs populations. Leases for housing for very low-income, low-income, or moderate-income households and special needs populations shall not be subject to any requirement of periodic rental adjustments, as provided in RCW 36.34.180, but shall provide for such fixed annual rents as appear reasonable considering the public, social, and health benefits to be derived by providing an adequate supply of safe and sanitary housing for very low-income, low-income, or moderate-income households and special needs populations. [1993 c 461 § 6; 1990 c 253 § 7.]

Finding—1993 c 461: See note following RCW 43.63A.510.

Legislative finding and purpose—1990 c 253: See note following RCW 43.70.330.

36.34.137 Affordable housing—Inventory of suitable property. (1) Every county shall identify and catalog real property owned by the county that is no longer required for its purposes and is suitable for the development of affordable housing for very low-income, low-income, and moderate-income households as defined in RCW 43.63A.510. The inventory shall include the location, approximate size, and current zoning classification of the property. Every county shall provide a copy of the inventory to the department of community development by November 1, 1993, with inventory revisions each November 1 thereafter.

(2) By November 1 of each year, beginning in 1994, every county shall purge the inventory of real property of sites that are no longer available for the development of affordable housing. The inventory revision shall include an updated listing of real property that has become available since the last update. As used in this section, "real property" means buildings, land, or buildings and land. [1993 c 461 § 5.]

Finding—1993 c 461: See note following RCW 43.63A.510.

Chapter 36.45
CLAIMS AGAINST COUNTIES

Sections

36.45.010 Manner of filing. All claims for damages against any county shall be filed in the manner set forth in chapter 4.96 RCW. [1993 c 449 § 10; 1967 c 164 § 14; 1963 c 4 § 36.45.010. Prior: 1957 c 224 § 7; prior: 1919 c 149 § 1, part; RRS § 4077, part.]

Purpose—Severability—1993 c 449: See notes following RCW 4.96.010.

Severability—Purpose—1967 c 164: See notes following RCW 4.96.010.

Tortious conduct of political subdivisions and municipal corporations, liability for damages: Chapter 4.96 RCW.

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

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

Chapter 36.68
PARKS AND RECREATIONAL FACILITIES

Sections

36.68.110 Counties authorized to permit public libraries on land used for park and recreation purposes. A county, acting through its county legislative authority, is authorized to permit the location of public libraries on land owned by the county that is used for park and recreation purposes, unless a covenant or other binding restriction precludes such uses. [1993 c 84 § 1.]

Chapter 36.70
PLANNING ENABLING ACT

Sections

36.70.677 Accessory apartments. Any local government, as defined in RCW 43.63A.215, that is planning under this chapter shall comply with RCW 43.63A.215(3). [1993 c 478 § 10.]

36.70.990 Treatment of residential structures occupied by persons with handicaps. No county may enact or maintain an ordinance, development regulation, zoning regulation or official control, policy, or administrative practice which treats a residential structure occupied by persons with handicaps differently than a similar residential structure occupied by a family or other unrelated individuals. As used in this section, "handicaps" are as defined in the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3602). [1993 c 478 § 22.]

Chapter 36.70A
GROWTH MANAGEMENT—PLANNING BY SELECTED COUNTIES AND CITIES

Sections

36.70A.040 Who must plan. (1) Each county that has both a population of fifty thousand or more and has had its population increase by more than ten percent in the previous ten years, and the cities located within such county, and any other county regardless of its population that has had its population increase by more than twenty percent in the previous ten years, and the cities located within such county, shall conform with all of the requirements of this chapter. However, the county legislative authority of such a county with a population of less than fifty thousand population may adopt a resolution removing the county, and the cities located within the county, from the requirements of adopting comprehensive land use plans and development regulations under this chapter if this resolution is adopted and filed with the department by December 31, 1990, for counties initially meeting this set of criteria, or within sixty days of the date the office of financial management certifies that a county meets this set of criteria under subsection (5) of this section.

Once a county meets either of these sets of criteria, the requirement to conform with all of the requirements of this chapter remains in effect, even if the county no longer meets one of these sets of criteria.

(2) The county legislative authority of any county that does not meet either of the sets of criteria established under subsection (1) of this section may adopt a resolution indicating its intention to have subsection (1) of this section apply to the county. Each city, located in a county that chooses to plan under this subsection, shall conform with all of the requirements of this chapter. Once such a resolution has been adopted, the county and the cities located within the county remain subject to all of the requirements of this chapter.

(3) Any county or city that is initially required to conform with all of the requirements of this chapter under subsection (1) of this section shall take actions under this chapter as follows: (a) The county legislative authority shall adopt a county-wide planning policy under RCW 36.70A.210; (b) the county and each city located within the county shall designate critical areas, agricultural lands, forest lands, and mineral resource lands, and adopt development regulations conserving these designated agricultural lands, forest lands, and mineral resource lands and protecting these designated critical areas, under RCW 36.70A.170 and 36.70A.060; (c) the county shall designate and take other actions related to urban growth areas under RCW 36.70A.110; (d) if the county has a population of fifty thousand or more, the county and each city located within

the county shall adopt a comprehensive plan under this chapter and development regulations that are consistent with and implement the comprehensive plan on or before July 1, 1994, and if the county has a population of less than fifty thousand, the county and each city located within the county shall adopt a comprehensive plan under this chapter and development regulations that are consistent with and implement the comprehensive plan by January 1, 1995, but if the governor makes written findings that a county with a population of less than fifty thousand or a city located within such a county is not making reasonable progress toward adopting a comprehensive plan and development regulations the governor may reduce this deadline for such actions to be taken by no more than one hundred eighty days. Any county or city subject to this subsection may obtain an additional six months before it is required to have adopted its development regulations by submitting a letter notifying the department of community development of its need prior to the deadline for adopting both a comprehensive plan and development regulations.

(4) Any county or city that is required to conform with all the requirements of this chapter, as a result of the county legislative authority adopting its resolution of intention under subsection (2) of this section, shall take actions under this chapter as follows: (a) The county legislative authority shall adopt a county-wide planning policy under RCW 36.70A.210; (b) the county and each city that is located within the county shall adopt development regulations conserving agricultural lands, forest lands, and mineral resource lands it designated under RCW 36.70A.060 within one year of the date the county legislative authority adopts its resolution of intention; (c) the county shall designate and take other actions related to urban growth areas under RCW 36.70A.110; and (d) the county and each city that is located within the county shall adopt a comprehensive plan and development regulations that are consistent with and implement the comprehensive plan not later than four years from the date the county legislative authority adopts its resolution of intention, but a county or city may obtain an additional six months before it is required to have adopted its development regulations by submitting a letter notifying the department of community development of its need prior to the deadline for adopting both a comprehensive plan and development regulations.

(5) If the office of financial management certifies that the population of a county that previously had not been required to plan under subsection (1) or (2) of this section has changed sufficiently to meet either of the sets of criteria specified under subsection (1) of this section, and where applicable, the county legislative authority has not adopted a resolution removing the county from these requirements as provided in subsection (1) of this section, the county and each city within such county shall take actions under this chapter as follows: (a) The county legislative authority shall adopt a county-wide planning policy under RCW 36.70A.210; (b) the county and each city located within the county shall adopt development regulations under RCW 36.70A.060 conserving agricultural lands, forest lands, and mineral resource lands it designated within one year of the certification by the office of financial management; (c) the county shall designate and take other actions related to urban growth areas under RCW 36.70A.110; and (d) the county and each city located within the county shall adopt a comprehensive land use plan and development regulations that are consistent with and implement the comprehensive plan within four years of the certification by the office of financial management, but a county or city may obtain an additional six months before it is required to have adopted its development regulations by submitting a letter notifying the department of community development of its need prior to the deadline for adopting both a comprehensive plan and development regulations.

(6) A copy of each document that is required under this section shall be submitted to the department at the time of its adoption. [1993 1st sp.s. c 6 § 1; 1990 1st ex.s. c 17 § 4.]

Effective date—1993 1st sp.s. c 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 June 1, 1993." [1993 1st sp.s. c 6 § 7.]

36.70A.110 Comprehensive plans—Urban growth areas. (1) Each county that is required or chooses to plan under RCW 36.70A.040 shall designate an urban growth area or areas within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature. Each city that is located in such a county shall be included within an urban growth area. An urban growth area may include more than a single city. An urban growth area may include territory that is located outside of a city only if such territory already is characterized by urban growth or is adjacent to territory already characterized by urban growth.

(2) Based upon the population growth management planning population projection made for the county by the office of financial management, the urban growth areas in the county shall include areas and densities sufficient to permit the urban growth that is projected to occur in the county for the succeeding twenty-year period. Each urban growth area shall permit urban densities and shall include greenbelt and open space areas. Within one year of July 1, 1990, each county that as of June 1, 1991, was required or chose to plan under RCW 36.70A.040, shall begin consulting with each city located within its boundaries and each city shall propose the location of an urban growth area. Within sixty days of the date the county legislative authority of a county adopts its resolution of intention or of certification by the office of financial management, all other counties that are required or choose to plan under RCW 36.70A.040 shall begin this consultation with each city located within its boundaries. The county shall attempt to reach agreement with each city on the location of an urban growth area within which the city is located. If such an agreement is not reached with each city located within the urban growth area, the county shall justify in writing why it so designated the area an urban growth area. A city may object formally with the department over the designation of the urban growth area within which it is located. Where appropriate, the department shall attempt to resolve the conflicts, including the use of mediation services.

(3) Urban growth should be located first in areas already characterized by urban growth that have existing public facility and service capacities to serve such development, and second in areas already characterized by urban growth that will be served by a combination of both existing public

facilities and services and any additional needed public facilities and services that are provided by either public or private sources. Further, it is appropriate that urban government services be provided by cities, and urban government services should not be provided in rural areas.

(4) On or before October 1, 1993, each county that was initially required to plan under RCW 36.70A.040(1) shall adopt development regulations designating interim urban growth areas under this chapter. Within three years and three months of the date the county legislative authority of a county adopts its resolution of intention or of certification by the office of financial management, all other counties that are required or choose to plan under RCW 36.70A.040 shall adopt development regulations designating interim urban growth areas under this chapter. Adoption of the interim urban growth areas may only occur after public notice; public hearing; and compliance with the state environmental policy act, chapter 43.21C RCW, and RCW 36.70A.110. Such action may be appealed to the appropriate growth planning hearings board under RCW 36.70A.280. Final urban growth areas shall be adopted at the time of comprehensive plan adoption under this chapter.

(5) Each county shall include designations of urban growth areas in its comprehensive plan. [1993 1st sp.s. c 6 § 2; 1991 sp.s. c 32 § 29; 1990 1st ex.s. c 17 § 11.]

Effective date—1993 1st sp.s. c 6: See note following RCW 36.70A.040.

36.70A.120 Planning activities and capital budget decisions—Implementation in conformity with comprehensive plan. Each county and city that is required or chooses to plan under RCW 36.70A.040 shall perform its activities and make capital budget decisions in conformity with its comprehensive plan. [1993 1st sp.s. c 6 § 3; 1990 1st ex.s. c 17 § 12.]

Effective date—1993 1st sp.s. c 6: See note following RCW 36.70A.040.

36.70A.210 County-wide planning policies. (1) The legislature recognizes that counties are regional governments within their boundaries, and cities are primary providers of urban governmental services within urban growth areas. For the purposes of this section, a "county-wide planning policy" is a written policy statement or statements used solely for establishing a county-wide framework from which county and city comprehensive plans are developed and adopted pursuant to this chapter. This framework shall ensure that city and county comprehensive plans are consistent as required in RCW 36.70A.100. Nothing in this section shall be construed to alter the land-use powers of cities.

(2) The legislative authority of a county that plans under RCW 36.70A.040 shall adopt a county-wide planning policy in cooperation with the cities located in whole or in part within the county as follows:

(a) No later than sixty calendar days from July 16, 1991, the legislative authority of each county that as of June 1, 1991, was required or chose to plan under RCW 36.70A.040 shall convene a meeting with representatives of each city located within the county for the purpose of establishing a collaborative process that will provide a framework for the adoption of a county-wide planning policy. In other counties that are required or choose to plan under RCW 36.70A.040, this meeting shall be convened no later than sixty days after the date the county adopts its resolution of intention or was certified by the office of financial management.

(b) The process and framework for adoption of a county-wide planning policy specified in (a) of this subsection shall determine the manner in which the county and the cities agree to all procedures and provisions including but not limited to desired planning policies, deadlines, ratification of final agreements and demonstration thereof, and financing, if any, of all activities associated therewith.

(c) If a county fails for any reason to convene a meeting with representatives of cities as required in (a) of this subsection, the governor may immediately impose any appropriate sanction or sanctions on the county from those specified under RCW 36.70A.340.

(d) If there is no agreement by October 1, 1991, in a county that was required or chose to plan under RCW 36.70A.040 as of June 1, 1991, or if there is no agreement within one hundred twenty days of the date the county adopted its resolution of intention or was certified by the office of financial management in any other county that is required or chooses to plan under RCW 36.70A.040, the governor shall first inquire of the jurisdictions as to the reason or reasons for failure to reach an agreement. If the governor deems it appropriate, the governor may immediately request the assistance of the department of community development to mediate any disputes that preclude agreement. If mediation is unsuccessful in resolving all disputes that will lead to agreement, the governor may impose appropriate sanctions from those specified under RCW 36.70A.340 on the county, city, or cities for failure to reach an agreement as provided in this section. The governor shall specify the reason or reasons for the imposition of any sanction.

(e) No later than July 1, 1992, the legislative authority of each county that was required or chose to plan under RCW 36.70A.040 as of June 1, 1991, or no later than fourteen months after the date the county adopted its resolution of intention or was certified by the office of financial management the county legislative authority of any other county that is required or chooses to plan under RCW 36.70A.040, shall adopt a county-wide planning policy according to the process provided under this section and that is consistent with the agreement pursuant to (b) of this subsection, and after holding a public hearing or hearings on the proposed county-wide planning policy.

(3) A county-wide planning policy shall at a minimum, address the following:

(a) Policies to implement RCW 36.70A.110;

(b) Policies for promotion of contiguous and orderly development and provision of urban services to such development;

(c) Policies for siting public capital facilities of a county-wide or state-wide nature;

(d) Policies for county-wide transportation facilities and strategies;

(e) Policies that consider the need for affordable housing, such as housing for all economic segments of the population and parameters for its distribution;

(f) Policies for joint county and city planning within urban growth areas;

(g) Policies for county-wide economic development and employment; and

(h) An analysis of the fiscal impact.

(4) Federal agencies and Indian tribes may participate in and cooperate with the county-wide planning policy adoption process. Adopted county-wide planning policies shall be adhered to by state agencies.

(5) Failure to adopt a county-wide planning policy that meets the requirements of this section may result in the imposition of a sanction or sanctions on a county or city within the county, as specified in RCW 36.70A.340. In imposing a sanction or sanctions, the governor shall specify the reasons for failure to adopt a county-wide planning policy in order that any imposed sanction or sanctions are fairly and equitably related to the failure to adopt a county-wide planning policy.

(6) Cities and the governor may appeal an adopted county-wide planning policy to the growth planning hearings board within sixty days of the adoption of the county-wide planning policy.

(7) Multicounty planning policies shall be adopted by two or more counties, each with a population of four hundred fifty thousand or more, with contiguous urban areas and may be adopted by other counties, according to the process established under this section or other processes agreed to among the counties and cities within the affected counties throughout the multicounty region. [1993 1st sp.s. c 6 § 4; 1991 sp.s. c 32 § 2.]

Effective date—1993 1st sp.s. c 6: See note following RCW 36.70A.040.

36.70A.345 Imposition of sanctions. The governor may impose a sanction or sanctions specified under RCW 36.70A.340 on: (1) A county or city that fails to designate critical areas, agricultural lands, forest lands, or mineral resource lands under RCW 36.70A.170 by the date such action was required to have been taken; (2) a county or city that fails to adopt development regulations under RCW 36.70A.060 protecting critical areas or conserving agricultural lands, forest lands, or mineral resource lands by the date such action was required to have been taken; (3) a county that fails to designate urban growth areas under RCW 36.70A.110 by the date such action was required to have been taken; and (4) a county or city that fails to adopt its comprehensive plan or development regulations when such actions are required to be taken.

Imposition of a sanction or sanctions under this section shall be preceded by written findings by the governor, that either the county or city is not proceeding in good faith to meet the requirements of the act; or that the county or city has unreasonably delayed taking the required action. The governor shall consult with and communicate his or her findings to the appropriate growth planning hearings board prior to imposing the sanction or sanctions. For those counties or cities that are not required to plan or have not opted in, the governor in imposing sanctions shall consider the size of the jurisdiction relative to the requirements of this chapter and the degree of technical and financial assistance provided. [1993 1st sp.s. c 6 § 5.]

Effective date—1993 1st sp.s. c 6: See note following RCW 36.70A.040.

36.70A.400 Accessory apartments. Any local government, as defined in RCW 43.63A.215, that is planning under this chapter shall comply with RCW 43.63A.215(3). [1993 c 478 § 11.]

36.70A.410 Treatment of residential structures occupied by persons with handicaps. No county or city that plans or elects to plan under this chapter may enact or maintain an ordinance, development regulation, zoning regulation or official control, policy, or administrative practice which treats a residential structure occupied by persons with handicaps differently than a similar residential structure occupied by a family or other unrelated individuals. As used in this section, "handicaps" are as defined in the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3602). [1993 c 478 § 23.]

Chapter 36.78

ROADS AND BRIDGES—COUNTY ROAD ADMINISTRATION BOARD

Sections

36.78.020 Definitions—"Standards of good practice." "Standards of good practice" shall mean general and uniform practices formulated and adopted by the board relating to the administration of county roads and the safe and efficient movement of people and goods over county roads, which shall apply to engineering, design procedures, maintenance, traffic control, safety, planning, programming, road classification, road inventories, budgeting and accounting procedures, management practices, equipment policies, personnel policies, and effective use of transportation-related information technology. [1993 c 65 § 1; 1991 c 363 § 82; 1965 ex.s. c 120 § 2.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

36.78.050 Meetings—Rules and regulations—Election of chair. The board shall meet at least once quarterly and shall from time to time adopt rules and regulations for its own government and as may be necessary for it to discharge its duties and exercise its powers under this chapter. The board shall elect a chair from its own membership who shall hold office for one year. Election as chair does not affect the member's right to vote on all matters before the board. [1993 c 65 § 2; 1965 ex.s. c 120 § 5.]

36.78.070 Duties of board. The county road administration board shall:

(1) Establish by rule, standards of good practice for the administration of county roads and the efficient movement of people and goods over county roads;

(2) Establish reporting requirements for counties with respect to the standards of good practice adopted by the board;

(3) Receive and review reports from counties and reports from its executive director to determine compliance with legislative directives and the standards of good practice adopted by the board;

(4) Advise counties on issues relating to county roads and the safe and efficient movement of people and goods over county roads and assist counties in developing uniform and efficient transportation-related information technology resources;

(5) Report annually before the fifteenth day of January, and throughout the year as appropriate, to the state department of transportation and to the chairs of the legislative transportation committee and the house and senate transportation committees, and to other entities as appropriate on the status of county road administration in each county, including one copy to the staff of each of the committees. The annual report shall contain recommendations for improving administration of the county road programs;

(6) Administer the rural arterial program established by chapter 36.79 RCW and the county arterial preservation program established by RCW 46.68.095, as well as any other programs provided for in law. [1993 c 65 § 3; 1990 c 266 § 2; 1987 c 505 § 19; 1983 1st ex.s. c 49 § 19; 1977 ex.s. c 235 § 4; 1965 ex.s. c 120 § 7.]

Severability—Effective date—1983 1st ex.s. c 49: See RCW 36.79.900 and 36.79.901.

Chapter 36.89
HIGHWAYS—OPEN SPACES—PARKS—RECREATION, COMMUNITY, HEALTH AND SAFETY FACILITIES—STORM WATER CONTROL

Sections

36.89.120 Storm water control facilities—Annexation, incorporation of area by city or town—Imposition of rates and charges by county. Whenever a city or town annexes an area, or a city or town incorporates an area, and the county has issued revenue bonds or general obligation bonds to finance storm water control facilities that are payable in whole or in part from rates or charges imposed in the area, the county shall continue imposing all portions of the rates or charges that are allocated to payment of the debt service on bonds in that area after the effective date of the annexation or official date of the incorporation until: (1) The debt is retired; (2) any debt that is issued to refinance the underlying debt is retired; or (3) the city or town reimburses the county amount that is sufficient to retire that portion of the debt borne by the annexed or incorporated area. The county shall construct all facilities included in the storm water plan intended to be financed by the proceeds of such bonds. If the county provides storm water management services to the city or town by contract, the contract shall consider the value of payments made by property owners to the county for the payment of debt service.

The provisions of this section apply whether or not the bonds finance facilities that are geographically located within the area that is annexed or incorporated. [1993 c 361 § 1.]

Chapter 36.93
LOCAL GOVERNMENTAL ORGANIZATION—BOUNDARIES—REVIEW BOARDS

Sections

36.93.800 Application of chapter to merged irrigation districts. This chapter does not apply to the merger of irrigation districts authorized under RCW 87.03.530(2) and 87.03.845 through 87.03.855. [1993 c 235 § 10.]

Chapter 36.94
SEWERAGE, WATER, AND DRAINAGE SYSTEMS

Sections

36.94.470 Storm or surface water drains or facilities—Annexation, incorporation of area by city or town—Imposition of rates and charges by county. Whenever a city or town annexes an area, or a city or town incorporates an area, and the county has issued revenue bonds or general obligation bonds to finance storm or surface water drains or facilities that are payable in whole or in part from rates or charges imposed in the area, the county shall continue imposing all portions of the rates or charges that are allocated to payment of the debt service on bonds in that area after the effective date of the annexation or official date of the incorporation until: (1) The debt is retired; (2) any debt that is issued to refinance the underlying debt is retired; or (3) the city or town reimburses the county amount that is sufficient to retire that portion of the debt borne by the annexed or incorporated area. The county shall construct all facilities included in the storm water plan intended to be financed by the proceeds of such bonds. If the county provides storm water management services to the city or town by contract, the contract shall consider the value of payments made by property owners to the county for the payment of debt service.

The provisions of this section apply whether or not the bonds finance facilities that are geographically located within the area that is annexed or incorporated. [1993 c 361 § 2.]

Chapter 36.110
JAIL INDUSTRIES PROGRAM

Sections

36.110.010 Finding—Purpose, intent. Cities and counties have a significant interest in ensuring that inmates in their jails are productive citizens after their release in the community. The legislature finds that there is an expressed need for cities and counties to uniformly develop and coordinate jail industries technical information and program and public safety standards state-wide. It further finds that meaningful jail work industries programs that are linked to formal education and adult literacy training can significantly reduce recidivism, the rising costs of corrections, and criminal activities. It is the purpose and intent of the legislature, through this chapter, to establish a state-wide jail industries program designed to promote inmate rehabilitation through meaningful work experience and reduce the costs of incarceration. The legislature recognizes that inmates should have the responsibility for contributing to the cost of their crime through the wages earned while working in jail industries programs and that such income shall be used to offset the costs of implementing and maintaining local jail industries programs and the costs of incarceration. [1993 c 285 § 1.]

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

(1) "Board" means the state-wide jail industries board of directors.

(2) "City" means any city, town, or code city.

(3) "Cost accounting center" means a specific industry program operated under the private sector prison industry enhancement certification program as specified in 18 U.S.C. Sec. 1761.

(4) "Court-ordered legal financial obligation" means a sum of money that is ordered by a superior, district, or municipal court of the state of Washington for payment of restitution to a victim, a statutorily imposed crime victims compensation fee, court costs, a county or interlocal drug fund, court appointed attorneys' fees and costs of defense, fines, and other legal financial obligations that are assessed as a result of a felony or misdemeanor conviction.

(5) "Free venture industries" means types of industries which produce products, goods, or services through two modalities: (a) Employer model: An agreement between city or county and a private sector business or industry or nonprofit organization to produce goods or services to both public and private sectors; (b) customer model: An industry operated and managed to provide Washington state manufacturers or businesses with products or services currently produced, provided, and assembled by out-of-state or foreign suppliers.

(6) "Jail inmate" means a preconviction or postconviction resident of a city or county jail who is determined to be eligible to participate in jail inmate work programs according to the eligibility criteria of the work program.

(7) "Private sector prison industry enhancement certification program" means that program authorized by the United States justice assistance act of 1984, 18 U.S.C. Sec. 1761. [1993 c 285 § 2.]

36.110.030 Board of directors established—Membership. A state-wide jail industries board of directors is established. The board shall consist of the following members:

(1) One sheriff and one police chief, to be selected by the Washington association of sheriffs and police chiefs;

(2) One county commissioner or one county councilmember to be selected by the Washington state association of counties;

(3) One city official to be selected by the association of Washington cities;

(4) Two jail administrators to be selected by the Washington state jail association, one of whom shall be from a county or a city with an established jail industries program;

(5) One prosecuting attorney to be selected by the Washington association of prosecuting attorneys;

(6) One administrator from a city or county corrections department to be selected by the Washington correctional association;

(7) One county clerk to be selected by the Washington association of county clerks;

(8) Three representatives from labor to be selected by the governor. The representatives may be chosen from a list of nominations provided by state-wide labor organizations representing a cross-section of trade organizations;

(9) Three representatives from business to be selected by the governor. The representatives may be chosen from a list of nominations provided by state-wide business organizations representing a cross-section of businesses, industries, and all sizes of employers;

(10) The governor's representative from the employment security department;

(11) One member representing crime victims, to be selected by the governor;

(12) One member representing on-line law enforcement officers, to be selected by the governor;

(13) One member from the department of trade and economic development to be selected by the governor;

(14) One member representing higher education, vocational education, or adult basic education to be selected by the governor; and

(15) The governor's representative from the correctional industries division of the state department of corrections shall be an ex officio member for the purpose of coordination and cooperation between prison and jail industries and to further a positive relationship between state and local government offender programs. [1993 c 285 § 3.]

36.110.040 Board of directors—Advice to cities and counties—Guidelines for coordination of programs. The board shall, at the request of a city or county, offer advice

in developing, promoting, and implementing consistent, safe, and efficient offender work programs.

The board may also develop guidelines and provide technical assistance for the coordination of jail industries programs with basic educational programs. [1993 c 285 § 4.]

36.110.050 Local advisory groups. The board shall require a city or a county that establishes a jail industries program to develop a local advisory group, or to use an existing advisory group of the appropriate composition, to advise and guide jail industries program operations. Such an advisory group shall include an equal number of representatives from labor and business. Representation from a sheltered workshop, as defined in RCW 82.04.385, and a crime victim advocacy group, if existing in the local area, should also be included.

A local advisory group shall have among its tasks the responsibility of ensuring that a jail industry has minimal negative impact on existing private industries or the labor force in the locale where the industry operates and that a jail industry does not negatively affect employment opportunities for people with developmental disabilities contracted through the operation of sheltered workshops as defined in RCW 82.04.385. In the event a conflict arises between the local business community or labor organizations concerning new jail industries programs, products, services, or wages, the city or county must use the arbitration process established pursuant to RCW 36.110.060. [1993 c 285 § 5.]

36.110.060 Board of directors—Duties. The board, in accordance with chapter 34.05 RCW, shall:

(1) Establish an arbitration process for resolving conflicts arising among the local business community and labor organizations concerning new industries programs, products, services, or wages;

(2) Encourage the development of the collection and analysis of jail industries program data, including long-term tracking information on offender recidivism;

(3) Determine, by applying established federal guidelines and criteria, whether a city or a county jail free venture industries program complies with the private sector prison industry enhancement certification program. In so doing, also determine if that industry should be designated as a cost accounting center for the purposes of the federal certification program; and

(4) Provide technical assistance with product marketing. [1993 c 285 § 6.]

36.110.070 Board of directors may receive funds, establish fee schedule. The board may receive funds from local, county, state, or federal sources and may receive grants to support its activities. The board may establish a reasonable schedule of suggested fees that will support statewide efforts to promote and facilitate jail industries that would be presented to cities and counties that have established jail industries programs. [1993 c 285 § 7.]

36.110.080 Board of directors—Meetings—Terms—Compensation. The board shall initially convene at the call of the representative of the correctional industries division of the state department of corrections, together with the jail administrator selected from a city or a county with an established jail industries program, no later than six months after July 25, 1993. Subsequent meetings of the board shall be at the call of the board chairperson. The board shall meet at least twice a year.

The board shall elect a chairperson and other such officers as it deems appropriate. However, the chairperson may not be the representative of the correctional industries division of the state department of corrections nor any representative from a state executive branch agency.

Members of the board shall serve terms of three years each on a staggered schedule to be established by the first board. For purposes of initiating a staggered schedule of terms, some members of the first board may initially serve two years and some members may initially serve four years.

The members of the board shall serve without compensation but may be reimbursed for travel expenses from funds acquired under this chapter. [1993 c 285 § 8.]

36.110.090 City or county special revenue funds. A city or a county that implements a jail industries program may establish a separate fund for the operation of the program. This fund shall be a special revenue fund with continuing authority to receive income and pay expenses associated with the jail industries program. [1993 c 285 § 9.]

36.110.100 Comprehensive work programs. Cities and counties participating in jail industries are authorized to provide for comprehensive work programs using jail inmate workers at worksites within jail facilities or at such places within the city or county as may be directed by the legislative authority of the city or county, as similarly provided under RCW 36.28.100. [1993 c 285 § 10.]

36.110.110 Deductions from offenders' earnings. When an offender is employed in a jail industries program for which pay is allowed, deductions may be made from these earnings for court-ordered legal financial obligations as directed by the court in reasonable amounts that do not unduly discourage the incentive to work. These deductions shall be disbursed as directed in RCW 9.94A.145.

In addition, inmates working in jail industries programs shall contribute toward costs to develop, implement, and operate jail industries programs. This amount shall be a reasonable amount that does not unduly discourage the incentive to work. The amount so deducted shall be deposited in the jail industries special revenue fund.

Upon request of the offender, family support may also be deducted and disbursed to a designated family member. [1993 c 285 § 11.]

36.110.120 Free venture industries—Employment status of inmates. A jail inmate who works in a free venture industry shall be considered an employee of that industry only for the purpose of the Washington industrial safety and health act, chapter 49.17 RCW, as long as the public safety is not compromised, and for eligibility for industrial insurance benefits under Title 51 RCW. However, eligibility for benefits for either the inmate or the inmate's

dependents or beneficiaries for temporary total disability or permanent total disability under RCW 51.32.090 or 51.32.060, respectively, shall not take effect until the inmate is discharged from custody by order of a court of appropriate jurisdiction. Nothing in this section shall be construed to confer eligibility for any industrial insurance benefits to any jail inmate who is employed in a nonfree venture industry. [1993 c 285 § 12.]

36.110.130 Free venture industry agreements—Effect of failure or discontinuance. In the event of failure or discontinuance of a free venture industry agreement, responsibility for obligations under Title 51 RCW shall be borne by the city or county responsible for establishment of such free venture industry, as if the city or county had been the employing agency. [1993 c 285 § 13.]

36.110.140 Education and training. To the extent possible, jail industries programs shall be augmented by education and training to improve worker literacy and employability skills. Such education and training may include, but is not limited to, basic adult education, work towards a certificate of educational competence following successful completion of the general educational development test, vocational and preemployment work maturity skills training, and apprenticeship classes. [1993 c 285 § 14.]

36.110.150 Department of corrections to provide staff assistance. Until sufficient funding is secured by the board to adequately provide staffing, basic staff assistance shall be provided, to the extent possible, by the department of corrections. [1993 c 285 § 15.]

36.110.900 Severability—1993 c 285. 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. [1993 c 285 § 17.]

Title 38
MILITIA AND MILITARY AFFAIRS

Chapters

Chapter 38.08
POWERS AND DUTIES OF GOVERNOR

Sections

38.08.040 Governor may order out organized militia. In event of war, insurrection, rebellion, invasion, tumult, riot, mob, or organized body acting together by force with intent to commit a felony or to offer violence to persons or property, or by force and violence to break and resist the laws of this state, or the United States, or in case of the imminent danger of the occurrence of any of said events, or at the lawful request of competent state or local authority in support of enforcement of controlled substance statutes, or whenever responsible civil authorities shall, for any reason, fail to preserve law and order, or protect life or property, or the governor believes that such failure is imminent, or in event of public disaster, the governor shall have power to order the organized militia of Washington, or any part thereof, into active service of the state to execute the laws, and to perform such duty as the governor shall deem proper. [1993 c 263 § 1; 1989 c 19 § 7; 1943 c 130 § 6; Rem. Supp. 1943 § 8603-6. Prior: 1917 c 107 § 7; 1913 c 66 § 2; 1909 c 134 § 15.]

38.08.500 National guard mutual assistance counter-drug activities compact. (1) The governor, with the consent of congress, is authorized to enter into compacts and agreements for the deployment of the national guard with governors of other states concerning drug interdiction, counter-drug, and demand reduction activities. Article 1, section 10 of the Constitution of the United States permits a state to enter into a compact or agreement with another state, subject to the consent of congress. Congress, through enactment of Title 4 of the U.S.C. Section 112, encourages the states to enter such compacts for cooperative effort and mutual assistance.

(2) The compact language contained in this subsection is intended to deal comprehensively with the supportive relationships between states in utilizing national guard assets in counter-drug activities.

NATIONAL GUARD MUTUAL ASSISTANCE
COUNTER-DRUG ACTIVITIES COMPACT

ARTICLE I
PURPOSE

The purposes of this compact are to:

(a) Provide for mutual assistance and support among the party states in the utilization of the national guard in drug interdiction, counter-drug, and demand reduction activities.

(b) Permit the national guard of this state to enter into mutual assistance and support agreements, on the basis of need, with one or more law enforcement agencies operating within this state, for activities within this state, or with a national guard of one or more other states, whether said activities are within or without this state in order to facilitate and coordinate efficient, cooperative enforcement efforts directed toward drug interdiction, counter-drug activities, and demand reduction.

(c) Permit the national guard of this state to act as a receiving and a responding state as defined within this compact and to ensure the prompt and effective delivery of national guard personnel, assets, and services to agencies or areas that are in need of increased support and presence.

(d) Permit and encourage a high degree of flexibility in the deployment of national guard forces in the interest of efficiency.

(e) Maximize the effectiveness of the national guard in those situations that call for its utilization under this compact.

(f) Provide protection for the rights of national guard personnel when performing duty in other states in counter-drug activities.

(g) Ensure uniformity of state laws in the area of national guard involvement in interstate counter-drug activities by incorporating said uniform laws within the compact.

ARTICLE II
ENTRY INTO FORCE AND WITHDRAWAL

(a) This compact shall enter into force when enacted into law by any two states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of such withdrawal to the governors of all other party states.

ARTICLE III
MUTUAL ASSISTANCE AND SUPPORT

(a) As used in this article:

(1) "Drug interdiction and counter-drug activities" means the use of national guard personnel, while not in federal service, in any law enforcement support activities that are intended to reduce the supply or use of illegal drugs in the United States. These activities include, but are not limited to:

(i) Providing information obtained during either the normal course of military training or operations or during counter-drug activities, to federal, state, or local law enforcement officials that may be relevant to a violation of any federal or state law within the jurisdiction of such officials;

(ii) Making available any equipment, including associated supplies or spare parts, base facilities, or research facilities of the national guard to any federal, state, or local civilian law enforcement official for law enforcement purposes, in accordance with other applicable law or regulation;

(iii) Providing available national guard personnel to train federal, state, or local civilian law enforcement in the operation and maintenance of equipment, including equipment made available above, in accordance with other applicable law;

(iv) Providing available national guard personnel to operate and maintain equipment provided to federal, state, or local law enforcement officials pursuant to activities defined and referred to in this compact;

(v) Operation and maintenance of equipment and facilities of the national guard or law enforcement agencies used for the purposes of drug interdiction and counter-drug activities;

(vi) Providing available national guard personnel to operate equipment for the detection, monitoring, and communication of the movement of air, land, and sea traffic, to facilitate communications in connection with law enforcement programs, to provide transportation for civilian law enforcement personnel, and to operate bases of operations for civilian law enforcement personnel;

(vii) Providing available national guard personnel, equipment, and support for administrative, interpretive, analytic, or other purposes;

(viii) Providing available national guard personnel and equipment to aid federal, state, and local officials and agencies otherwise involved in the prosecution or incarceration of individuals processed within the criminal justice system who have been arrested for criminal acts involving the use, distribution, or transportation of controlled substances as defined in 21 U.S.C. Sec. 801 et seq., or otherwise by law, in accordance with other applicable law.

(2) "Demand reduction" means providing available national guard personnel, equipment, support, and coordination to federal, state, local, and civic organizations, institutions and agencies for the purposes of the prevention of drug abuse and the reduction in the demand for illegal drugs.

(3) "Requesting state" means the state whose governor requested assistance in the area of counter-drug activities.

(4) "Responding state" means the state furnishing assistance, or requested to furnish assistance, in the area of counter-drug activities.

(5) "Law enforcement agency" means a lawfully established federal, state, or local public agency that is responsible for the prevention and detection of crime and the enforcement of penal, traffic, regulatory, game, immigration, postal, customs, or controlled substances laws.

(6) "Official" means the appointed, elected, designated, or otherwise duly selected representative of an agency, institution, or organization authorized to conduct those activities for which support is requested.

(7) "Mutual assistance and support agreement" or "agreement" means an agreement between the national guard of this state and one or more law enforcement agencies or between the national guard of this state and the national guard of one or more other states, consistent with the purposes of this compact.

(8) "Party state" refers to a state that has lawfully enacted this compact.

(9) "State" means each of the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

(b) Upon the request of a governor of a party state for assistance in the area of interdiction and counter-drug, and demand reduction activities, the governor of a responding state shall have authority under this compact to send without the borders of his or her state and place under the temporary operational control of the appropriate national guard or other military authorities of the requesting state, for the purposes of providing such requested assistance, all or any part of the national guard forces of his or her state as he or she may deem necessary, and the exercise of his or her discretion in this regard shall be conclusive.

(c) The governor of a party state may, within his or her discretion, withhold the national guard forces of his or her state from such use and recall any forces or part or member thereof previously deployed in a requesting state.

(d) The national guard of this state is hereby authorized to engage in interdiction and counter-drug activities and demand reduction.

(e) The adjutant general of this state, in order to further the purposes of this compact, may enter into a mutual assistance and support agreement with one or more law enforcement agencies of this state, including federal law enforcement agencies operating within this state, or with the national guard of one or more other party states to provide personnel, assets, and services in the area of interdiction and counter-drug activities and demand reduction. However, no such agreement may be entered into with a party that is specifically prohibited by law from performing activities that are the subject of the agreement.

(f) The agreement must set forth the powers, rights, and obligations of the parties to the agreement, where applicable, as follows:

(1) Its duration;

(2) The organization, composition, and nature of any separate legal entity created thereby;

(3) The purpose of the agreement;

(4) The manner of financing the agreement and establishing and maintaining its budget;

(5) The method to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination;

(6) Provision for administering the agreement, which may include creation of a joint board responsible for such administration;

(7) The manner of acquiring, holding, and disposing of real and personal property used in this agreement, if necessary;

(8) The minimum standards for national guard personnel implementing the provisions of this agreement;

(9) The minimum insurance required of each party to the agreement, if necessary;

(10) The chain of command or delegation of authority to be followed by national guard personnel acting under the provisions of the agreement;

(11) The duties and authority that the national guard personnel of each party state may exercise; and

(12) Any other necessary and proper matters.

Agreements prepared under the provisions of this section are exempt from any general law pertaining to intergovernmental agreements.

(g) As a condition precedent to an agreement becoming effective under this part, the agreement must be submitted to and receive the approval of the office of the attorney general of Washington. The attorney general of the state of Washington may delegate his or her approval authority to the appropriate attorney for the Washington national guard subject to those conditions which he or she decides are appropriate. The delegation must be in writing and is subject to the following:

(1) The attorney general, or his or her agent as stated above, shall approve an agreement submitted to him or her under this part unless he or she finds that it is not in proper form, does not meet the requirements set forth in this part, or otherwise does not conform to the laws of Washington. If the attorney general disapproves an agreement, he or she shall provide a written explanation to the adjutant general of the Washington national guard; and

(2) If the attorney general, or his or her authorized agent as stated above, does not disapprove an agreement within thirty days after its submission to him or her, it is considered approved by him or her.

(h) Whenever national guard forces of any party state are engaged in the performance of duties, in the area of drug interdiction, counter-drug, and demand reduction activities, pursuant to orders, they shall not be held personally liable for any acts or omissions which occur during the performance of their duty.

ARTICLE IV
RESPONSIBILITIES

(a) Nothing in this compact shall be construed as a waiver of any benefits, privileges, immunities, or rights otherwise provided for national guard personnel performing duty pursuant to Title 32 of the United States Code nor shall anything in this compact be construed as a waiver of coverage provided for under the Federal Tort Claims Act. In the event that national guard personnel performing counter-drug activities do not receive rights, benefits, privileges, and immunities otherwise provided for national guard personnel as stated above, the following provisions shall apply:

(1) Whenever national guard forces of any responding state are engaged in another state in carrying out the purposes of this compact, the members thereof so engaged shall have the same powers, duties, rights, privileges, and immunities as members of national guard forces of the requesting state. The requesting state shall save and hold members of the national guard forces of responding states harmless from civil liability, except as otherwise provided herein, for acts or omissions that occur in the performance of their duty while engaged in carrying out the purposes of this compact, whether responding forces are serving the requesting state within the borders of the responding state or are attached to the requesting state for purposes of operational control.

(2) Subject to the provisions of paragraphs (3), (4), and (5) of this Article, all liability that may arise under the laws of the requesting state or the responding states, on account of or in connection with a request for assistance or support, shall be assumed and borne by the requesting state.

(3) Any responding state rendering aid or assistance pursuant to this compact shall be reimbursed by the requesting state for any loss or damage to, or expense incurred in the operation of, any equipment answering a request for aid, and for the cost of the materials, transportation, and maintenance of national guard personnel and equipment incurred in connection with such request, provided that nothing herein contained shall prevent any responding state from assuming such loss, damage, expense, or other cost.

(4) Unless there is a written agreement to the contrary, each party state shall provide, in the same amounts and manner as if they were on duty within their state, for pay and allowances of the personnel of its national guard units while engaged without the state pursuant to this compact and while going to and returning from such duty pursuant to this compact.

(5) Each party state providing for the payment of compensation and death benefits to injured members and the representatives of deceased members of its national guard

forces in case such members sustain injuries or are killed within their own state shall provide for the payment of compensation and death benefits in the same manner and on the same terms in the event such members sustain injury or are killed while rendering assistance or support pursuant to this compact. Such benefits and compensation shall be deemed items of expense reimbursable pursuant to paragraph (3) of this Article.

(b) Officers and enlisted personnel of the national guard performing duties subject to proper orders pursuant to this compact shall be subject to and governed by the provisions of their home state code of military justice whether they are performing duties within or without their home state. In the event that any national guard member commits, or is suspected of committing, a criminal offense while performing duties pursuant to this compact without his or her home state, he or she may be returned immediately to his or her home state and said home state shall be responsible for any disciplinary action to be taken. However, nothing in this section shall abrogate the general criminal jurisdiction of the state in which the offense occurred.

ARTICLE V
DELEGATION

Nothing in this compact shall be construed to prevent the governor of a party state from delegating any of his or her responsibilities or authority respecting the national guard, provided that such delegation is otherwise in accordance with law. For purposes of this compact, however, the governor shall not delegate the power to request assistance from another state.

ARTICLE VI
LIMITATIONS

Nothing in this compact shall:

(a) Authorize or permit national guard units or personnel to be placed under the operational control of any person not having the national guard rank or status required by law for the command in question.

(b) Deprive a properly convened court of jurisdiction over an offense or a defendant merely because of the fact that the national guard, while performing duties pursuant to this compact, was utilized in achieving an arrest or indictment.

ARTICLE VII
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 the United States or of any state 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 participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters. [1993 c 263 § 2.]

Chapter 38.52
EMERGENCY MANAGEMENT

Sections

38.52.010 Definitions. As used in this chapter:

(1) "Emergency management" or "comprehensive emergency management" means the preparation for and the carrying out of all emergency functions, other than functions for which the military forces are primarily responsible, to mitigate, prepare for, respond to, and recover from emergencies and disasters, and to aid victims suffering from injury or damage, resulting from disasters caused by all hazards, whether natural or man-made, and to provide support for search and rescue operations for persons and property in distress. However, "emergency management" or "comprehensive emergency management" does not mean preparation for emergency evacuation or relocation of residents in anticipation of nuclear attack.

(2) "Local organization for emergency services or management" means an organization created in accordance with the provisions of this chapter by state or local authority to perform local emergency management functions.

(3) "Political subdivision" means any county, city or town.

(4) "Emergency worker" means any person, including but not limited to an architect registered under chapter 18.08 RCW or a professional engineer registered under chapter 18.43 RCW, who is registered with a local emergency management organization or the department of community development and holds an identification card issued by the local emergency management director or the department of community development for the purpose of engaging in authorized emergency management activities or is an employee of the state of Washington or any political subdivision thereof who is called upon to perform emergency management activities.

(5) "Injury" as used in this chapter shall mean and include accidental injuries and/or occupational diseases arising out of emergency management activities.

(6)(a) "Emergency or disaster" as used in all sections of this chapter except RCW 38.52.430 shall mean an event or set of circumstances which: (i) Demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken community overtaken by such occurrences, or (ii) reaches such a dimension or degree of destructiveness as to warrant the governor declaring a state of emergency pursuant to RCW 43.06.010.

(b) "Emergency" as used in RCW 38.52.430 means an incident that requires a normal police, coroner, fire, rescue, emergency medical services, or utility response as a result of a violation of one of the statutes enumerated in RCW 38.52.430.

(7) "Search and rescue" means the acts of searching for, rescuing, or recovering by means of ground, marine, or air activity any person who becomes lost, injured, or is killed while outdoors or as a result of a natural or man-made

disaster, including instances involving searches for downed aircraft when ground personnel are used. Nothing in this section shall affect appropriate activity by the department of transportation under chapter 47.68 RCW.

(8) "Executive head" and "executive heads" means the county executive in those charter counties with an elective office of county executive, however designated, and, in the case of other counties, the county legislative authority. In the case of cities and towns, it means the mayor.

(9) "Director" means the director of community development.

(10) "Local director" means the director of a local organization of emergency management or emergency services.

(11) "Department" means the department of community development.

(12) "Emergency response" as used in RCW 38.52.430 means a public agency's use of emergency services during an emergency or disaster as defined in subsection (6)(b) of this section.

(13) "Expense of an emergency response" as used in RCW 38.52.430 means reasonable costs incurred by a public agency in reasonably making an appropriate emergency response to the incident, but shall only include those costs directly arising from the response to the particular incident. Reasonable costs shall include the costs of providing police, coroner, fire fighting, rescue, emergency medical services, or utility response at the scene of the incident, as well as the salaries of the personnel responding to the incident.

(14) "Public agency" means the state, and a city, county, municipal corporation, district, or public authority located, in whole or in part, within this state which provides or may provide fire fighting, police, ambulance, medical, or other emergency services. [1993 c 251 § 5; 1993 c 206 § 1; 1986 c 266 § 23; 1984 c 38 § 2; 1979 ex.s. c 268 § 1; 1975 1st ex.s. c 113 § 1; 1974 ex.s. c 171 § 4; 1967 c 203 § 1; 1953 c 223 § 2; 1951 c 178 § 3.]

Reviser's note: This section was amended by 1993 c 206 § 1 and by 1993 c 251 § 5, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Finding—Intent—1993 c 251: See note following RCW 38.52.430.

Severability—1986 c 266: See note following RCW 38.52.005.

38.52.1951 Application of exemption from liability for architects and engineers. For purposes of the liability of an architect or engineer serving as a volunteer emergency worker, the exemption from liability provided under RCW 38.52.195 extends to all damages, so long as the conditions specified in RCW 38.52.195 (1) through (5) occur. [1993 c 206 § 2.]

38.52.430 Emergency response caused by person's intoxication—Recovery of costs from convicted person. A person whose intoxication causes an incident resulting in an appropriate emergency response, and who, in connection with the incident, has been found guilty of or has had their prosecution deferred for (1) driving while under the influence of intoxicating liquor or any drug, RCW 46.61.502; (2) operating an aircraft under the influence of intoxicants or drugs, RCW 47.68.220; (3) use of a vessel while under the influence of alcohol or drugs, *RCW 88.12.100; (4) vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a); or (5) vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), is liable for the expense of an emergency response by a public agency to the incident.

The expense of an emergency response is a charge against the person liable for expenses under this section. The charge constitutes a debt of that person and is collectible by the public agency incurring those costs in the same manner as in the case of an obligation under a contract, expressed or implied.

In no event shall a person's liability under this section for the expense of an emergency response exceed one thousand dollars for a particular incident.

If more than one public agency makes a claim for payment from an individual for an emergency response to a single incident under the provisions of this section, and the sum of the claims exceeds the amount recovered, the division of the amount recovered shall be determined by an interlocal agreement consistent with the requirements of chapter 39.34 RCW. [1993 c 251 § 2.]

***Reviser's note:** RCW 88.12.100 was recodified as RCW 88.12.025 pursuant to 1993 c 244 § 45.

Finding—Intent—1993 c 251: "The legislature finds that a public agency incurs expenses in an emergency response. It is the intent of the legislature to allow a public agency to recover the expenses of an emergency response to an incident involving persons who operate a motor vehicle, boat or vessel, or a civil aircraft while under the influence of an alcoholic beverage or a drug, or the combined influence of an alcoholic beverage and a drug. It is the intent of the legislature that the recovery of expenses of an emergency response under this act shall supplement and shall not supplant other provisions of law relating to the recovery of those expenses." [1993 c 251 § 1.]

Title 39
PUBLIC CONTRACTS AND INDEBTEDNESS

Chapters

Subcontractors to be identified by bidder, when: RCW 39.30.060.

Chapter 39.04
PUBLIC WORKS

Sections

39.04.010 Definitions. The term state shall include the state of Washington and all departments, supervisors, commissioners and agencies thereof.

The term municipality shall include every city, county, town, district or other public agency thereof which is authorized by law to require the execution of public work, except drainage districts, diking districts, diking and drainage improvement districts, drainage improvement districts, diking improvement districts, consolidated diking and drainage improvement districts, consolidated drainage improvement districts, consolidated diking improvement districts, irrigation districts or any such other districts as shall from time to time be authorized by law for the reclamation or development of waste or undeveloped lands.

The term public work shall include all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property therein. All public works, including maintenance when performed by contract shall comply with the provisions of RCW 39.12.020.

The term contract shall mean a contract in writing for the execution of public work for a fixed or determinable amount duly awarded after advertisement and competitive bid. However, a contract which is awarded from a small works roster under the authority of RCW 39.04.150, 35.22.620, 28B.10.355, 35.82.075, and 57.08.050 need not be advertised. [1993 c 174 § 1; 1989 c 363 § 5; 1986 c 282 § 1; 1982 c 98 § 1; 1977 ex.s. c 177 § 1; 1923 c 183 § 1; RRS § 10322-1.]

Severability—1986 c 282: See RCW 82.18.900.

39.04.020 Plans and specifications—Estimates—Publication—Emergencies. Whenever the state or any municipality shall determine that any public work is necessary to be done, it shall cause plans, specifications, or both thereof and an estimate of the cost of such work to be made and filed in the office of the director, supervisor, commissioner, trustee, board, or agency having by law the authority to require such work to be done. The plans, specifications, and estimates of cost shall be approved by the director, supervisor, commissioner, trustee, board, or agency and the original draft or a certified copy filed in such office before further action is taken.

If the state or such municipality shall determine that it is necessary or advisable that such work shall be executed by any means or method other than by contract or by a small works roster process, and it shall appear by such estimate that the probable cost of executing such work will exceed the sum of fifteen thousand dollars or the amounts specified in RCW 28B.10.350 or 28B.10.355 for colleges and universities, or the amounts specified in RCW 28B.50.330 or 39.04.150 for community colleges and technical colleges, then the state or such municipality shall at least fifteen days before beginning work cause such estimate, together with a description of the work, to be published at least once in a legal newspaper of general circulation published in or as near as possible to that part of the county in which such work is to be done: PROVIDED, That when any emergency shall require the immediate execution of such public work, upon a finding of the existence of such emergency by the authority having power to direct such public work to be done and duly entered of record, publication of description and estimate may be made within seven days after the commencement of the work. [1993 c 379 § 111; 1986 c 282 § 2; 1982 c 98 § 4; 1975 1st ex.s. c 230 § 2; 1967 c 70 § 1; 1923 c 183 § 2; RRS § 10322-2. Formerly RCW 39.04.020 and 39.04.030.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

Severability—1986 c 282: See RCW 82.18.900.

39.04.150 State agencies authorized to establish small works roster—Procedure for soliciting quotations—Rules. (1) As used in this section, "agency" means the department of general administration, the department of fisheries, the department of wildlife, and the state parks and recreation commission.

(2) In addition to any other power or authority that an agency may have, each agency, alone or in concert, may establish a small works roster consisting of all qualified contractors who have requested to be included on the roster.

(3) The small works roster may make distinctions between contractors based on the geographic areas served and the nature of the work the contractor is qualified to perform. At least once every year, the agency shall advertise in a newspaper of general circulation the existence of the small works roster and shall add to the roster those contractors who request to be included on the roster.

(4) Construction, repair, or alteration projects estimated to cost less than fifty thousand dollars, or less than one hundred thousand dollars for projects managed by the department of general administration for community colleges and technical colleges, as defined under chapter 28B.50 RCW, are exempt from the requirement that the contracts be awarded after advertisement and competitive bid as defined by RCW 39.04.010. In lieu of advertisement and competitive bid, the agency shall solicit at least five quotations, confirmed in writing, from contractors chosen by random number generated by computer from the contractors on the small works roster for the category of job type involved and shall award the work to the party with the lowest quotation or reject all quotations. If the agency is unable to solicit quotations from five qualified contractors on the small works roster for a particular project, then the project shall be advertised and competitively bid. The agency shall solicit quotations randomly from contractors on the small works

roster in a manner which will equitably distribute the opportunity for these contracts among contractors on the roster: PROVIDED, That whenever possible, the agency shall invite at least one proposal from a minority contractor who shall otherwise qualify to perform such work. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone request.

(5) The breaking down of any public work or improvement into units or accomplishing any public work or improvement by phases for the purpose of avoiding the minimum dollar amount for bidding is contrary to public policy and is prohibited.

(6) The director of general administration shall adopt by rule a procedure to prequalify contractors for inclusion on the small works roster. Each agency shall follow the procedure adopted by the director of general administration. No agency shall be required to make available for public inspection or copying under chapter 42.17 RCW financial information required to be provided by the prequalification procedure.

(7) An agency may adopt by rule procedures to implement this section which shall not be inconsistent with the procedures adopted by the director of the department of general administration pursuant to subsection (6) of this section. [1993 c 379 § 112; 1988 c 36 § 12; 1987 c 218 § 1; 1982 c 98 § 2.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

Director of general administration authorized to delegate to other state agencies under RCW 39.04.150: RCW 43.19.450.

39.04.155 Small works roster contract awards process. (1) This section provides a uniform process to award contracts for public works projects by those municipalities that are authorized to use a small works roster in lieu of the requirements for formal sealed bidding. The state statutes governing a specific type of municipality shall establish the maximum dollar thresholds of the contracts that can be awarded under this process, and may include other matters concerning the small works roster process, for the municipality.

(2) Such municipalities may create a single general small works roster, or may create a small works roster for different categories of anticipated work. The small works roster or rosters shall consist of all responsible contractors who have requested to be on the list, and where required by law are properly licensed or registered to perform such work in this state. At least twice a year, the municipality shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of the roster or rosters and solicit the names of contractors for such roster or rosters.

The governing body of the municipality shall establish a procedure for securing telephone or written quotations from the contractors on the general small works roster, or a specific small works roster for the appropriate category of work, to assure that a competitive price is established and to award contracts to the lowest responsible bidder, as defined in RCW 43.19.1911. Such invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. Whenever possible at least five contractors shall be invited to submit bids. Once a contractor has been afforded an opportunity to submit a proposal, that contractor shall not be offered another opportunity until all other appropriate contractors on the small works roster have been afforded an opportunity to submit a proposal on a contract. Proposals may be invited from all appropriate contractors on the small works roster.

A contract awarded from a small works roster under this section need not be advertised.

Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry. [1993 c 198 § 1; 1991 c 363 § 109.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Competitive bids—Contract procedure: RCW 36.32.250.

39.04.190 Purchase contract process—Other than formal sealed bidding. (1) This section provides a uniform process to award contracts for the purchase of any materials, equipment, supplies, or services by those municipalities that are authorized to use this process in lieu of the requirements for formal sealed bidding. The state statutes governing a specific type of municipality shall establish the maximum dollar thresholds of the contracts that can be awarded under this process, and may include other matters concerning the awarding of contracts for purchases, for the municipality.

(2) At least twice per year, the municipality shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of vendor lists and solicit the names of vendors for the lists. Municipalities shall by resolution establish a procedure for securing telephone or written quotations, or both, from at least three different vendors whenever possible to assure that a competitive price is established and for awarding the contracts for the purchase of any materials, equipment, supplies, or services to the lowest responsible bidder as defined in RCW 43.19.1911. Immediately after the award is made, the bid quotations obtained shall be recorded, open to public inspection, and shall be available by telephone inquiry. A contract awarded pursuant to this section need not be advertised. [1993 c 198 § 2; 1991 c 363 § 110.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

39.04.200 Posting of small works roster or purchase awards. Any municipality that utilizes the small works roster process established in RCW 39.04.155 to award contracts for public works projects, or the uniform process established in RCW 39.04.190 to award contracts for purchases, must post a list of the contracts awarded under RCW 39.04.155 and 39.04.190 at least once every two months. The list shall contain the name of the contractor or vendor awarded the contract, the amount of the contract, a brief description of the type of work performed or items purchased under the contract, and the date it was awarded. The list shall also state the location where the bid quotations for these contracts are available for public inspection. [1993 c 198 § 3; 1991 c 363 § 111.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

39.04.260 Private construction performed pursuant to contract for rental, lease, or purchase by state—Must comply with prevailing wage law. Any work, construction, alteration, repair, or improvement, other than ordinary maintenance, that the state or a municipality causes to be performed by a private party through a contract to rent, lease, or purchase at least fifty percent of the project by one or more state agencies or municipalities shall comply with chapter 39.12 RCW. [1993 c 110 § 1.]

Application—1993 c 110: "Section 1 of this act shall not apply to any project for which a call for competitive bids was made before July 25, 1993." [1993 c 110 § 2.]

Chapter 39.12
PREVAILING WAGES ON PUBLIC WORKS

Sections

39.12.042 Compliance with RCW 39.12.040—Liability of public agencies to workers, laborers, or mechanics. If any agency of the state, or any county, municipality, or political subdivision created by its laws shall knowingly fail to comply with the provisions of RCW 39.12.040 as now or hereafter amended, such agency of the state, or county, municipality, or political subdivision created by its laws, shall be liable to all workers, laborers, or mechanics to the full extent and for the full amount of wages due, pursuant to the prevailing wage requirements of RCW 39.12.020. [1993 c 404 § 3; 1989 c 12 § 11; 1975-'76 2nd ex.s. c 49 § 2.]

Effective date—1993 c 404: See note following RCW 39.12.070.

39.12.070 Fees authorized for approvals, certifications, and arbitrations. The department of labor and industries may charge fees to awarding agencies on public works for the approval of statements of intent to pay prevailing wages and the certification of affidavits of wages paid. The department may also charge fees to persons or organizations requesting the arbitration of disputes under RCW 39.12.060. The amount of the fees shall be established by rules adopted by the department under the procedures in the administrative procedure act, chapter 34.05 RCW. The fees shall apply to all approvals, certifications, and arbitration requests made after the effective date of the rules. All fees shall be deposited in the public works administration account. On the fifteenth day of the first month of each quarterly period, an amount equalling thirty percent of the revenues received into the public works administration account shall be transferred into the general fund. The department may refuse to arbitrate for contractors, subcontractors, persons, or organizations which have not paid the proper fees. The department may, if necessary, request the attorney general to take legal action to collect delinquent fees.

The department shall set the fees permitted by this section at a level that generates revenue that is as near as practicable to the amount of the appropriation to administer this chapter, including, but not limited to, the performance of adequate wage surveys, and to investigate and enforce all alleged violations of this chapter, including, but not limited to, incorrect statements of intent to pay prevailing wage, incorrect certificates of affidavits of wages paid, and wage claims, as provided for in this chapter and chapters 49.48 and 49.52 RCW. However, the fees charged for the approval of statements of intent to pay prevailing wages and the certification of affidavits of wages paid shall be no greater than twenty-five dollars. [1993 c 404 § 1; 1982 1st ex.s. c 38 § 1.]

Effective date—1993 c 404: "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, 1993." [1993 c 404 § 4.]

39.12.080 Public works administration account—Created. The public works administration account is created in the state treasury. The department of labor and industries shall deposit in the account all moneys received from fees collected under RCW 39.12.070. Appropriations from the account, not including moneys transferred to the general fund pursuant to RCW 39.12.070, may be made only for the purposes of administration of this chapter, including, but not limited to, the performance of adequate wage surveys, and for the investigation and enforcement of all alleged violations of this chapter as provided for in this chapter and chapters 49.48 and 49.52 RCW. [1993 c 404 § 2.]

Effective date—1993 c 404: See note following RCW 39.12.070.

Chapter 39.19
OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES

Sections

Minority and women business development office: RCW 43.31.0915.

39.19.060 Compliance with public works and procurement goals—Plan to maximize opportunity for minority and women-owned businesses. Each state agency and educational institution shall comply with the annual goals established for that agency or institution under this chapter for public works and procuring goods or services. This chapter applies to all public works and procurement by state agencies and educational institutions, including all contracts and other procurement under chapters 28B.10, 39.04, 39.29, 43.19, and 47.28 RCW. Each state agency shall adopt a plan, developed in consultation with the director and the advisory committee, to insure that minority

and women-owned businesses are afforded the maximum practicable opportunity to directly and meaningfully participate in the execution of public contracts for public works and goods and services. The plan shall include specific measures the agency will undertake to increase the participation of certified minority and women-owned businesses. The office shall annually notify the governor, the state auditor, and the legislative budget committee of all agencies and educational institutions not in compliance with this chapter. [1993 c 512 § 9; 1983 c 120 § 6.]

Sunset Act application: See note following chapter digest.

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

Compliance with chapter 39.19 RCW: RCW 28B.10.023, 39.04.160, 39.29.050, 43.19.536, 47.28.030, 47.28.050, 47.28.090.

39.19.170 Prequalification of minority and women-owned businesses—Waiver of performance bond. (1) State agencies shall not require a performance bond for any public works project that does not exceed twenty-five thousand dollars awarded to a prequalified and certified minority or woman-owned business that has been prequalified as provided under subsection (2) of this section.

(2) A limited prequalification questionnaire shall be required assuring:

(a) That the bidder has adequate financial resources or the ability to secure such resources;

(b) That the bidder can meet the performance schedule;

(c) That the bidder is experienced in the type of work to be performed; and

(d) That all equipment to be used is adequate and functioning and that all equipment operators are qualified to operate such equipment. [1993 c 512 § 10.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

39.19.200 Minority and women's business enterprises account—Created. The minority and women's business enterprises account is created in the custody of the state treasurer. All receipts from RCW 39.19.210, 39.19.220, and 39.19.230 shall be deposited in the account. Expenditures from the account may be used only for the purposes defraying all or part of the costs of the office in administering this chapter. Only the director or the director's designee may authorize expenditures from the account. Moneys in the account may be spent only after appropriation. [1993 c 195 § 1.]

Effective date of 1993 c 195—1993 1st sp.s. c 24: "Chapter 195, Laws of 1993 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, 1993." [1993 1st sp.s. c 24 § 930.]

39.19.210 Businesses using the office—Fees. The office may charge a reasonable fee or other appropriate charge, to be set by rule adopted by the office under chapter 34.05 RCW, to a business using the services of the office. [1993 c 195 § 2.]

Effective date of 1993 c 195—1993 1st sp.s. c 24: See note following RCW 39.19.200.

39.19.220 Political subdivisions—Fees. The office may charge to a political subdivision in this state a reasonable fee or other appropriate charge, to be set by rule adopted by the office under chapter 34.05 RCW, prorated on the relative benefit to the political subdivision, for the certification under this chapter of a business. [1993 c 195 § 3.]

Effective date of 1993 c 195—1993 1st sp.s. c 24: See note following RCW 39.19.200.

39.19.230 State agencies and educational institutions—Fees. The office may charge to a state agency and educational institutions, as both are defined in RCW 39.19.020, a reasonable fee or other appropriate charge, to be set by rule adopted by the office under chapter 34.05 RCW, based upon the state agency's or educational institution's expenditure level of funds subject to the office. [1993 c 195 § 4.]

Effective date of 1993 c 195—1993 1st sp.s. c 24: See note following RCW 39.19.200.

Chapter 39.29
PERSONAL SERVICE CONTRACTS

Sections

39.29.003 Intent. It is the intent of this chapter to establish a policy of open competition for all personal service contracts and subcontracts to personal service contracts entered into by state agencies, unless specifically exempted under this chapter. It is further the intent to provide for legislative and executive review of all personal service contracts, to centralize the location of information about personal service contracts for ease of public review, and ensure proper accounting of personal services expenditures. [1993 c 433 § 1; 1987 c 414 § 1; 1979 ex.s. c 61 § 1.]

39.29.006 Definitions. As used in this chapter:

(1) "Agency" means any state office or activity of the executive and judicial branches of state government, including state agencies, departments, offices, divisions, boards, commissions, and educational, correctional, and other types of institutions.

(2) "Client services" means services provided directly to agency clients including, but not limited to, medical and dental services, employment and training programs, residential care, and subsidized housing.

(3) "Competitive solicitation" means a documented formal process providing an equal and open opportunity to qualified parties and culminating in a selection based on criteria which may include such factors as the consultant's

fees or costs, ability, capacity, experience, reputation, responsiveness to time limitations, responsiveness to solicitation requirements, quality of previous performance, and compliance with statutes and rules relating to contracts or services.

(4) "Consultant" means an independent individual or firm contracting with an agency to perform a service or render an opinion or recommendation according to the consultant's methods and without being subject to the control of the agency except as to the result of the work. The agency monitors progress under the contract and authorizes payment.

(5) "Emergency" means a set of unforeseen circumstances beyond the control of the agency that either:

(a) Present a real, immediate threat to the proper performance of essential functions; or

(b) May result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

(6) "Evidence of competition" means documentation demonstrating that the agency has solicited responses from multiple firms in selecting a consultant.

(7) "Personal service" means professional or technical expertise provided by a consultant to accomplish a specific study, project, task, or other work statement. This term does not include purchased services as defined under subsection (9) of this section. This term does include client services.

(8) "Personal service contract" means an agreement, or any amendment thereto, with a consultant for the rendering of personal services to the state which is consistent with RCW 41.06.380.

(9) "Purchased services" means services provided by a vendor to accomplish routine, continuing and necessary functions. This term includes, but is not limited to, services acquired under RCW 43.19.190 or 43.105.041 for equipment maintenance and repair; operation of a physical plant; security; computer hardware and software maintenance; data entry; key punch services; and computer time-sharing, contract programming, and analysis.

(10) "Sole source" means a consultant providing professional or technical expertise of such a unique nature that the consultant is clearly and justifiably the only practicable source to provide the service. The justification shall be based on either the uniqueness of the service or sole availability at the location required.

(11) "Subcontract" means a contract assigning some of the work of a contract to a third party. [1993 c 433 § 2; 1987 c 414 § 2; 1981 c 263 § 1; 1979 ex.s. c 61 § 2.]

39.29.008 Limitation on personal service contracts. Personal services may be procured only to resolve a particular agency problem or issue or to expedite a specific project that is temporary in nature. An agency may procure personal services only if it documents that:

(1) The service is critical to agency responsibilities or operations, or is mandated or authorized by the legislature;

(2) Sufficient staffing or expertise is not available within the agency to perform the service; and

(3) Other qualified public resources are not available to perform the service. [1993 c 433 § 6.]

39.29.018 Sole source contracts. (1) Sole source contracts shall be filed with the office of financial management and the legislative budget committee and made available for public inspection at least ten working days prior to the proposed starting date of the contract. Documented justification for sole source contracts shall be provided to the office of financial management and the legislative budget committee when the contract is filed. For sole source contracts of ten thousand dollars or more that are state funded, documented justification shall include evidence that the agency attempted to identify potential consultants by advertising through state-wide or regional newspapers.

(2) The office of financial management shall approve sole source contracts of ten thousand dollars or more that are state funded, before any such contract becomes binding and before any services may be performed under the contract. These requirements shall also apply to sole source contracts of less than ten thousand dollars if the total amount of such contracts between an agency and the same consultant is ten thousand dollars or more within a fiscal year. Agencies shall ensure that the costs, fees, or rates negotiated in filed sole source contracts of ten thousand dollars or more are reasonable. [1993 c 433 § 5; 1987 c 414 § 5.]

39.29.025 Amendments. (1) Substantial changes in either the scope of work specified in the contract or in the scope of work specified in the formal solicitation document must generally be awarded as new contracts. Substantial changes executed by contract amendments must be submitted to the office of financial management and the legislative budget committee, and are subject to approval by the office of financial management.

(2) An amendment or amendments to personal service contracts, if the value of the amendment or amendments, whether singly or cumulatively, exceeds fifty percent of the value of the original contract must be provided to the office of financial management and the legislative budget committee.

(3) The office of financial management shall approve amendments provided to it under this section before the amendments become binding and before services may be performed under the amendments.

(4) The amendments must be filed with the office of financial management and made available for public inspection at least ten working days prior to the proposed starting date of services under the amendments.

(5) The office of financial management shall approve amendments provided to it under this section only if they meet the criteria for approval of the amendments established by the director of the office of financial management. [1993 c 433 § 3.]

39.29.035 Selection of subcontractors. If subcontracts and subcontractors are specified in the contractor's response to a competitive solicitation, this constitutes a competitive solicitation of subcontract services. If subcontracts are authorized, but subcontractors are not specifically identified in a contractor's response to a competitive solicitation and the contractor later desires to issue subcontracts, the subcontracts must comply with the competitive solicitation

requirements of this chapter, and selection of subcontractors is subject to prior agency approval. [1993 c 433 § 4.]

39.29.055 Contracts—Filing—Public inspection—Review and approval. (1) State-funded personal service contracts subject to competitive solicitation shall be filed with the office of financial management and the legislative budget committee and made available for public inspection at least ten working days before the proposed starting date of the contract.

(2) The office of financial management shall review and approve state-funded personal service contracts subject to competitive solicitation that provide services relating to management consulting, organizational development, marketing, communications, employee training, or employee recruiting. [1993 c 433 § 7.]

39.29.068 Office of financial management to maintain list of contracts—Report to legislature. The office of financial management shall maintain a publicly available list of all personal service contracts entered into by state agencies during each fiscal year. The list shall identify the contracting agency, the contractor, the purpose of the contract, effective dates and periods of performance, the cost of the contract and funding source, any modifications to the contract, and whether the contract was competitively procured or awarded on a sole source basis. The office of financial management shall also ensure that state accounting definitions and procedures are consistent with RCW 39.29.006 and permit the reporting of personal services expenditures by agency and by type of service. Designations of type of services shall include, but not be limited to, management and organizational services, legal and expert witness services, financial services, computer and information services, social or technical research, marketing, communications, and employee training or recruiting services. The office of financial management shall report annually to the fiscal committees of the senate and house of representatives on sole source contracts filed under this chapter. The report shall describe: (1) The number and aggregate value of contracts for each category established in this section; (2) the number and aggregate value of contracts of two thousand five hundred dollars or greater but less than ten thousand dollars; (3) the number and aggregate value of contracts of ten thousand dollars or greater; (4) the justification provided by agencies for the use of sole source contracts; and (5) any trends in the use of sole source contracts. [1993 c 433 § 8.]

Chapter 39.30
CONTRACTS—INDEBTEDNESS LIMITATIONS—COMPETITIVE BIDDING VIOLATIONS

Sections

39.30.045 Purchase at auctions. Any municipality, as defined in RCW 39.04.010, may purchase any supplies, equipment, or materials at auctions conducted by the government of the United States or any agency thereof, any agency of the state of Washington, any municipality or other government agency, or any private party without being subject to public bidding requirements if the items can be obtained at a competitive price. [1993 c 198 § 4; 1991 c 363 § 112.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

39.30.060 Bids on public works—Subcontractors must be identified—When. Every invitation to bid on a contract that is expected to cost in excess of one hundred thousand dollars for the construction, alteration, or repair of any public building or public work of the state or a state agency or municipality as defined under RCW 39.04.010, an institution of higher education as defined under RCW 28B.10.016, or a school district shall require each bidder to submit as part of the bid, or within twenty-four hours of the bid, the names of the subcontractors whose subcontract amount is more than ten percent of the contract price with whom the bidder, if awarded the contract, will subcontract for performance of the categories of work designated on the list to be submitted with the bid or to indicate by naming itself that a category of work on the list shall not be subcontracted. Failure to name such subcontractors or itself shall render the bidder's bid nonresponsive and, therefore, void. [1993 c 378 § 1.]

Application—1993 c 378: "This act applies prospectively only and not retroactively. It applies only to invitations to bid issued on or after July 25, 1993." [1993 c 378 § 2.]

Chapter 39.36
LIMITATION OF INDEBTEDNESS OF TAXING DISTRICTS

Sections

39.36.020 Limitation of indebtedness prescribed. (1) Except as otherwise expressly provided by law or in subsections (2), (3) and (4) of this section, no taxing district shall for any purpose become indebted in any manner to an amount exceeding three-eighths of one percent of the value of the taxable property in such taxing district without the assent of three-fifths of the voters therein voting at an election to be held for that purpose, nor in cases requiring such assent shall the total indebtedness incurred at any time exceed one and one-fourth percent on the value of the taxable property therein.

(2) Counties, cities, towns, and public hospital districts are limited to an indebtedness amount not exceeding three-fourths of one percent of the value of the taxable property in such counties, cities, towns, or public hospital districts without the assent of three-fifths of the voters therein voting at an election held for that purpose. In cases requiring such assent counties, cities, towns, and public hospital districts are limited to a total indebtedness of two and one-half percent of the value of the taxable property therein. However, any county that has assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation under

chapter 36.56 RCW may become indebted to a larger amount for its authorized metropolitan functions, as provided under chapter 35.58 RCW, but not exceeding an additional three-fourths of one percent of the value of the taxable property in the county without the assent of three-fifths of the voters therein voting at an election held for that purpose, and in cases requiring such assent not exceeding an additional two and one-half percent of the value of the taxable property in the county.

(3) School districts are limited to an indebtedness amount not exceeding three-eighths of one percent of the value of the taxable property in such district without the assent of three-fifths of the voters therein voting at an election held for that purpose. In cases requiring such assent school districts are limited to a total indebtedness of two and one-half percent of the value of the taxable property therein.

(4) No part of the indebtedness allowed in this chapter shall be incurred for any purpose other than strictly county, city, town, school district, township, port district, metropolitan park district, or other municipal purposes: PROVIDED, That a city or town, with such assent, may become indebted to a larger amount, but not exceeding two and one-half percent additional, determined as herein provided, for supplying such city or town with water, artificial light, and sewers, when the works for supplying such water, light, and sewers shall be owned and controlled by the city or town; and a city or town, with such assent, may become indebted to a larger amount, but not exceeding two and one-half percent additional for acquiring or developing open space and park facilities: PROVIDED FURTHER, That any school district may become indebted to a larger amount but not exceeding two and one-half percent additional for capital outlays.

(5) Such indebtedness may be authorized in any total amount in one or more propositions and the amount of such authorization may exceed the amount of indebtedness which could then lawfully be incurred. Such indebtedness may be incurred in one or more series of bonds from time to time out of such authorization but at no time shall the total general indebtedness of any taxing district exceed the above limitation.

The term "value of the taxable property" as used in this section shall have the meaning set forth in RCW 39.36.015. [1993 c 240 § 12; 1971 ex.s. c 218 § 1; 1971 c 38 § 1; 1970 ex.s. c 42 § 27; 1969 c 142 § 3; 1967 c 107 § 4; 1959 c 227 § 1; 1953 c 163 § 2; 1917 c 143 § 1; RRS § 5605.]

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

Validating—1953 c 163: "Bonds authorized, issued and sold by any school district prior to the effective date of this act [March 18, 1953] and not in excess of the limitations provided in sections 1 and 2 thereof are hereby approved, ratified and validated, and are a legal and irrevocable obligation of such school district." [1953 c 163 § 3.] This applies to RCW 28A.51.010 and 39.36.020.

Cemetery districts, limitation upon indebtedness: RCW 68.52.310.

Cities other than first class, limitations upon indebtedness: RCW 35.37.040, 35.37.050.

Counties, limitations upon indebtedness: Chapter 36.67 RCW.

Executory conditional sales contracts, limitations on indebtedness: RCW 28A.335.200, 39.30.010.

Leases by cities and towns, limitations on indebtedness: RCW 35.42.200.

Metropolitan municipal corporations, limitations on indebtedness: RCW 35.58.450.

Metropolitan park districts, incurring indebtedness: RCW 35.61.100, 35.61.110.

Municipal corporations, limitations upon indebtedness: State Constitution Art. 8 § 6 (Amendment 27).

Port districts, limitations upon indebtedness: RCW 53.36.030.

School districts, limitations upon indebtedness: RCW 28A.530.010.

Sewer districts, general indebtedness: RCW 56.16.010.

Water districts, limitations upon indebtedness: RCW 57.20.110, 57.20.120.

Chapter 39.42

STATE BONDS, NOTES, AND OTHER EVIDENCES OF INDEBTEDNESS

Sections

39.42.060 Limitation on issuance of evidences of indebtedness—Annual computation of amount required to pay on outstanding debt. No bonds, notes, or other evidences of indebtedness for borrowed money shall be issued by the state which will cause the aggregate debt contracted by the state to exceed that amount for which payments of principal and interest in any fiscal year would require the state to expend more than seven percent of the arithmetic mean of its general state revenues, as defined in section 1(c) of Article VIII of the Washington state Constitution for the three immediately preceding fiscal years as certified by the treasurer in accordance with RCW 39.42.070. It shall be the duty of the state finance committee to compute annually the amount required to pay principal of and interest on outstanding debt. In making such computation, the state finance committee shall include all borrowed money represented by bonds, notes, or other evidences of indebtedness which are secured by the full faith and credit of the state or are required to be paid, directly or indirectly, from general state revenues and which are incurred by the state, any department, authority, public corporation or quasi public corporation of the state, any state university or college, or any other public agency created by the state but not by counties, cities, towns, school districts, or other municipal corporations, and shall include debt incurred pursuant to section 3 of Article VIII of the Washington state Constitution, but shall exclude the following:

(1) Obligations for the payment of current expenses of state government;

(2) Indebtedness incurred pursuant to RCW 39.42.080 or 39.42.090;

(3) Principal of and interest on bond anticipation notes;

(4) Any indebtedness which has been refunded;

(5) Financing contracts entered into under chapter 39.94 RCW;

(6) Indebtedness authorized or incurred before July 1, 1993, pursuant to statute which requires that the state treasury be reimbursed, in the amount of the principal of and the interest on such indebtedness, from money other than general state revenues or from the special excise tax imposed pursuant to chapter 67.40 RCW;

(7) Indebtedness authorized and incurred after July 1, 1993, pursuant to statute that requires that the state treasury

be reimbursed, in the amount of the principal of and the interest on such indebtedness, from (a) moneys outside the state treasury, except higher education operating fees, (b) higher education building fees, (c) indirect costs recovered from federal grants and contracts, and (d) fees and charges associated with hospitals operated or managed by institutions of higher education; and

(8) Any agreement, promissory note, or other instrument entered into by the state finance committee under RCW 39.42.030 in connection with its acquisition of bond insurance, letters of credit, or other credit support instruments for the purpose of guaranteeing the payment or enhancing the marketability, or both, of any state bonds, notes, or other evidence of indebtedness.

To the extent necessary because of the constitutional or statutory debt limitation, priorities with respect to the issuance or guaranteeing of bonds, notes, or other evidences of indebtedness by the state shall be determined by the state finance committee. [1993 c 52 § 1. Prior: 1989 1st ex.s. c 14 § 17; 1989 c 356 § 7; 1983 1st ex.s. c 36 § 1; 1979 ex.s. c 204 § 1; 1971 ex.s. c 184 § 6.]

Effective date—1993 c 52: "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, 1993." [1993 c 52 § 2.]

Severability—Effective dates—1989 1st ex.s. c 14: See RCW 43.99H.900 and 43.99H.901.

Chapter 39.80
CONTRACTS FOR ARCHITECTURAL AND ENGINEERING SERVICES

Sections

39.80.070 Contracts, modifications reported to the office of financial management. Contracts entered into by any state agency for architectural and engineering services, and modifications thereto, shall be reported to the office of financial management on a quarterly basis, in such form as the office of financial management prescribes. [1993 c 433 § 9.]

Chapter 39.84
INDUSTRIAL DEVELOPMENT REVENUE BONDS

Sections

39.84.130 Commingling of bond proceeds or revenues with municipal funds prohibited—Exception. No part of the proceeds received from the sale of any revenue bonds under this chapter, of any revenues derived from any industrial development facility acquired or held under this chapter, or of any interest realized on moneys received under this chapter may be commingled by the public corporation with funds of the municipality creating the public corporation. However, those funds of the public corporation, other than proceeds received from the sale of revenue bonds, that are not otherwise encumbered for the payment of revenue bonds and are not reasonably anticipated by the board of directors to be necessary for administrative expenses of the public corporation may be transferred to the creating municipality and used for growth management, planning, or other economic development purposes. [1993 c 139 § 1; 1981 c 300 § 13.]

Chapter 39.96
PAYMENT AGREEMENTS

Sections

39.96.010 Findings and declaration—Two-year expiration. The legislature finds and declares that the issuance by state and local governments of bonds and other obligations, and the investment of moneys in connection with these obligations, involve exposure to changes in interest rates; that a number of financial instruments are available to lower the net cost of these borrowings, to increase the net return on these investments, or to reduce the exposure of state and local governments to changes in interest rates; that these reduced costs and increased returns for state and local governments will benefit taxpayers and ratepayers; and that the legislature desires to provide state and local governments with express statutory authority to take advantage of these instruments. In recognition of the complexity of these financial instruments, the legislature desires that this authority be subject to certain limitations, and be granted for an initial period of two years. [1993 c 273 § 1.]

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

(1) "Financial advisor" means a financial services or financial advisory firm:

(a) With recognized knowledge and experience in connection with the negotiation and execution of payment agreements;

(b) That is acting solely as financial advisor to the governmental entity in connection with the execution of the payment agreement and the issuance or incurring of any related obligations, and not as a principal, placement agent, purchaser, underwriter, or other similar party, and that does not control, nor is it controlled by or under common control with, any such party;

(c) That is compensated for its services in connection with the execution of payment agreements, either directly or indirectly, solely by the governmental entity; and

(d) Whose compensation is not based on a percentage of the notional amount of the payment agreement or of the principal amount of any related obligations.

(2) "Governmental entity" means state government or local government.

(3) "Local government" means any city, county, port district, or public utility district, or any joint operating agency formed under RCW 43.52.360, that has or will have outstanding obligations in an aggregate principal amount of at least one hundred million dollars as of the date a payment agreement is executed or is scheduled by its terms to commence or had at least one hundred million dollars in gross revenues during the preceding calendar year.

(4) "Obligations" means bonds, notes, bond anticipation notes, commercial paper, or other obligations for borrowed money, or lease, installment purchase, or other similar financing agreements or certificates of participation in such agreements.

(5) "Payment agreement" means a written agreement which provides for an exchange of payments based on interest rates, or for ceilings or floors on these payments, or an option on these payments, or any combination, entered into on either a current or forward basis.

(6) "State government" means (a) the state of Washington, acting by and through its state finance committee, (b) the Washington health care facilities authority, (c) the Washington higher education facilities authority, (d) the Washington state housing finance commission, or (e) the state finance committee upon adoption of a resolution approving a payment agreement on behalf of any state institution of higher education as defined under RCW 28B.10.016: PROVIDED, That such approval shall not constitute the pledge of the full faith and credit of the state, but a pledge of only those funds specified in the approved agreement. [1993 c 273 § 2.]

39.96.030 Payment agreements authorized—Conditions. (1) Subject to subsections (2) and (3) of this section, any governmental entity may enter into a payment agreement in connection with, or incidental to, the issuance, incurring, or carrying of specific obligations, for the purpose of managing or reducing the governmental entity's exposure to fluctuations or levels of interest rates. No governmental entity may carry on a business of acting as a dealer in payment agreements.

(2) No governmental entity may enter into a payment agreement under this chapter unless it first:

(a) Finds and determines, by ordinance or resolution, that the payment agreement, if fully performed by all parties thereto, will (i) reduce the amount or duration of its exposure to changes in interest rates; or (ii) result in a lower net cost of borrowing with respect to the related obligations, or a higher net rate of return on investments made in connection with, or incidental to, the issuance, incurring, or carrying of those obligations;

(b) Obtains, on or prior to the date of execution of the payment agreement, a written certification from a financial advisor that (i) the terms and conditions of the payment agreement and any ancillary agreements, including without limitation, the interest rate or rates and any other amounts payable thereunder, are commercially reasonable in light of then existing market conditions; and (ii) the finding and determination contained in the ordinance or resolution required by (a) of this subsection is reasonable.

(3) Prior to selecting the other party to a payment agreement, a governmental entity shall solicit and give due consideration to proposals from at least two entities that meet the criteria set forth in RCW 39.96.040(2). Such solicitation and consideration shall be conducted in such manner as the governmental entity shall determine is reasonable. [1993 c 273 § 3.]

39.96.040 Terms and conditions. (1) Subject to subsections (2), (3), and (4) of this section, payment agreements entered into by any governmental entity may include those payment, term, security, default, remedy, termination, and other terms and conditions, and may be with those parties, as the governmental entity deems reasonably necessary or desirable.

(2) No governmental entity may enter into a payment agreement under this chapter unless:

(a) The other party to the agreement has a rating from at least two nationally recognized credit rating agencies, as of the date of execution of the agreement, that is within the two highest long-term investment grade rating categories, without regard to subcategories, or the payment obligations of the party under the agreement are unconditionally guaranteed by an entity that then has the required ratings; or

(b)(i) The other party to the agreement has a rating from at least two nationally recognized credit rating agencies, as of the date of execution of the agreement, that is within the three highest long-term investment grade rating categories, without regard to subcategories, or the payment obligations of the party under the agreement are unconditionally guaranteed by an entity that has the required ratings; and

(ii) The payment obligations of the other party under the agreement are collateralized by direct obligations of, or obligations the principal and interest on which are guaranteed by, the United States of America, that (A) are deposited with the governmental entity or an agent of the governmental entity; and (B) maintain a market value of not less than one hundred two percent of the net market value of the payment agreement to the governmental entity, as such net market value may be defined and determined from time to time under the terms of the payment agreement.

(3) No governmental entity may enter into a payment agreement with a party who qualifies under subsection (2)(a) of this section unless the payment agreement provides that, in the event the credit rating of the other party or its guarantor falls below the level required by subsection (2)(a) of this section, such party will comply with the collateralization requirements contained in subsection (2)(b) of this section.

(4) No governmental entity may enter into a payment agreement unless:

(a) The notional amount of the payment agreement does not exceed the principal amount of the obligations with respect to which the payment agreement is made; and

(b) The term of the payment agreement does not exceed the final term of the obligations with respect to which the payment agreement is made. [1993 c 273 § 4.]

39.96.050 Payments—Credit enhancements. (1) Subject to any covenants or agreements applicable to the obligations issued or incurred by the governmental entity, any payments required to be made by the governmental entity under a payment agreement entered into in connection with the issuance, incurring, or carrying of those obligations may be made from money set aside or pledged to pay or secure the payment of those obligations or from any other legally available source.

(2) Any governmental entity may enter into credit enhancement, liquidity, line of credit, or other similar agreements in connection with, or incidental to, the execution of a payment agreement. The credit enhancement, liquidity, line of credit, or other similar agreement may include those payment, term, security, default, remedy, termination, and other terms and conditions, and may be with those parties, as the governmental entity deems reasonably necessary or desirable. [1993 c 273 § 5.]

39.96.060 Calculations regarding payment of obligations—Status of payments. (1) Subject to any covenants or agreements applicable to the obligations issued or incurred by the governmental entity, if the governmental entity enters into a payment agreement with respect to those obligations, then it may elect to treat the amounts payable from time to time with respect to those obligations as the amounts payable after giving effect to the payment agreement for the purposes of calculating:

(a) Rates and charges to be imposed by a revenue-producing enterprise if the revenues are pledged or used to pay those obligations;

(b) Any taxes to be levied and collected to pay those obligation[s]; and

(c) Payments or debt service on those obligations for any other purpose.

(2) A payment agreement and any obligation of the governmental entity to make payments under the agreement in future fiscal years shall not constitute debt or indebtedness of the governmental entity for purposes of state constitutional and statutory debt limitation provisions if the obligation to make any payments is contingent upon the performance of the other party or parties to the agreement, and no moneys are paid to the governmental entity under the payment agreement that must be repaid in future fiscal years. [1993 c 273 § 6.]

39.96.070 Payment agreements not allowed after June 30, 1995—Exception—Report to legislature. (1) Except as provided in subsection (3) of this section, no governmental entity may enter a payment agreement under RCW 39.96.030 after June 30, 1995.

(2) The termination of authority to enter payment agreements after June 30, 1995, shall not affect the validity of any payment agreements or other contracts entered into under RCW 39.96.030 on or before that date.

(3) A governmental entity may enter into a payment agreement under and in accordance with this chapter after June 30, 1995, to replace a payment agreement that relates to specified obligations issued on or before that date and that has terminated before the final term of those obligations.

(4) The state finance committee shall make a report to the appropriate legislative committees on payment agreements authorized in this chapter. The report shall include the governmental entity entering into a payment agreement, the amount of the agreement, the expected savings resulting from the agreement, the transactions cost, and any other information the state finance committee determines relevant. The report shall be submitted on November 30, 1993, and December 30, 1994. [1993 c 273 § 7.]

39.96.080 Authority cumulative. The powers conferred by this chapter are in addition to, and not in substitution for, the powers conferred by any existing law, and the limitations imposed by this chapter do not directly or indirectly modify, limit, or affect the powers conferred by any existing law. [1993 c 273 § 8.]

39.96.900 Liberal construction—1993 c 273. This chapter shall be liberally construed to effect its purposes. [1993 c 273 § 9.]

39.96.901 Captions not law—1993 c 273. Captions used in this chapter do not constitute any part of the law. [1993 c 273 § 10.]

39.96.902 Severability—1993 c 273. 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. [1993 c 273 § 11.]

39.96.903 Effective date—1993 c 273. 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 [May 7, 1993]. [1993 c 273 § 13.]

Title 40

PUBLIC DOCUMENTS, RECORDS, AND PUBLICATIONS

Chapters

Chapter 40.04

PUBLIC DOCUMENTS

Sections

40.04.090 Legislative journals—Distribution, sale, exchange—Duties of law librarian. The house and senate journals shall be distributed and/or sold by the state law librarian as follows:

(1) Subject to subsection (5) of this section, sets shall be distributed as follows: One set to each secretary and assistant secretary of the senate, chief clerk and assistant to the chief clerk of the house of representatives, and to each minute clerk and sergeant-at-arms of the two branches of the legislature of which they occupy the offices and positions mentioned. One to each requesting official whose office is created by the Constitution, and one to each requesting state department director; two copies to the state library; three copies to the University of Washington law library; two copies to the University of Washington library; one to the King county law library; one to the Washington State University library; one to the library of each of the regional universities and to The Evergreen State College; one to the law library of Gonzaga University law school; one to the law library of the University of Puget Sound law school; one to the law libraries of any accredited law school as hereafter established in this state; and one to each free public library in the state which requests it.

(2) House and senate journals of the preceding regular session during an odd- or even-numbered year, and of any intervening special session, shall be provided for use of legislators in such numbers as directed by the chief clerk of the house of representatives and secretary of the senate.

(3) Sufficient sets shall be retained for the use of the state law library. Surplus sets of the house and senate journals shall be sold and delivered by the state law librarian at a price set by the chief clerk of the house of representatives and the secretary of the senate after consulting with the state printer to determine reasonable costs associated with the production of the journals, and the proceeds therefrom shall be paid to the state treasurer for the general fund.

(4) The state law librarian is authorized to exchange copies of the house and senate journals for similar journals of other states, territories, and/or governments, or for other legal materials, and to make such other and further distribution of them as in his or her judgment seems proper.

(5) Periodically the state law librarian may canvas those entitled to receive copies under this section, and may reduce or eliminate the number of copies distributed to anyone who so concurs. [1993 c 169 § 1; 1982 1st ex.s. c 32 § 2; 1980 c 87 § 13; 1977 ex.s. c 169 § 95; 1973 c 33 § 2; 1941 c 150 § 5; Rem. Supp. 1941 § 8217-5.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Chapter 40.07
MANAGEMENT AND CONTROL OF STATE PUBLICATIONS

Sections

40.07.070 Advertising in state publications—Prerequisites for advertisers. A state agency may not accept advertising for placement in a state publication unless the advertiser: (1) Has obtained a certificate of registration from the department of revenue under chapter 82.32 RCW; and (2) if the advertiser is not otherwise obligated to collect and remit Washington retail sales tax or use tax, the advertiser either (a) agrees to voluntarily collect and remit the Washington use tax upon all sales to Washington consumers, or (b) agrees to provide to the department of revenue, no less frequently than quarterly, a listing of the names and addresses of Washington customers to whom sales were made. This section does not apply to advertising that does not offer items for sale or to advertising that does not solicit orders for sales. [1993 c 74 § 1.]

Effective date—1993 c 74: "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, 1993." [1993 c 74 § 2.]

Title 41
PUBLIC EMPLOYMENT, CIVIL SERVICE AND PENSIONS

Chapters

Chapter 41.04
GENERAL PROVISIONS

Sections

41.04.205 Participation of county, municipal, and other political subdivision employees in state employees' insurance or self-insurance and health care program—Transfer procedure. (Effective October 1, 1993.) (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 for employees 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. 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.

(4) The requirements in subsection (2)(a) (i) and (ii) of this section need not be applied to school districts, except that all eligible employees in a bargaining unit of a school district may transfer only as a unit and all nonrepresented employees in a district may transfer only as a unit. [1993 c 386 § 3; 1992 c 199 § 1; 1990 c 222 § 1; 1988 c 107 § 17; 1975-'76 2nd ex.s. c 106 § 1.]

Effective date—1993 c 386 §§ 3, 7, and 11: "Sections 3, 7, and 11 of this act shall take effect October 1, 1993." [1993 c 386 § 17.]

Intent—1993 c 386: See note following RCW 28A.400.391.

Implementation—Effective dates—1988 c 107: See RCW 41.05.901.

41.04.230 Payroll deductions authorized. 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 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) Insurance contributions to the authority for payment of premiums under contracts authorized by the state health care authority.

(8) 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. [1993 c 2 § 26 (Initiative Measure No. 134, approved November 3, 1992); 1992 c 192 § 1; 1988 c 107 § 19; 1985 c 271 § 1; 1983 1st ex.s. c 28 § 3; 1980 c 120 § 1; 1979 c 151 § 54; 1973 1st ex.s. c 147 § 5; 1970 ex.s. c 39 § 11; 1969 c 59 § 5.]

Reviser's note: This section was amended by 1993 c 2 § 26 (Initiative Measure No. 134) without cognizance of its amendment by 1992 c 192 § 1. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Implementation—Effective dates—1988 c 107: See RCW 41.05.901.

Application—1983 1st ex.s. c 28: See note following RCW 42.16.010.

Effective date—Effect of veto—Savings—Severability—1973 1st ex.s. c 147: See notes following RCW 41.05.050.

Severability—1970 ex.s. c 39: See note following RCW 41.05.050.

41.04.235 Retirement allowance deductions for health care benefit plans. Participants in a health care benefit plan approved pursuant to RCW 41.04.180, 41.05.065, or 28A.400.350, whichever is applicable, who are retired public employees, may authorize the deduction from their retirement allowances, of the amount or amounts of their subscription payments, premiums, or contributions to any person, firm, or corporation furnishing or providing medical, surgical, and hospital care or other health care insurance upon the approval by the retirement board of an application for such deduction on the prescribed form, and the treasurer of the state shall duly and timely draw and issue proper warrants directly to and in favor of the person, firm, or corporation, or organization named in the authorization for the amount authorized to be deducted. [1993 c 386 § 4; 1983 c 3 § 89; 1975 1st ex.s. c 73 § 1.]

Intent—1993 c 386: See note following RCW 28A.400.391.

Effective date—1993 c 386 §§ 1, 2, 4-6, 8-10, and 12-16: See note following RCW 28A.400.391.

41.04.260 Committee for deferred compensation—Generally. (1) There is hereby created a committee for deferred compensation to be composed of five members appointed by the governor, one of whom shall be a representative of an employee association or union certified as an exclusive representative of at least one bargaining unit of classified employees, one who shall be a representative of either a credit union, savings and loan association, mutual savings bank or bank, one who possesses expertise in the area of insurance or investment of public funds, one who shall be the state attorney general or his designee, and one additional member selected by the governor. The committee shall serve without compensation but shall receive travel expenses as provided for in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(2) The deferred compensation principal account is hereby created in the state treasury. Any deficiency in the deferred compensation administrative account caused by an excess of administrative expenses disbursed from that account over earnings of investments of balances credited to that account shall be eliminated by transferring moneys to that account from the deferred compensation principal account.

The amount of compensation deferred by employees under agreements entered into under the authority contained in RCW 41.04.250 shall be paid into the deferred compensation principal account and shall be sufficient to cover costs of administration and staffing in addition to such other amounts as determined by this committee. The deferred compensation principal account shall be used to carry out the purposes of RCW 41.04.250. All eligible state employees shall be given the opportunity to participate in agreements entered into by the committee under RCW 41.04.250. State agencies shall cooperate with the committee in providing employees with the opportunity to participate. Any county, municipality, or other subdivision of the state may elect to participate in any agreements entered into by the committee under RCW 41.04.250, including the making of payments therefrom to the employees participating in a deferred compensation plan upon their separation from state or other qualifying service. Accordingly, the deferred compensation principal account shall be considered to be a public pension or retirement fund within the meaning of Article XXIX, section 1 of the state Constitution, for the purpose of determining eligible investments and deposits of the moneys therein. All moneys in the deferred compensation principal account, all property and rights purchased therewith, and all income attributable thereto, shall remain (until made available to the participating employee or other beneficiary) solely the money, property, and rights of the state and participating counties, municipalities and subdivisions (without being restricted to the provision of benefits under the plan) subject only to the claims of the state's and participating jurisdictions' general creditors. Participating jurisdictions shall each retain property rights separately.

(3) The state investment board, at the request of the deferred compensation committee, is authorized to invest moneys in the deferred compensation principal account in accordance with RCW 43.84.150. Except as provided in RCW 43.33A.160, one hundred percent of all earnings from these investments shall accrue directly to the deferred compensation principal account.

(4) The deferred compensation administrative account is hereby created in the state treasury. All expenses of the committee pertaining to the deferred compensation plan including staffing and administrative expenses shall be paid out of the deferred compensation administrative account. Any excess of earnings of investments of balances credited to this account over administrative expenses disbursed from this account shall be transferred to the deferred compensation principal account. Any deficiency in the deferred compensation administrative account caused by an excess of administrative expenses disbursed from this account over earnings of investments of balances credited to this account shall be transferred to this account from the deferred compensation principal account.

(5) In addition to the duties specified in this section and RCW 41.04.250, the deferred compensation committee shall administer the salary reduction plan established in RCW 41.04.600 through 41.04.645.

(6) The deferred compensation committee shall keep or cause to be kept full and adequate accounts and records of the assets, obligations, transactions, and affairs of any deferred compensation plans created under RCW 41.04.250 through 41.04.260.

The deferred compensation committee shall file an annual report of the financial condition, transactions, and affairs of the deferred compensation plans under the committee's jurisdiction. A copy of the annual report shall be filed with the speaker of the house of representatives, the president of the senate, the governor, and the state auditor.

(7) Members of the deferred compensation committee shall be deemed to stand in a fiduciary relationship to the employees participating in the deferred compensation plans created under RCW 41.04.250 through 41.04.260 and shall discharge the duties of their respective positions in good faith and with that diligence, care, and skill which ordinary prudent persons would exercise under similar circumstances in like positions.

(8) The committee may adopt rules necessary to carry out the purposes of RCW 41.04.250 and 41.04.260. [1993 c 34 § 2; 1991 sp.s. c 13 § 101. Prior: 1987 c 475 § 11; 1987 c 121 § 1; 1985 c 57 § 23; 1984 c 242 § 1; 1983 c 226 § 1; 1981 c 256 § 3; 1975-'76 2nd ex.s. c 34 § 84; 1975 1st ex.s. c 274 § 1.]

Effective date—1993 c 34: "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, 1993." [1993 c 34 § 3.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Severability—1987 c 475: See note following RCW 41.04.600.

Effective date—1985 c 57: See note following RCW 18.04.105.

Purpose—Severability—1981 c 256: See notes following RCW 41.04.250.

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

41.04.340 State employee attendance incentive program—Sick leave records to be kept—Remuneration or benefits for unused sick leave. (1) An attendance incentive program is established for all eligible employees. As used in this section the term "eligible employee" means any employee of the state, other than teaching and research faculty at the state and regional universities and The Evergreen State College, entitled to accumulate sick leave and for whom accurate sick leave records have been maintained. No employee may receive compensation under this section for any portion of sick leave accumulated at a rate in excess of one day per month. The state and regional universities and The Evergreen State College shall maintain complete and accurate sick leave records for all teaching and research faculty.

(2) In January of the year following any year in which a minimum of sixty days of sick leave is accrued, and each January thereafter, any eligible employee may receive remuneration for unused sick leave 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 sick leave in excess of sixty days. Sick leave for which compensation has been received shall be deducted from accrued sick leave at the rate of four days for every one day's monetary compensation.

(3) At the time of separation from state service due to retirement or death, an eligible employee or the employee's estate may elect to receive remuneration at a rate equal to one day's current monetary compensation of the employee for each four full days of accrued sick leave.

(4) Pursuant to this subsection, in lieu of cash remuneration the state may, with equivalent funds, provide eligible employees with a benefit plan providing for reimbursement of medical expenses. The committee for deferred compensation shall develop any benefit plan established under this subsection, but may offer and administer the plan only if (a) each eligible employee has the option of whether to receive cash remuneration or to have his or her employer transfer equivalent funds to the plan; and (b) the committee has received an opinion from the United States internal revenue service stating that participating employees, prior to the time of receiving reimbursement for expenses, will incur no United States income tax liability on the amount of the equivalent funds transferred to the plan.

(5) Remuneration or benefits received under this section shall not be included for the purpose of computing a retirement allowance under any public retirement system in this state.

(6) With the exception of subsection (4) of this section, this section shall be administered, and rules shall be adopted to carry out its purposes, by the Washington personnel resources board for persons subject to chapter 41.06 RCW: PROVIDED, That determination of classes of eligible employees shall be subject to approval by the office of financial management.

(7) Should the legislature revoke any remuneration or benefits granted under this section, no affected employee shall be entitled thereafter to receive such benefits as a matter of contractual right. [1993 c 281 § 17; 1991 c 249 § 1; 1990 c 162 § 1; 1980 c 182 § 1; 1979 ex.s. c 150 § 1.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Severability—1980 c 182: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 182 § 7.]

41.04.370 Child care—Legislative intent. The legislature recognizes that supporting child care for employees of public and private organizations is a worthwhile pursuit. To further the goals of affordable, accessible, and quality child care for working parents, the legislature intends to provide for the development of self-supporting child care programs for employees of state government. [1993 c 194 § 1; 1984 c 162 § 1.]

41.04.375 Child care—Rental of suitable space. An agency may identify space they wish to use for child care facilities or they may request assistance from the department of general administration in identifying the availability of suitable space in state-owned or state-leased buildings for use as child care centers for the children of state employees.

When suitable space is identified in state-owned or state-leased buildings, the department of general administration shall establish a rental rate for organizations to pay for the space used by persons who are not state employees. [1993 c 194 § 2; 1984 c 162 § 2.]

41.04.380 Child care—Contracts—Provision of suitable space at reduced cost authorized. When suitable space is determined to be available, either agencies or organizations of state employees may contract with one or more providers to operate child care facilities.

Subject to the approval of the director of financial management, suitable space for child care centers may be provided to organizations of state employees without charge or at reduced charge for rent or services solely for the purpose of reducing employee child care costs. [1993 c 194 § 3; 1984 c 162 § 3.]

41.04.382 Child care organizations—Qualifications for services. In order to qualify for services under RCW 41.04.380, state employee child care organizations shall be organized as nonprofit under chapter 24.03 RCW. [1993 c 194 § 4.]

41.04.385 Child care—Legislative findings—State policy—Responsibilities of director of personnel. The legislature finds that (1) demographic, economic, and social trends underlie a critical and increasing demand for child care in the state of Washington; (2) working parents and their children benefit when the employees' child care needs have been resolved; (3) the state of Washington should serve as a model employer by creating a supportive atmosphere, to the extent feasible, in which its employees may meet their child care needs; and (4) the state of Washington should encourage the development of partnerships between state agencies, state employees, state employee labor organizations, and private employers to expand the availability of affordable quality child care. The legislature finds further that resolving employee child care concerns not only benefits the employees and their children, but may benefit the employer by reducing absenteeism, increasing employee productivity, improving morale, and enhancing the employer's position in recruiting and retaining employees. Therefore, the legislature declares that it is the policy of the state of Washington to assist state employees by creating a supportive atmosphere in which they may meet their child care needs. Policies and procedures for state agencies to address employee child care needs will be the responsibility of the director of personnel in consultation with the child care coordinating committee, as provided in RCW 74.13.090 and state employee representatives as provided under RCW 41.06.140. [1993 c 194 § 5; 1986 c 135 § 1.]

41.04.615 Dependent care—Salary reduction plan document—Funds, fees, and appropriations—Dependent care administrative account created—Presumptions. (1) A plan document describing the salary reduction plan shall be adopted and administered by the committee. The committee shall represent the state in all matters concerning the administration of the plan. The state through the committee, may engage the services of a professional consultant or administrator on a contractual basis to serve as an agent to assist the committee in carrying out the purposes of RCW 41.04.600 through 41.04.645.

(2) The committee shall formulate and establish policies and procedures for the administration of the salary reduction plan that are consistent with existing state law, the internal revenue code, and the regulations adopted by the internal revenue service as they may apply to the benefits offered to participants under the plan.

(3) The funds held by the state for the dependent care program shall be deposited in the salary reduction account in the state treasury. Any interest in excess of the amount used to defray the cost of administering the salary reduction plan shall become a part of the general fund. Unclaimed moneys remaining in the salary reduction account at the end of a plan year after all timely submitted claims for that plan year have been processed shall become a part of the dependent care administrative account. The committee may assess each participant a fee for administering the salary reduction plan. In addition to moneys for initial costs, moneys may be appropriated from the general fund or dependent care administrative account for any expense relating to the administration of the salary reduction plan.

(4) The dependent care administrative account is created in the state treasury. The committee may periodically bill agencies for employer savings experienced as the result of dependent care program participation by employees. All receipts from the following shall be deposited in the account: (a) Charges to agencies for all or a portion of the estimated savings due to reductions in employer contributions under the social security act; (b) charges for other similar savings; (c) unclaimed moneys in the salary reduction account at the end of the plan year after all timely submitted claims for that plan year have been processed; and (d) fees charged to participants. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for any expense related to the administration of the salary reduction plan.

(5) Every action taken by the committee in administering RCW 41.04.600 through 41.04.645 shall be presumed to be a fair and reasonable exercise of the authority vested in or the duties imposed upon it. The committee shall be presumed to have exercised reasonable care, diligence, and prudence and to have acted impartially as to all persons interested unless the contrary be proved by clear and convincing affirmative evidence. [1993 c 34 § 1; 1987 c 475 § 4.]

Effective date—1993 c 34: See note following RCW 41.04.260.

Severability—1987 c 475: See note following RCW 41.04.600.

41.04.670 Leave sharing program—Adoption of rules. The Washington personnel resources board and other personnel authorities shall each adopt rules applicable to employees under their respective jurisdictions: (1) Establishing appropriate parameters for the program which are consistent with the provisions of RCW 41.04.650 through 41.04.665; (2) providing for equivalent treatment of employees between their respective jurisdictions and allowing transfers of leave in accordance with RCW 41.04.665(5); (3) establishing procedures to ensure that the program does not significantly increase the cost of providing leave; and (4)

providing for the administration of the program and providing for maintenance and collection of sufficient information on the program to allow a thorough legislative review. [1993 c 281 § 18; 1990 c 23 § 3; 1989 c 93 § 5.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Temporary policies—1989 c 93: "School districts, the department of personnel, the higher education personnel board, and other personnel authorities may adopt temporary emergency policies and procedures to implement the program on April 20, 1989, so that donated leave may be used in lieu of leave without pay taken after April 20, 1989." [1989 c 93 § 7.]

Severability—1989 c 93: See note following RCW 41.04.650.

Chapter 41.05

STATE HEALTH CARE AUTHORITY

(Formerly: State employees' insurance and health care)

Sections

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

(1) "Administrator" means the administrator of the authority.

(2) "State purchased health care" or "health care" means medical and health care, pharmaceuticals, and medical equipment purchased with state and federal funds by the department of social and health services, the department of health, the basic health plan, the state health care authority, the department of labor and industries, the department of corrections, the department of veterans affairs, and local school districts.

(3) "Authority" means the Washington state health care authority.

(4) "Insuring entity" means an insurer as defined in chapter 48.01 RCW, a health care service contractor as defined in chapter 48.44 RCW, or a health maintenance organization as defined in chapter 48.46 RCW. On and after July 1, 1995, "insuring entity" means a certified health plan, as defined in RCW 43.72.010.

(5) "Flexible benefit plan" means a benefit plan that allows employees to choose the level of health care coverage provided and the amount of employee contributions from among a range of choices offered by the authority.

(6) "Employee" includes all full-time and career seasonal employees of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of government, including full-time members of boards, commissions, or committees; and includes any or all part-time and temporary employees under the terms and conditions established under this chapter by the authority; justices of the supreme court and judges of the court of appeals and the superior courts; and members of the state legislature or of the legislative authority of any county, city, or town who are elected to office after February 20, 1970. "Employee" also includes: (a) By October 1, 1995, all employees of school districts. Between October 1, 1994, and September 30, 1995, "employee" includes employees of those school districts for whom the authority has undertaken the purchase of insurance benefits. The transition to insurance benefits purchasing by the authority may not disrupt existing insurance contracts between school district employees and insurers. However, except to the extent provided in RCW 28A.400.200, any such contract that provides for health insurance benefits coverage after October 1, 1995, shall be void as of that date if the contract was entered into, renewed, or extended after July 1, 1993. Prior to October 1, 1994, "employee" includes employees of a school district if the board of directors of the school district seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority; (b) employees of a county, municipality, or other political subdivision of the state if the legislative authority of the county, municipality, or other political subdivision of the state seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.04.205; (c) employees of employee organizations representing state civil service employees, at the option of each such employee organization, and, effective October 1, 1995, employees of employee organizations currently pooled with employees of school districts for the purpose of purchasing insurance benefits, at the option of each such employee organization.

(7) "Board" means the public employees' benefits board established under RCW 41.05.055.

(8) "Retired or disabled school employee" means:

(a) Persons who separated from employment with a school district or educational service district and are receiving a retirement allowance under chapter 41.32 or 41.40 RCW as of September 30, 1993;

(b) Persons who separate from employment with a school district or educational service district on or after October 1, 1993, and immediately upon separation receive a retirement allowance under chapter 41.32 or 41.40 RCW;

(c) Persons who separate from employment with a school district or educational service district on or after October 1, 1993, due to a total and permanent disability, and are eligible to receive a deferred retirement allowance under chapter 41.32 or 41.40 RCW. [1993 c 492 § 214; 1993 c 386 § 5; 1990 c 222 § 2; 1988 c 107 § 3.]

Reviser's note: This section was amended by 1993 c 386 § 5 and by 1993 c 492 § 214, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Intent—1993 c 386: See note following RCW 28A.400.391.

Effective date—1993 c 386 §§ 1, 2, 4-6, 8-10, and 12-16: See note following RCW 28A.400.391.

41.05.021 State health care authority—Administrator—Cost control and delivery strategies—Managed competition. (1) The Washington state health care authority is created within the executive branch. The authority shall have an administrator appointed by the governor, with the consent of the senate. The administrator shall serve at the pleasure of the governor. The administrator may employ up to seven staff members, who shall be exempt from chapter 41.06 RCW, and any additional staff members as are necessary to administer this chapter. The primary duties of the authority shall be to administer state employees' insurance benefits and retired or disabled school employees' insurance benefits, study state-purchased health care programs in order to maximize cost containment in these programs while ensuring access to quality health care, and implement state initiatives, joint purchasing strategies, and techniques for efficient administration that have potential application to all state-purchased health services. The authority's duties include, but are not limited to, the following:

(a) To administer health care benefit programs for employees and retired or disabled school employees as specifically authorized in RCW 41.05.065 and in accordance with the methods described in RCW 41.05.075, 41.05.140, and other provisions of this chapter;

(b) To analyze state-purchased health care programs and to explore options for cost containment and delivery alternatives for those programs that are consistent with the purposes of those programs, including, but not limited to:

(i) Creation of economic incentives for the persons for whom the state purchases health care to appropriately utilize and purchase health care services, including the development of flexible benefit plans to offset increases in individual financial responsibility;

(ii) Utilization of provider arrangements that encourage cost containment, including but not limited to prepaid delivery systems, utilization review, and prospective payment methods, and that ensure access to quality care, including assuring reasonable access to local providers, especially for employees residing in rural areas;

(iii) Coordination of state agency efforts to purchase drugs effectively as provided in RCW 70.14.050;

(iv) Development of recommendations and methods for purchasing medical equipment and supporting services on a volume discount basis; and

(v) Development of data systems to obtain utilization data from state-purchased health care programs in order to identify cost centers, utilization patterns, provider and hospital practice patterns, and procedure costs, utilizing the information obtained pursuant to RCW 41.05.031;

(c) To analyze areas of public and private health care interaction;

(d) To provide information and technical and administrative assistance to the board;

(e) To review and approve or deny applications from counties, municipalities, and other political subdivisions of the state to provide state-sponsored insurance or self-insurance programs to their employees in accordance with the provisions of RCW 41.04.205, setting the premium contribution for approved groups as outlined in RCW 41.05.050;

(f) To appoint a health care policy technical advisory committee as required by RCW 41.05.150;

(g) To establish billing procedures and collect funds from school districts and educational service districts under RCW 28A.400.400 in a way that minimizes the administrative burden on districts; and

(h) To promulgate and adopt rules consistent with this chapter as described in RCW 41.05.160.

(2) The public employees' benefits board shall implement strategies to promote managed competition among employee health benefit plans by January 1, 1995, including but not limited to:

(a) Standardizing the benefit package;

(b) Soliciting competitive bids for the benefit package;

(c) Limiting the state's contribution to a percent of the lowest priced sealed bid of a qualified plan within a geographical area. If the state's contribution is less than one hundred percent of the lowest priced sealed bid, employee financial contributions shall be structured on a sliding-scale basis related to household income;

(d) Monitoring the impact of the approach under this subsection with regards to: Efficiencies in health service delivery, cost shifts to subscribers, access to and choice of managed care plans state-wide, and quality of health services. The health care authority shall also advise on the value of administering a benchmark employer-managed plan to promote competition among managed care plans. The health care authority shall report its findings and recommendations to the legislature by January 1, 1997. [1993 c 492 § 215; 1993 c 386 § 6; 1990 c 222 § 3; 1988 c 107 § 4.]

Reviser's note: This section was amended by 1993 c 386 § 6 and by 1993 c 492 § 215, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Intent—1993 c 386: See note following RCW 28A.400.391.

Effective date—1993 c 386 §§ 1, 2, 4-6, 8-10, and 12-16: See note following RCW 28A.400.391.

41.05.022 State agent for purchasing health services—Single community-rated risk pool. (1) The health care authority is hereby designated as the single state agent for purchasing health services.

(2) On and after July 1, 1995, at least the following state-purchased health services programs shall be merged into a single, community-rated risk pool: The basic health plan; health benefits for employees of school districts; and health benefits for state employees. Until that date, in purchasing health services, the health care authority shall maintain separate risk pools for each of the programs in this subsection. The administrator may develop mechanisms to ensure that the cost of comparable benefits packages does not vary widely across the risk pools. At the earliest opportunity the governor shall seek necessary federal waivers and state legislation to place the medical and acute care components of the medical assistance program, the limited casualty program, and the medical care services program of the department of social and health services in this single risk pool. Long-term care services that are provided under the medical assistance program shall not be placed in the single risk pool until such services have been added to the uniform benefits package. On or before January 1, 1997, the governor shall submit necessary legislation to place the purchasing of health benefits for persons incarcerated in institutions administered by the department of corrections into the single community-rated risk pool effective on and after July 1, 1997.

(3) At a minimum, and regardless of other legislative enactments, the state health services purchasing agent shall:

(a) Require that a public agency that provides subsidies for a substantial portion of services now covered under the basic health plan or a uniform benefits package as adopted by the Washington health services commission as provided in RCW 43.72.130, use uniform eligibility processes, insofar as may be possible, and ensure that multiple eligibility determinations are not required;

(b) Require that a health care provider or a health care facility that receives funds from a public program provide care to state residents receiving a state subsidy who may wish to receive care from them consistent with the provisions of chapter 492, Laws of 1993, and that a health maintenance organization, health care service contractor, insurer, or certified health plan that receives funds from a public program accept enrollment from state residents receiving a state subsidy who may wish to enroll with them under the provisions of chapter 492, Laws of 1993;

(c) Strive to integrate purchasing for all publicly sponsored health services in order to maximize the cost control potential and promote the most efficient methods of financing and coordinating services;

(d) Annually suggest changes in state and federal law and rules to bring all publicly funded health programs in compliance with the goals and intent of chapter 492, Laws of 1993;

(e) Consult regularly with the governor, the legislature, and state agency directors whose operations are affected by the implementation of this section. [1993 c 492 § 227.]

Reviser's note: 1993 c 492 directed that this section be added to Title 43 RCW. The placement appears inappropriate and the section has been codified as part of chapter 41.05 RCW.

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

41.05.050 Contributions for employees and dependents—Survey of group insurance programs. (Effective until October 1, 1993.) (1) Every department, division, or separate agency of state government, and such county, municipal, or other political subdivisions as are covered by this chapter, shall provide contributions to insurance and health care plans for its employees and their dependents, the content of such plans to be determined by the authority. Contributions, paid by the county, the municipality, or other political subdivision for their employees, shall include an amount determined by the authority to pay such administrative expenses of the authority as are necessary to administer the plans for employees of those groups. All such contributions will be paid into the public employees' health insurance account.

(2) The contributions of any department, division, or separate agency of the state government, and such county, municipal, or other political subdivisions as are covered by this chapter, shall be set by the authority, subject to the approval of the governor for availability of funds as specifically appropriated by the legislature for that purpose. Insurance and health care contributions for ferry employees shall be governed by RCW 47.64.270 until December 31, 1996. On and after January 1, 1997, ferry employees shall enroll with certified health plans under chapter 492, Laws of 1993.

(3) The administrator with the assistance of the public employees' benefits board shall survey private industry and public employers in the state of Washington to determine the average employer contribution for group insurance programs under the jurisdiction of the authority. Such survey shall be conducted during each even-numbered year but may be conducted more frequently. The survey shall be reported to the authority for its use in setting the amount of the recommended employer contribution to the employee insurance benefit program covered by this chapter. The authority shall transmit a recommendation for the amount of the employer contribution to the governor and the director of financial management for inclusion in the proposed budgets submitted to the legislature. [1993 c 492 § 216; 1988 c 107 § 18; 1987 c 122 § 4; 1984 c 107 § 1; 1983 c 15 § 20; 1983 c 2 § 9. Prior: 1982 1st ex.s. c 34 § 2; 1981 c 344 § 6; 1979 c 151 § 55; 1977 ex.s. c 136 § 4; 1975-'76 2nd ex.s. c 106 § 4; 1975 1st ex.s. c 38 § 2; 1973 1st ex.s. c 147 § 3; 1970 ex.s. c 39 § 5.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Severability—1983 c 15: See RCW 47.64.910.

Severability—1983 c 2: See note following RCW 18.71.030.

Severability—1981 c 344: See note following RCW 47.60.326.

Effective date—Conditions prerequisite to implementing sections—1977 ex.s. c 136: "This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1977: PROVIDED, That if the state operating budget appropriations act does not contain the funds necessary for the implementation of this 1977 amendatory act in an appropriated amount sufficient to fully fund the employer's contribution to the state employee insurance benefits program

which is established by the board in accordance with RCW 41.05.050 (2) and (3) as now or hereafter amended, sections 1, 5, and 6 of this 1977 amendatory act shall be null and void." [1977 ex.s. c 136 § 8.] For codification of 1977 ex.s. c 136, see Codification Tables, Volume 0.

Effective date—Effect of veto—1973 1st ex.s. c 147: "This bill shall not take effect until the funds necessary for its implementation have been specifically appropriated by the legislature and such appropriation itself has become law. It is the intention of the legislature that if the governor shall veto this section or any item thereof, none of the provisions of this bill shall take effect." [1973 1st ex.s. c 147 § 10.]

Savings—1973 1st ex.s. c 147: "Nothing contained in this 1973 amendatory act shall be deemed to amend, alter or affect the provisions of Chapter 23, Laws of 1972, Extraordinary Session, and RCW 28B.10.840 through 28B.10.844 as now or hereafter amended." [1973 1st ex.s. c 147 § 13.]

Severability—1973 1st ex.s. c 147: "If any provision of this 1973 amendatory act, or its application to any person or circumstances is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 1st ex.s. c 147 § 9.]

Severability—1970 ex.s. c 39: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1970 ex.s. c 39 § 14.]

41.05.050 Contributions for employees and dependents—Survey of group insurance programs. (Effective October 1, 1993.) (1) Every department, division, or separate agency of state government, and such county, municipal, or other political subdivisions as are covered by this chapter, shall provide contributions to insurance and health care plans for its employees and their dependents, the content of such plans to be determined by the authority. Contributions, paid by the county, the municipality, or other political subdivision for their employees, shall include an amount determined by the authority to pay such administrative expenses of the authority as are necessary to administer the plans for employees of those groups. Contributions to be paid by school districts or educational service districts shall be adjusted by the authority to reflect that retired school employees are covered under RCW 41.05.250, and are not covered under RCW 41.05.080. All such contributions will be paid into the public employees' health insurance account.

(2) The contributions of any department, division, or separate agency of the state government, and such county, municipal, or other political subdivisions as are covered by this chapter, shall be set by the authority, subject to the approval of the governor for availability of funds as specifically appropriated by the legislature for that purpose. Insurance and health care contributions for ferry employees shall be governed by RCW 47.64.270 until December 31, 1996. On and after January 1, 1997, ferry employees shall enroll with certified health plans under chapter 492, Laws of 1993.

(3) The administrator with the assistance of the public employees' benefits board shall survey private industry and public employers in the state of Washington to determine the average employer contribution for group insurance programs under the jurisdiction of the authority. Such survey shall be conducted during each even-numbered year but may be conducted more frequently. The survey shall be reported to the authority for its use in setting the amount of the recommended employer contribution to the employee insurance benefit program covered by this chapter. The authority shall transmit a recommendation for the amount of the employer contribution to the governor and the director of financial management for inclusion in the proposed budgets submitted to the legislature. [1993 c 492 § 216; 1993 c 386 § 7; 1988 c 107 § 18; 1987 c 122 § 4; 1984 c 107 § 1; 1983 c 15 § 20; 1983 c 2 § 9. Prior: 1982 1st ex.s. c 34 § 2; 1981 c 344 § 6; 1979 c 151 § 55; 1977 ex.s. c 136 § 4; 1975-'76 2nd ex.s. c 106 § 4; 1975 1st ex.s. c 38 § 2; 1973 1st ex.s. c 147 § 3; 1970 ex.s. c 39 § 5.]

Reviser's note: This section was amended by 1993 c 386 § 7 and by 1993 c 492 § 216, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Effective date—1993 c 386 §§ 3, 7, and 11: See note following RCW 41.04.205.

Intent—1993 c 386: See note following RCW 28A.400.391.

Severability—1983 c 15: See RCW 47.64.910.

Severability—1983 c 2: See note following RCW 18.71.030.

Severability—1981 c 344: See note following RCW 47.60.326.

Effective date—Conditions prerequisite to implementing sections—1977 ex.s. c 136: "This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1977: PROVIDED, That if the state operating budget appropriations act does not contain the funds necessary for the implementation of this 1977 amendatory act in an appropriated amount sufficient to fully fund the employer's contribution to the state employee insurance benefits program which is established by the board in accordance with RCW 41.05.050 (2) and (3) as now or hereafter amended, sections 1, 5, and 6 of this 1977 amendatory act shall be null and void." [1977 ex.s. c 136 § 8.] For codification of 1977 ex.s. c 136, see Codification Tables, Volume 0.

Effective date—Effect of veto—1973 1st ex.s. c 147: "This bill shall not take effect until the funds necessary for its implementation have been specifically appropriated by the legislature and such appropriation itself has become law. It is the intention of the legislature that if the governor shall veto this section or any item thereof, none of the provisions of this bill shall take effect." [1973 1st ex.s. c 147 § 10.]

Savings—1973 1st ex.s. c 147: "Nothing contained in this 1973 amendatory act shall be deemed to amend, alter or affect the provisions of Chapter 23, Laws of 1972, Extraordinary Session, and RCW 28B.10.840 through 28B.10.844 as now or hereafter amended." [1973 1st ex.s. c 147 § 13.]

Severability—1973 1st ex.s. c 147: "If any provision of this 1973 amendatory act, or its application to any person or circumstances is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 1st ex.s. c 147 § 9.]

Severability—1970 ex.s. c 39: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1970 ex.s. c 39 § 14.]

41.05.055 Public employees' benefits board—Members. (1) The public employees' benefits board is created within the authority. The function of the board is to design and approve insurance benefit plans for state employees and school district employees.

(2) Effective January 1, 1995, the board shall be composed of nine members appointed by the governor as follows:

(a) Two representatives of state employees, one of whom shall represent an employee union certified as exclusive representative of at least one bargaining unit of classified employees, and one of whom is retired, is covered by a program under the jurisdiction of the board, and represents an organized group of retired public employees;

(b) Two representatives of school district employees, one of whom shall represent an association of school employees and one of whom is retired, and represents an organized group of retired school employees;

(c) Four members with experience in health benefit management and cost containment; and

(d) The administrator.

Prior to January 1, 1995, the composition of the public employees' benefits board shall reflect its composition on January 1, 1993.

(3) The governor shall appoint the initial members of the board to staggered terms not to exceed four years. Members appointed thereafter shall serve two-year terms. Members of the board shall be compensated in accordance with RCW 43.03.250 and shall be reimbursed for their travel expenses while on official business in accordance with RCW 43.03.050 and 43.03.060. The board shall prescribe rules for the conduct of its business. The administrator shall serve as chair of the board. Meetings of the board shall be at the call of the chair. [1993 c 492 § 217; 1989 c 324 § 1; 1988 c 107 § 7.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

41.05.065 Public employees' benefits board—Duties. (1) The board shall study all matters connected with the provision of health care coverage, life insurance, liability insurance, accidental death and dismemberment insurance, and disability income insurance or any of, or a combination of, the enumerated types of insurance for employees and their dependents on the best basis possible with relation both to the welfare of the employees and to the state, however liability insurance shall not be made available to dependents.

(2) The public employees' benefits board shall develop employee benefit plans that include comprehensive health care benefits for all employees. In developing these plans, the board shall consider the following elements:

(a) Methods of maximizing cost containment while ensuring access to quality health care;

(b) Development of provider arrangements that encourage cost containment and ensure access to quality care, including but not limited to prepaid delivery systems and prospective payment methods;

(c) Wellness incentives that focus on proven strategies, such as smoking cessation, exercise, automobile and motorcycle safety, blood cholesterol reduction, and nutrition education;

(d) Utilization review procedures including, but not limited to prior authorization of services, hospital inpatient length of stay review, requirements for use of outpatient surgeries and second opinions for surgeries, review of invoices or claims submitted by service providers, and performance audit of providers;

(e) Effective coordination of benefits;

(f) Minimum standards for insuring entities; and

(g) Minimum scope and content of standard benefit plans to be offered to enrollees participating in the employee health benefit plans. On and after July 1, 1995, the uniform benefits package shall constitute the minimum level of health benefits offered to employees. To maintain the comprehensive nature of employee health care benefits, employee eligibility criteria related to the number of hours worked and the benefits provided to employees shall be substantially equivalent to the state employees' health benefits plan and eligibility criteria in effect on January 1, 1993.

(3) The board shall design benefits and determine the terms and conditions of employee participation and coverage, including establishment of eligibility criteria.

(4) The board shall attempt to achieve enrollment of all employees and retirees in managed health care systems by July 1994.

The board may authorize premium contributions for an employee and the employee's dependents in a manner that encourages the use of cost-efficient managed health care systems.

(5) Employees shall choose participation in one of the health care benefit plans developed by the board.

(6) The board shall review plans proposed by insurance carriers that desire to offer property insurance and/or accident and casualty insurance to state employees through payroll deduction. The board may approve any such plan for payroll deduction by carriers holding a valid certificate of authority in the state of Washington and which the board determines to be in the best interests of employees and the state. The board shall promulgate rules setting forth criteria by which it shall evaluate the plans.

(7) The board shall develop benefit plans that provide health care benefits for retired or disabled school employees and their dependents, and shall establish terms and conditions of coverage under the plans. The board shall make available separate and appropriate plans that supplement medicare for retired or disabled school employees who are eligible for federal medicare coverage. The board shall also consider the elements referenced in subsection (2) of this section in developing the plans. [1993 c 492 § 218; 1993 c 386 § 9; 1988 c 107 § 8.]

Reviser's note: This section was amended by 1993 c 386 § 9 and by 1993 c 492 § 218, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Intent—1993 c 386: See note following RCW 28A.400.391.

Effective date—1993 c 386 §§ 1, 2, 4-6, 8-10, and 12-16: See note following RCW 28A.400.391.

41.05.075 Employee benefit plans—Contracts with insuring entities. (1) The administrator shall provide benefit plans designed by the board through a contract or contracts with insuring entities, through self-funding, self-insurance, or other methods of providing insurance coverage authorized by RCW 41.05.140.

(2) The administrator shall establish a contract bidding process that encourages competition among insuring entities, is timely to the state budgetary process, and sets conditions for awarding contracts to any insuring entity.

(3) The administrator shall establish a requirement for review of utilization and financial data from participating insuring entities on a quarterly basis.

(4) The administrator shall centralize the enrollment files for all employee and retired or disabled school employee health plans offered under chapter 41.05 RCW and develop enrollment demographics on a plan-specific basis.

(5) The administrator shall establish methods for collecting, analyzing, and disseminating to covered individuals information on the cost and quality of services rendered by individual health care providers.

(6) All claims data shall be the property of the state. The administrator may require of any insuring entity that submits a bid to contract for coverage all information deemed necessary to fulfill the administrator's duties as set forth in this chapter.

(7) All contracts with insuring entities for the provision of health care benefits shall provide that the beneficiaries of such benefit plans may use on an equal participation basis the services of practitioners licensed pursuant to chapters 18.22, 18.25, 18.32, 18.53, 18.57, 18.71, 18.74, 18.83, and 18.88 RCW. However, nothing in this subsection may preclude the administrator from establishing appropriate utilization controls approved pursuant to *RCW 41.05.065(2)(a)(i), (b), and (d).

(8) Beginning in January 1990, and each January thereafter, the administrator shall publish and distribute to each school district a description of health care benefit plans available through the authority and the estimated cost if school district employees were enrolled. [1993 c 386 § 10; 1988 c 107 § 9.]

***Reviser's note:** RCW 41.05.065(2)(a)(i) apparently refers to a subsection in a preliminary version of the bill that was deleted in the final version as enacted.

Intent—1993 c 386: See note following RCW 28A.400.391.

Effective date—1993 c 386 §§ 1, 2, 4-6, 8-10, and 12-16: See note following RCW 28A.400.391.

41.05.080 Participation by retired or disabled employees. (Effective October 1, 1993.) Retired or disabled state employees, or employees of county, municipal, or other political subdivisions covered by this chapter who are retired, but not including retired or disabled school employees, may continue their participation in insurance plans and contracts after retirement or disablement, under the qualifications, terms, conditions, and benefits set by the board: PROVIDED, That the rates charged such retired or disabled employees for health care will be developed from the same experience pool as active employees: PROVIDED FURTHER, That such retired or disabled employees shall bear the full cost of premiums required to provide such coverage: PROVIDED FURTHER, That such self pay rates will be established based on a separate rate for the employee, the spouse, and the children: PROVIDED FURTHER, That rates for a retired or disabled employee, spouse, or child who is eligible for and who elects to apply for medicare will be actuarially reduced to reflect the value of Part A and Part B of medicare. The term "retired state employees" for the purpose of this section shall include but not be limited to members of the legislature whether voluntarily or involuntarily leaving state office. [1993 c 386 § 11; 1977 ex.s. c 136 § 6; 1975-'76 2nd ex.s. c 106 § 6; 1973 1st ex.s. c 147 § 7; 1970 ex.s. c 39 § 8.]

Effective date—1993 c 386 §§ 3, 7, and 11: See note following RCW 41.04.205.

Intent—1993 c 386: See note following RCW 28A.400.391.

Effective date—Conditions prerequisite to implementing sections—1977 ex.s. c 136: See note following RCW 41.05.050.

Effective date—Effect of veto—Savings—Severability—1973 1st ex.s. c 147: See notes following RCW 41.05.050.

Severability—1970 ex.s. c 39: See note following RCW 41.05.050.

41.05.120 Public employees' insurance account. (1) The public employees' insurance account is hereby established in the custody of the state treasurer, to be used by the administrator for the deposit of contributions, reserves, dividends, and refunds, and for payment of premiums for employee insurance benefit contracts. Moneys from the account shall be disbursed by the state treasurer by warrants on vouchers duly authorized by the administrator.

(2) The state treasurer and the state investment board may invest moneys in the public employees' insurance account. All such investments shall be in accordance with RCW 43.84.080 or 43.84.150, whichever is applicable. The administrator shall determine whether the state treasurer or the state investment board or both shall invest moneys in the public employees' insurance account. [1993 c 492 § 219; 1991 sp.s. c 13 § 100; 1988 c 107 § 10.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

41.05.140 Payment of claims—Self-insurance—Insurance reserve funds created. (1) The authority may self-fund, self-insure, or enter into other methods of providing insurance coverage for insurance programs under its jurisdiction except property and casualty insurance. The authority shall contract for payment of claims or other administrative services for programs under its jurisdiction. If a program does not require the prepayment of reserves, the authority shall establish such reserves within a reasonable period of time for the payment of claims as are normally required for that type of insurance under an insured program.

(2) Reserves established by the authority for employee benefit programs shall be held in a separate trust fund by the state treasurer and shall be known as the public employees' insurance reserve fund. The state investment board shall act as the investor for the funds and, except as provided in RCW 43.33A.160, one hundred percent of all earnings from these investments shall accrue directly to the public employees' insurance reserve fund.

(3) Reserves established by the authority for programs for retired or disabled school employees shall be held in a separate trust fund by the state treasurer and shall be known as the retired school employees' insurance reserve fund hereby created. The state investment board shall act as the investor for the funds and, except as provided in RCW 43.33A.160, one hundred percent of all earnings from these investments shall accrue directly to the retired school employees' insurance reserve fund.

(4) Any savings realized as a result of a program created for employees under this section shall not be used to increase benefits unless such use is authorized by statute.

(5) Any program created under this section shall be subject to the examination requirements of chapter 48.03 RCW as if the program were a domestic insurer. In conducting an examination, the commissioner shall determine the adequacy of the reserves established for the program.

(6) The authority shall keep full and adequate accounts and records of the assets, obligations, transactions, and affairs of any program created under this section.

(7) The authority shall file a quarterly statement of the financial condition, transactions, and affairs of any program created under this section in a form and manner prescribed by the insurance commissioner. The statement shall contain information as required by the commissioner for the type of insurance being offered under the program. A copy of the annual statement shall be filed with the speaker of the house of representatives and the president of the senate. [1993 c 492 § 220; 1993 c 386 § 12; 1988 c 107 § 12.]

Reviser's note: This section was amended by 1993 c 386 § 12 and by 1993 c 492 § 220, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Intent—1993 c 386: See note following RCW 28A.400.391.

Effective date—1993 c 386 §§ 1, 2, 4-6, 8-10, and 12-16: See note following RCW 28A.400.391.

41.05.190 Medicare supplemental insurance plan. The administrator, in consultation with the public employees' benefits board, shall design a self-insured medicare supplemental insurance plan for retired and disabled employees eligible for medicare. For the purpose of determining the appropriate scope of the self-funded medicare supplemental plan, the administrator shall consider the differences in the scope of health services available under the uniform benefits package and the medicare program. The proposed plan shall be submitted to appropriate committees of the legislature by December 1, 1993. [1993 c 492 § 221.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

41.05.195 Medicare supplemental insurance policies. Notwithstanding any other provisions of this title or rules or procedures adopted by the authority, the authority shall make available to retired or disabled employees who are eligible for medicare at least two medicare supplemental insurance policies that conform to the requirements of chapter 48.66 RCW. One policy shall include coverage for prescription drugs. The policies shall be chosen in consultation with the public employees' benefits board. These policies shall be made available to retired or disabled employees, or employees of county, municipal, or other political subdivisions eligible for coverage available under the authority. All offerings shall be made available not later than January 1, 1994. [1993 c 492 § 222.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

41.05.197 Medicare supplemental insurance policies—January 1995 federal waiver threshold. If a waiver of the medicare statute, Title XVIII of the federal social security act, sufficient to meet the requirements of chapter 492, Laws of 1993 is not granted on or before January 1, 1995, the medicare supplemental insurance policies authorized under RCW 41.05.195 shall be made available to any resident of the state eligible for medicare benefits. Except for those retired state or school district employees eligible to purchase medicare supplemental benefits through the authority, persons purchasing a medicare supplemental insurance policy under this section shall be required to pay the full cost of any such policy. [1993 c 492 § 223.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

41.05.200 Washington state group purchasing association—Generally. (Effective until June 30, 1998.) (1) The Washington state group purchasing association is established for the purpose of coordinating and enhancing the health care purchasing power of the groups identified in subsection (2) of this section. The purchasing association shall be administered by the administrator.

(2) The following organizations or entities may seek the approval of the administrator for membership in the purchasing association:

(a) Private nonprofit human services provider organizations under contract with state agencies, on behalf of their employees and their employees' spouses and dependent children;

(b) Individuals providing in-home long-term care services to persons whose care is financed in whole or in part through the medical assistance personal care or community options program entry system program as provided in chapter 74.09 RCW, or the chore services program, as provided in chapter 74.08 RCW, on behalf of themselves and their spouses and dependent children;

(c) Owners and operators of child day care centers and family child care homes licensed under chapter 74.15 RCW and of preschool or other child care programs exempted from licensing under chapter 74.15 RCW on behalf of themselves and their employees and employees' spouses and dependent children; and

(d) Foster parents contracting with the department of social and health services under chapter 74.13 RCW and licensed under chapter 74.15 RCW on behalf of themselves and their spouses and dependent children.

(3) In administering the purchasing association, the administrator shall:

(a) Negotiate and enter into contracts on behalf of the purchasing association's members in conjunction with its contracting and purchasing activities for employee benefits plans under RCW 41.05.075. In negotiating and contracting with insuring entities on behalf of employees and purchasing association members, two distinct pools shall be maintained.

(b) Review and approve or deny applications from entities seeking membership in the purchasing association:

(i) The administrator may require all or the substantial majority of the employees of the organizations or entities listed in subsection (2) of this section to enroll in the purchasing association.

(ii) The administrator shall require, that as a condition of membership in the purchasing association, an entity or organization listed in subsection (2) of this section that employs individuals pay at least fifty percent of the cost of the health insurance coverage for each employee enrolled in the purchasing association.

(iii) In offering and administering the purchasing association, the administrator may not discriminate against individuals or groups based on age, gender, geographic area, industry, or medical history.

(4) On and after July 1, 1995, the uniform benefits package and schedule of premiums and point of service cost-sharing adopted and from time to time revised by the health services commission pursuant to chapter 492, Laws of 1993 shall be applicable to the association.

(5) The administrator shall adopt preexisting condition coverage provisions for the association as provided in RCW 48.20.540, 48.21.340, 48.44.480, and 48.46.550.

(6) Premiums charged to purchasing association members shall include the authority's reasonable administrative and marketing costs. Purchasing association members may not receive any subsidy from the state for the purchase of health insurance coverage through the association.

(7)(a) The Washington state group purchasing association account is established in the custody of the state treasurer, to be used by the administrator for the deposit of premium payments from individuals and entities described in subsection (2) of this section, and for payment of premiums for benefit contracts entered into on behalf of the purchasing association's participants and operating expenses incurred by the authority in the administration of benefit contracts under this section. Moneys from the account shall be disbursed by the state treasurer by warrants on vouchers duly authorized by the administrator.

(b) Disbursements from the account are not subject to appropriations, but shall be subject to the allotment procedure provided under chapter 43.88 RCW. [1993 c 492 § 228.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

41.05.200 Repealed. (Effective June 30, 1998.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

41.05.210 Washington state group purchasing association—Marketing plan. (Effective until June 30, 1998.) The administrator shall develop a marketing plan for the basic health plan and the Washington state group purchasing association. The plan shall be targeted to individuals and entities eligible to enroll in the two programs and provide clear and understandable explanations of the programs and enrollment procedures. The plan also shall incorporate special efforts to reach communities and people of color. [1993 c 492 § 229.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

41.05.210 Repealed. (Effective June 30, 1998.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

41.05.220 Community and migrant health centers—Maternity health care centers—People of color—Underserved populations. (1) State general funds appropriated to the department of health for the purposes of funding community health centers to provide primary health and dental care services, migrant health services, and maternity health care services shall be transferred to the state health care authority. Any related administrative funds expended by the department of health for this purpose shall also be transferred to the health care authority. The health care authority shall exclusively expend these funds through contracts with community health centers to provide primary health and dental care services, migrant health services, and maternity health care services. The administrator of the health care authority shall establish requirements necessary to assure community health centers provide quality health care services that are appropriate and effective and are delivered in a cost-efficient manner. The administrator shall further assure that community health centers have appropriate referral arrangements for acute care and medical specialty services not provided by the community health centers.

(2) To further the intent of chapter 492, Laws of 1993, the health care authority, in consultation with the department of health, shall evaluate the organization and operation of the federal and state-funded community health centers and other not-for-profit health care organizations and propose recommendations to the health services commission and the health policy committees of the legislature by November 30, 1994, that identify changes to permit community health centers and other not-for-profit health care organizations to form certified health plans or other innovative health care delivery arrangements that help ensure access to primary health care services consistent with the purposes of chapter 492, Laws of 1993.

(3) The authority, in consultation with the department of health, shall work with community and migrant health clinics and other providers of care to underserved populations, to ensure that the number of people of color and underserved people receiving access to managed care is expanded in proportion to need, based upon demographic data. [1993 c 492 § 232.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

41.05.230 Multicultural health care technical assistance program. (1) Consistent with funds appropriated specifically for this purpose, the authority shall provide matching grants to support community-based multicultural health care technical assistance programs. The purpose of

the programs shall be to promote technical assistance through community and migrant health clinics and other appropriate health care providers who serve underserved populations and persons of color.

The technical assistance provided shall include, but is not limited to: (a) Collaborative research and data analysis on health care outcomes that disproportionately affect persons of color; (b) design and development of model health education and promotion strategies aimed at modifying unhealthy health behaviors or enhancing the use of the health care delivery system by persons of color; (c) provision of technical information and assistance on program planning and financial management; (d) administration, public policy development, and analysis in health care issues affecting people of color; and (e) enhancement and promotion of health care career opportunities for persons of color.

(2) Consistent with appropriated funds, the programs shall be available on a state-wide basis. [1993 c 492 § 272.]

Finding—1993 c 492: See note following RCW 28B.125.010.

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

41.05.240 American Indian health care delivery plan. Consistent with funds appropriated specifically for this purpose, the authority shall establish in conjunction with the area Indian health services system and providers an advisory group comprised of Indian and non-Indian health care facilities and providers to formulate an American Indian health care delivery plan. The plan shall include:

(1) Recommendations to providers and facilities methods for coordinating and joint venturing with the Indian health services for service delivery;

(2) Methods to improve American Indian-specific health programming; and

(3) Creation of co-funding recommendations and opportunities for the unmet health services programming needs of American Indians. [1993 c 492 § 468.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

41.05.250 Retired or disabled school employees—Purchase of insurance from authority. (1) After October 1, 1993, retired or disabled school employees and their dependents may purchase health care insurance coverage from the authority under terms and conditions established by this chapter and by the board.

(2) Retired or disabled school employees may enroll in benefit plans under the authority during enrollment periods established by the board.

(3) Retired or disabled school employees and their dependents shall pay the cost of premiums for the insurance offered by the authority. The authority shall charge as premiums, the cost to the authority of providing insurance coverage for retired and disabled school employees and their dependents, including any amounts necessary for reserves and administration. However, the premiums charged to a retired or disabled school employee shall be reduced by the amount of the subsidy provided in RCW 41.05.260. [1993 c 386 § 14.]

Intent—1993 c 386: See note following RCW 28A.400.391.

Effective date—1993 c 386 §§ 1, 2, 4-6, 8-10, and 12-16: See note following RCW 28A.400.391.

41.05.260 Retired school employees' subsidy account established. (1) The retired school employees' subsidy account is hereby established in the custody of the state treasurer, to be used by the administrator for the deposit of the remittance paid by school districts and educational service districts under RCW 28A.400.400.

(2) Moneys available in the account, as determined by the administrator, shall be used to reduce the health care insurance premiums charged to retired or disabled school employees under this chapter. The amount of any premium reduction shall be established by the board. However, use of moneys from the account shall not result in a premium reduction for retired or disabled school employees of more than fifty percent. Moneys from the account may be used to reduce premiums charged to dependents at the discretion of the board.

(3) From October 1, 1993, through September 30, 1994, moneys available in the account shall also be used to reduce premiums charged to persons who meet the definition of retired or disabled school employee in RCW 41.05.011, are not eligible for federal medicare coverage, and are covered under a group-purchased health insurance plan through a school district or educational service district. The moneys shall be paid to the appropriate insurance carrier, or in the case of self-insurance, to the district. Payments shall be made subject to submission of information to the satisfaction of the administrator that the recipient of the premium reduction is eligible to receive the reduction and that the moneys are used for their intended purpose. If health care insurance for active school district and educational service district employees is required to be provided solely through the authority beginning on or before October 1, 1993, the provisions of this subsection (3) shall have no effect.

(4) Should the legislature revoke or reduce any remuneration or benefits granted under this section, an affected retired or disabled employee shall not be entitled thereafter to receive such benefits as a matter of contractual right.

(5) Moneys from the account shall be disbursed by the state treasurer by warrants on vouchers duly authorized by the administrator.

(6) The state treasurer and the state investment board may invest moneys in the retired school employees' subsidy account. All such investments shall be in accordance with RCW 43.84.080 or 43.84.150, whichever is applicable. The administrator shall determine whether the state treasurer or the state investment board or both shall invest moneys in the account. [1993 c 386 § 15.]

Intent—1993 c 386: See note following RCW 28A.400.391.

Effective date—1993 c 386 §§ 1, 2, 4-6, 8-10, and 12-16: See note following RCW 28A.400.391.

41.05.270 Retired school employees' insurance account established. (1) The retired school employees' insurance account is hereby established in the custody of the state treasurer, to be used by the administrator for the

deposit of contributions, premium payments from retired or disabled school employees, subsidy amounts from the retired school employees' subsidy account, reserves, dividends, and refunds, and for payment of premiums for retired or disabled school employee benefit contracts and operating expenses incurred by the authority in the administration of benefit plans for retired or disabled school employees. Moneys from the account shall be disbursed by the state treasurer by warrants on vouchers duly authorized by the administrator.

(2) Disbursements from the account are not subject to appropriation, but shall be subject to the allotment procedure provided under chapter 43.88 RCW.

(3) The state treasurer and the state investment board may invest moneys in the retired school employees' insurance account. All such investments shall be in accordance with RCW 43.84.080 or 43.84.150, whichever is applicable. The administrator shall determine whether the state treasurer or the state investment board or both shall invest moneys in the account. [1993 c 386 § 16.]

Intent—1993 c 386: See note following RCW 28A.400.391.

Effective date—1993 c 386 §§ 1, 2, 4-6, 8-10, and 12-16: See note following RCW 28A.400.391.

41.05.280 Department of corrections—Inmate health care. The department of corrections shall consult with the state health care authority to identify how the department of corrections shall develop a working plan to correspond to the health care reform measures that require all departments to place all state purchased health services in a community-rated, single risk pool under the direct administrative authority of the state purchasing agent by July 1, 1997. The department of corrections shall report the findings to the chairs of the house of representatives health care committee and committee on corrections and the chairs of the senate committee on health and human services and the law and justice committee by December 12, 1993. [1993 c 504 § 3.]

Findings—1993 c 504: "The legislature finds that Washington state government purchases approximately one-fourth of all the health care state-wide. In addition to this huge expenditure, the state also faces health care inflation rates, far exceeding the growth rate of the economy as a whole and the general inflationary rate. Together these factors are straining state resources beyond our capability to pay.

The legislature finds that the department of corrections is responsible for providing health care to a large and growing number of offenders. It is also facing rapidly escalating medical, dental, and mental health care expenditures. As a result of this, the department must review its entire inmate health care system and take steps to reduce health care expenditures.

The legislature further finds that efforts to achieve state-wide health care reform should also include the department of correction's health care facilities. In this light, the department must develop an appropriate plan that will correspond to the changing health care environment." [1993 c 504 § 1.]

Effective date—1993 c 504: "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 [May 18, 1993]." [1993 c 504 § 4.]

Chapter 41.06
STATE CIVIL SERVICE LAW

Sections

41.06.020 Definitions. Unless the context clearly indicates otherwise, the words used in this chapter have the meaning given in this section.

(1) "Agency" means an office, department, board, commission, or other separate unit or division, however designated, of the state government and all personnel thereof; it includes any unit of state government established by law, the executive officer or members of which are either elected or appointed, upon which the statutes confer powers and impose duties in connection with operations of either a governmental or proprietary nature.

(2) "Board" means the Washington personnel resources board established under the provisions of RCW 41.06.110,

except that this definition does not apply to the words "board" or "boards" when used in RCW 41.06.070.

(3) "Classified service" means all positions in the state service subject to the provisions of this chapter.

(4) "Competitive service" means all positions in the classified service for which a competitive examination is required as a condition precedent to appointment.

(5) "Comparable worth" means the provision of similar salaries for positions that require or impose similar responsibilities, judgments, knowledge, skills, and working conditions.

(6) "Noncompetitive service" means all positions in the classified service for which a competitive examination is not required.

(7) "Department" means an agency of government that has as its governing officer a person, or combination of persons such as a commission, board, or council, by law empowered to operate the agency responsible either to (a) no other public officer or (b) the governor.

(8) "Career development" means the progressive development of employee capabilities to facilitate productivity, job satisfaction, and upward mobility through work assignments as well as education and training that are both state-sponsored and are achieved by individual employee efforts, all of which shall be consistent with the needs and obligations of the state and its agencies.

(9) "Training" means activities designed to develop job-related knowledge and skills of employees.

(10) "Director" means the director of personnel appointed under the provisions of RCW 41.06.130.

(11) "Affirmative action" means a procedure by which racial minorities, women, persons in the protected age category, persons with disabilities, Vietnam-era veterans, and disabled veterans are provided with increased employment opportunities. It shall not mean any sort of quota system.

(12) "Institutions of higher education" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges.

(13) "Related boards" means the state board for community and technical colleges; and such other boards, councils, and commissions related to higher education as may be established. [1993 c 281 § 19. Prior: 1985 c 461 § 1; 1985 c 365 § 3; 1983 1st ex.s. c 75 § 4; 1982 1st ex.s. c 53 § 1; 1980 c 118 § 2; 1970 ex.s. c 12 § 1; prior: 1969 ex.s. c 36 § 21; 1969 c 45 § 6; 1967 ex.s. c 8 § 48; 1961 c 1 § 2 (Initiative Measure No. 207, approved November 8, 1960).]

Effective date—1993 c 281: See note following RCW 41.06.022.

Severability—1985 c 461: "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." [1985 c 461 § 17.]

Severability—1982 1st ex.s. c 53: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 1st ex.s. c 53 § 32.]

Severability—1980 c 118: See note following RCW 41.06.010.

41.06.022 "Manager"—Definition. For purposes of this chapter, "manager" means any employee who:

(1) Formulates state-wide policy or directs the work of an agency or agency subdivision;

(2) Is responsible to administer one or more state-wide policies or programs of an agency or agency subdivision;

(3) Manages, administers, and controls a local branch office of an agency or agency subdivision, including the physical, financial, or personnel resources;

(4) Has substantial responsibility in personnel administration, legislative relations, public information, or the preparation and administration of budgets; or

(5) Functionally is above the first level of supervision and exercises authority that is not merely routine or clerical in nature and requires the consistent use of independent judgment. [1993 c 281 § 8.]

Effective date—1993 c 281: "Sections 1 through 66 and 68 through 71 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 July 1, 1993." [1993 c 281 § 74.]

41.06.030 Department of personnel established. A department of personnel, governed by the Washington personnel resources board and administered by a director of personnel, is hereby established as a separate agency within the state government. [1993 c 281 § 20; 1961 c 1 § 3 (Initiative Measure No. 207, approved November 8, 1960).]

Effective date—1993 c 281: See note following RCW 41.06.022.

41.06.070 Exemptions—Right of reversion to civil service status—Exception (as amended by 1993 c 379). (1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, legislative budget committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security, fisheries, social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or committee; and a confidential secretary to the chair of the board, commission, or committee;

(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board;

(m) The public printer or to any employees of or positions in the state printing plant;

(n) Officers and employees of the Washington state fruit commission;

(o) Officers and employees of the Washington state apple advertising commission;

(p) Officers and employees of the Washington state dairy products commission;

(q) Officers and employees of the Washington tree fruit research commission;

(r) Officers and employees of the Washington state beef commission;

(s) Officers and employees of any commission formed under chapter 15.66 RCW;

(t) Officers and employees of the state wheat commission formed under chapter 15.63 RCW;

(u) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;

(v) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;

(w) Liquor vendors appointed by the Washington state liquor control board pursuant to RCW 66.08.050: PROVIDED, HOWEVER, That rules adopted by the Washington personnel resources board pursuant to RCW 41.06.150 regarding the basis for, and procedures to be followed for, the dismissal, suspension, or demotion of an employee, and appeals therefrom shall be fully applicable to liquor vendors except those part time agency vendors employed by the liquor control board when, in addition to the sale of liquor for the state, they sell goods, wares, merchandise, or services as a self-sustaining private retail business;

(x) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(y) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

(z) All employees of the marine employees' commission;

(aa) Up to a total of five senior staff positions of the western library network under chapter 27.26 RCW responsible for formulating policy or for directing program management of a major administrative unit. This subsection shall expire on June 30, 1997.

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice-presidents and their confidential secretaries, administrative and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

(b) Student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board, employed by institutions of higher education and related boards;

(c) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training((~~, and principal assistants to executive heads of major administrative or academic divisions,~~)) as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

(d) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the Washington personnel resources board may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the Washington personnel resources board stating the reasons for requesting such exemptions. The Washington personnel resources board shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the board determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the Washington personnel resources board shall grant the request and such determination shall be final as to any decision made before July 1, 1993. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor. The Washington personnel resources board shall report to each regular session of the legislature during an odd-numbered year all exemptions granted under subsections (1) (x) and (y) and (2) of this section, together with the reasons for such exemptions.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1) (j) through (v) and (2) of this section, shall be determined by the Washington personnel resources board.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section. [1993 c 379 § 306; 1993 c 281 § 21; 1990 c 60 § 101; 1989 c 96 § 8; 1987 c 389 § 2; 1985 c 221 § 1; 1984 c 210 § 2; 1983 c 15 § 21; 1982 1st ex.s. c 53 § 2; 1981 c 225 § 2; 1980 c 87 § 14; 1973 1st ex.s. c 133 § 1; 1972 ex.s. c 11 § 1. Prior: 1971 ex.s. c 209 § 1; 1971 ex.s. c 59 § 1; 1971 c 81 § 100; 1969 ex.s. c 36 § 23; 1967 ex.s. c 8 § 47; 1961 c 179 § 1; 1961 c 1 § 7 (Initiative Measure No. 207, approved November 8, 1960).]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

Effective date—1993 c 281: See note following RCW 41.06.022.

41.06.070 Exemptions—Right of reversion to civil service status—Exception (as amended by 1993 1st sp.s. c 2). (Effective July 1, 1994.) The provisions of this chapter do not apply to:

(1) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, legislative budget committee, statute law committee, and any interim committee of the legislature;

(2) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(3) Officers, academic personnel, and employees of state institutions of higher education, the state board for community and technical colleges ((~~education~~)), and the higher education personnel board;

(4) The officers of the Washington state patrol;

(5) Elective officers of the state;

(6) The chief executive officer of each agency;

(7) In the departments of employment security, ((~~fisheries,~~)) social and health services, the director and ((~~his~~)) the director's confidential secretary;

in all other departments, the executive head of which is an individual appointed by the governor, the director, ((~~his~~)) the director's confidential secretary, and ((~~his~~)) the director's statutory assistant directors;

(8) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(a) All members of such boards, commissions, or committees;

(b) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: (i) The secretary of the board, commission, or committee; (ii) the chief executive officer of the board, commission, or committee; and (iii) the confidential secretary of the chief executive officer of the board, commission, or committee;

(c) If the members of the board, commission, or committee serve on a full-time basis: (i) The chief executive officer or administrative officer as designated by the board, commission, or committee; and (ii) a confidential secretary to the chairman of the board, commission, or committee;

(d) If all members of the board, commission, or committee serve ex officio: (i) The chief executive officer; and (ii) the confidential secretary of such chief executive officer;

(9) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(10) Assistant attorneys general;

(11) Commissioned and enlisted personnel in the military service of the state;

(12) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the state personnel board or the board having jurisdiction;

(13) The public printer or to any employees of or positions in the state printing plant;

(14) Officers and employees of the Washington state fruit commission;

(15) Officers and employees of the Washington state apple advertising commission;

(16) Officers and employees of the Washington state dairy products commission;

(17) Officers and employees of the Washington tree fruit research commission;

(18) Officers and employees of the Washington state beef commission;

(19) Officers and employees of any commission formed under the provisions of chapter 191, Laws of 1955, and chapter 15.66 RCW;

(20) Officers and employees of the state wheat commission formed under the provisions of chapter 87, Laws of 1961 (chapter 15.63 RCW);

(21) Officers and employees of agricultural commissions formed under the provisions of chapter 256, Laws of 1961 (chapter 15.65 RCW);

(22) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;

(23) Liquor vendors appointed by the Washington state liquor control board pursuant to RCW 66.08.050: PROVIDED, HOWEVER, That rules and regulations adopted by the state personnel board pursuant to RCW 41.06.150 regarding the basis for, and procedures to be followed for, the dismissal, suspension, or demotion of an employee, and appeals therefrom shall be fully applicable to liquor vendors except those part time agency vendors employed by the liquor control board when, in addition to the sale of liquor for the state, they sell goods, wares, merchandise, or services as a self-sustaining private retail business;

(24) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(25) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

(26) All employees of the marine employees' commission;

(27) Up to a total of five senior staff positions of the western library network under chapter 27.26 RCW responsible for formulating policy or for directing program management of a major administrative unit. This subsection shall expire on June 30, 1997;

(28) In addition to the exemptions specifically provided by this chapter, the state personnel board may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the personnel board stating the reasons for requesting such exemptions. The personnel board shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the board determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the personnel board shall grant the request and such determination shall be final. The total number of additional exemptions permitted under this subsection shall not exceed one hundred eighty-seven for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor. The state personnel board shall report to each regular session of the legislature during an odd-numbered year all exemptions granted under subsections (24), (25), and (28) of this section, together with the reasons for such exemptions.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (10) through (22) of this section, shall be determined by the state personnel board.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section. [1993 1st sp.s. c 2 § 15; 1990 c 60 § 101; 1989 c 96 § 8; 1987 c 389 § 2; 1985 c 221 § 1; 1984 c 210 § 2; 1983 c 15 § 21; 1982 1st ex.s. c 53 § 2; 1981 c 225 § 2; 1980 c 87 § 14; 1973 1st ex.s. c 133 § 1; 1972 ex.s. c 11 § 1. Prior: 1971 ex.s. c 209 § 1; 1971 ex.s. c 59 § 1; 1971 c 81 § 100; 1969 ex.s. c 36 § 23; 1967 ex.s. c 8 § 47; 1961 c 179 § 1; 1961 c 1 § 7 (Initiative Measure No. 207, approved November 8, 1960).]

Reviser's note: RCW 41.06.070 was amended twice during the 1993 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Effective date—1993 1st sp.s. c 2 §§ 1-6, 8-59, and 61-79: See RCW 43.300.900.

Severability—1993 1st sp.s. c 2: See RCW 43.300.901.

Severability—1990 c 60: "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." [1990 c 60 § 403.]

Subheadings not law—1990 c 60: "Subheadings as used in this act do not constitute any part of the law." [1990 c 60 § 401.]

Findings—1989 c 96: See note following RCW 27.26.010.

Severability—1989 c 96: See RCW 27.26.900.

Severability—1987 c 389: "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." [1987 c 389 § 8.]

Effective date—1987 c 389: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1987." [1987 c 389 § 9.]

Savings—Severability—1984 c 210: See notes following RCW 67.40.020.

Severability—1983 c 15: See RCW 47.64.910.

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

Severability—1967 ex.s. c 8: See RCW 28B.50.910.

County road administration board: RCW 36.78.060.

State agencies and departments—Certain personnel exempted from chapter basic health plan: RCW 70.47.040.
board of health: RCW 43.20.030.

center for volunteerism and citizen service: RCW 43.150.040.
Columbia River Gorge commission: RCW 43.97.015.
commission on judicial conduct: RCW 2.64.050.
council for the prevention of child abuse and neglect: RCW 43.121.040.
department of
agriculture: RCW 41.06.084.
community, trade, and economic development: RCW 41.06.089.
corrections: RCW 41.06.071.
ecology: RCW 41.06.073, 43.21A.100.
general administration, supervisor of motor transport: RCW 43.19.585.
health: RCW 43.70.020.
information services: RCW 41.06.094.
retirement systems: RCW 41.50.070.
services for the blind: RCW 74.18.050.
social and health services: RCW 41.06.076, 43.20A.090.
transportation: RCW 41.06.079, 47.01.081.
veterans affairs: RCW 41.06.077.
economic and revenue forecast supervisor and staff: RCW 41.06.087.
energy office: RCW 41.06.081, 43.21F.035.
gambling commission: RCW 9.46.080.
law revision commission: RCW 41.06.083.
medical disciplinary board: RCW 18.72.155.
office of
administrative hearings: RCW 34.12.030.
financial management: RCW 41.06.075, 43.41.080.
minority and women's business enterprises: RCW 39.19.030.
personnel appeals board: RCW 41.64.050.
state actuary: RCW 44.44.030.
state convention and trade center: RCW 67.40.020.
state internship program: RCW 41.06.088.
state investment board: RCW 43.33A.100.
state lottery commission: RCW 67.70.050.
state school directors' association: RCW 41.06.086.
state treasurer: RCW 43.08.120.
state veterinarian: RCW 41.06.084.
superintendent of public instruction: RCW 28A.300.020.
Washington conservation corps: RCW 43.220.070.
Washington service corps: RCW 50.65.110.
Washington state patrol, drug control assistance unit: RCW 43.43.640.
world fair commission: RCW 41.06.085.
youth development and conservation corps: RCW 43.51.550.

41.06.076 Department of social and health services—Certain personnel exempted from chapter. In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply in the department of social and health services to the secretary; the secretary's executive assistant, if any; not to exceed six assistant secretaries, thirteen division directors, six regional directors; one confidential secretary for each of the above-named officers; not to exceed six bureau chiefs; and all superintendents of institutions of which the average daily population equals or exceeds one hundred residents: PROVIDED, That each such confidential secretary must meet the minimum qualifications for the class of secretary II as determined by the Washington personnel resources board. [1993 c 281 § 22; 1980 c 73 § 1; 1970 ex.s. c 18 § 8.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Effective date—Severability—1970 ex.s. c 18: See notes following RCW 43.20A.010.

41.06.079 Department of transportation—Certain personnel exempted from chapter. In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply in the department of transportation to the secretary, a deputy secretary, an administrative assistant to the secretary, if any, one assistant secretary for each division designated pursuant to RCW 47.01.081, one confidential secretary for each of the above-named officers, up to six transportation district administrators and one confidential secretary for each district administrator, up to six additional new administrators or confidential secretaries designated by the secretary of the department of transportation and approved by the Washington personnel resources board pursuant to the provisions of RCW 41.06.070(1)(z), the legislative liaison for the department, the state construction engineer, the state aid engineer, the personnel manager, the state project development engineer, the state maintenance and operations engineer, one confidential secretary for each of the last-named five positions, and a confidential secretary for the public affairs administrator. The individuals appointed under this section shall be exempt from the provisions of the state civil service law, and shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for individuals exempt from the operation of the state civil service law. [1993 c 281 § 23; 1985 c 178 § 1; 1977 ex.s. c 151 § 13.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Exempt positions filled pending permanent appointment—1977 ex.s. c 151: "If on *the effective date of this 1977 amendatory act, any exempt position designated hereinabove has not been filled by appointment, the person serving in the comparable exempt position, if any, in an agency whose functions are by **section 3 of this 1977 amendatory act transferred to the department of transportation shall fill such exempt position until a permanent appointment thereto has been made." [1977 ex.s. c 151 § 14.]

Reviser's note: *(1) "the effective date of this 1977 amendatory act" was September 21, 1977.

**(2) "section 3 of this 1977 amendatory act" is codified as RCW 47.01.031.

Federal requirements—Severability—1977 ex.s. c 151: See RCW 47.98.070 and 47.98.080.

41.06.093 Washington state patrol—Certain personnel exempted from this chapter. In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply in the Washington state patrol to confidential secretaries of agency bureau chiefs, or their functional equivalent, and a confidential secretary for the chief of staff: PROVIDED, That each confidential secretary must meet the minimum qualifications for the class of secretary II as determined by the Washington personnel resources board. [1993 c 281 § 24; 1990 c 14 § 1.]

Effective date—1993 c 281: See note following RCW 41.06.022.

41.06.110 Washington personnel resources board—Created—Term—Qualifications, conditions—Compensation, travel expenses—Officers, quorum, records. (1) There is hereby created a Washington personnel resources board composed of three members appointed by the governor, subject to confirmation by the senate. The members of the personnel board serving June 30, 1993, shall be the members of the Washington personnel resources board, and they shall complete their terms as under the personnel board. Each odd-numbered year thereafter the governor shall appoint a member for a six-year term. Each member shall continue to hold office after the expiration of the member's term until a successor has been appointed. Persons so appointed shall have clearly demonstrated an interest and belief in the merit principle, shall not hold any other employment with the state, shall not have been an officer of a political party for a period of one year immedi-

ately prior to such appointment, and shall not be or become a candidate for partisan elective public office during the term to which they are appointed;

(2) Each member of the board shall be compensated in accordance with RCW 43.03.250. The members of the board may receive any number of daily payments for official meetings of the board actually attended. Members of the board shall also be reimbursed for travel expenses incurred in the discharge of their official duties in accordance with RCW 43.03.050 and 43.03.060.

(3) At its first meeting following the appointment of all of its members, and annually thereafter, the board shall elect a chair and vice-chair from among its members to serve one year. The presence of at least two members of the board shall constitute a quorum to transact business. A written public record shall be kept by the board of all actions of the board. The director shall serve as secretary.

(4) The board may appoint and compensate hearing officers to hear and conduct appeals until December 31, 1982. Such compensation shall be paid on a contractual basis for each hearing, in accordance with the provisions of chapter 43.88 RCW and rules adopted pursuant thereto, as they relate to personal service contracts. [1993 c 281 § 25; 1984 c 287 § 69; 1982 c 10 § 8. Prior: 1981 c 338 § 20; 1981 c 311 § 16; 1977 c 6 § 2; prior: 1975-'76 2nd ex.s. c 43 § 1; 1975-'76 2nd ex.s. c 34 § 86; 1961 c 1 § 11 (Initiative Measure No. 207, approved November 8, 1960).]

Effective date—1993 c 281: See note following RCW 41.06.022.

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Severability—1982 c 10: See note following RCW 6.13.080.

Severability—1981 c 311: See RCW 41.64.910.

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

Adoption of rules for leave sharing program: RCW 41.04.670.

Appointment and compensation of institutional chaplains: RCW 72.01.210.

Personnel appeals board: Chapter 41.64 RCW.

41.06.130 Director of personnel—Appointment—Rules—Powers and duties—Delegation of authority. The office of director of personnel is hereby established.

(1) The director of personnel shall be appointed by the governor. The governor shall consult with, but shall not be obligated by recommendations of the board. The director's appointment shall be subject to confirmation by the senate.

(2) The director of personnel shall serve at the pleasure of the governor.

(3) The director of personnel shall direct and supervise all the department of personnel's administrative and technical activities in accordance with the provisions of this chapter and the rules adopted under it. The director shall prepare for consideration by the board proposed rules required by this chapter. The director's salary shall be fixed by the governor.

(4) The director of personnel may delegate to any agency the authority to perform administrative and technical personnel activities if the agency requests such authority and the director of personnel is satisfied that the agency has the personnel management capabilities to effectively perform the delegated activities. The director of personnel shall prescribe standards and guidelines for the performance of delegated activities. If the director of personnel determines that an agency is not performing delegated activities within the prescribed standards and guidelines, the director shall withdraw the authority from the agency to perform such activities. [1993 c 281 § 26; 1982 1st ex.s. c 53 § 3; 1961 c 1 § 13 (Initiative Measure No. 207, approved November 8, 1960).]

Effective date—1993 c 281: See note following RCW 41.06.022.

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

41.06.150 Rules of board—Mandatory subjects—Veterans' preference—Affirmative action. The board shall adopt rules, consistent with the purposes and provisions of this chapter, as now or hereafter amended, and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

(1) The reduction, dismissal, suspension, or demotion of an employee;

(2) Certification of names for vacancies, including departmental promotions, with the number of names equal to six more names than there are vacancies to be filled, such names representing applicants rated highest on eligibility lists: PROVIDED, That when other applicants have scores equal to the lowest score among the names certified, their names shall also be certified;

(3) Examinations for all positions in the competitive and noncompetitive service;

(4) Appointments;

(5) Training and career development;

(6) Probationary periods of six to twelve months and rejections of probationary employees, depending on the job requirements of the class, except that entry level state park rangers shall serve a probationary period of twelve months;

(7) Transfers;

(8) Sick leaves and vacations;

(9) Hours of work;

(10) Layoffs when necessary and subsequent reemployment, both according to seniority;

(11) Determination of appropriate bargaining units within any agency: PROVIDED, That in making such determination the board shall consider the duties, skills, and working conditions of the employees, the history of collective bargaining by the employees and their bargaining representatives, the extent of organization among the employees, and the desires of the employees;

(12) Certification and decertification of exclusive bargaining representatives: PROVIDED, That after certification of an exclusive bargaining representative and upon the representative's request, the director shall hold an election among employees in a bargaining unit to determine by a majority whether to require as a condition of employment membership in the certified exclusive bargaining representative on or after the thirtieth day following the beginning of employment or the date of such election, whichever is the later, and the failure of an employee to comply with such a condition of employment constitutes cause for dismissal: PROVIDED FURTHER, That no more often than once in each twelve-month period after expiration of twelve months following the date of the original election in a bargaining unit and upon petition of thirty percent of the members of a bargaining unit the director shall hold an election to deter-

mine whether a majority wish to rescind such condition of employment: PROVIDED FURTHER, That for purposes of this clause, membership in the certified exclusive bargaining representative is satisfied by the payment of monthly or other periodic dues and does not require payment of initiation, reinstatement, or any other fees or fines and includes full and complete membership rights: AND PROVIDED FURTHER, That in order to safeguard the right of nonassociation of public employees, based on bona fide religious tenets or teachings of a church or religious body of which such public employee is a member, such public employee shall pay to the union, for purposes within the program of the union as designated by such employee that would be in harmony with his or her individual conscience, an amount of money equivalent to regular union dues minus any included monthly premiums for union-sponsored insurance programs, and such employee shall not be a member of the union but is entitled to all the representation rights of a union member;

(13) Agreements between agencies and certified exclusive bargaining representatives providing for grievance procedures and collective negotiations on all personnel matters over which the appointing authority of the appropriate bargaining unit of such agency may lawfully exercise discretion;

(14) Written agreements may contain provisions for payroll deductions of employee organization dues upon authorization by the employee member and for the cancellation of such payroll deduction by the filing of a proper prior notice by the employee with the appointing authority and the employee organization: PROVIDED, That nothing contained herein permits or grants to any employee the right to strike or refuse to perform his or her official duties;

(15) Adoption and revision of a comprehensive classification plan for all positions in the classified service, based on investigation and analysis of the duties and responsibilities of each such position. However, beginning July 1, 1993, through June 30, 1995, the board shall not adopt job classification revisions or class studies unless implementation of the proposed revision or study will result in net cost savings, increased efficiencies, or improved management of personnel or services, and the proposed revision or study has been approved by the director of financial management in accordance with chapter 43.88 RCW;

(16) Allocation and reallocation of positions within the classification plan;

(17) Adoption and revision of a state salary schedule to reflect the prevailing rates in Washington state private industries and other governmental units but the rates in the salary schedules or plans shall be increased if necessary to attain comparable worth under an implementation plan under RCW 41.06.155 and that, for institutions of higher education and related boards, shall be competitive for positions of a similar nature in the state or the locality in which an institution of higher education or related board is located, such adoption and revision subject to approval by the director of financial management in accordance with the provisions of chapter 43.88 RCW;

(18) Increment increases within the series of steps for each pay grade based on length of service for all employees whose standards of performance are such as to permit them to retain job status in the classified service. However, beginning July 1, 1993, through June 30, 1995, increment increases shall not be provided to any classified or exempt employees under the jurisdiction of the board whose monthly salary on or after July 1, 1993, exceeds three thousand seven hundred fifty dollars;

(19) Providing for veteran's preference as required by existing statutes, with recognition of preference in regard to layoffs and subsequent reemployment for veterans and their surviving spouses by giving such eligible veterans and their surviving spouses additional credit in computing their seniority by adding to their unbroken state service, as defined by the board, the veteran's service in the military not to exceed five years. For the purposes of this section, "veteran" means any person who has one or more years of active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government and who, upon termination of such service has received an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge shall be given: PROVIDED, HOWEVER, That the surviving spouse of a veteran is entitled to the benefits of this section regardless of the veteran's length of active military service: PROVIDED FURTHER, That for the purposes of this section "veteran" does not include any person who has voluntarily retired with twenty or more years of active military service and whose military retirement pay is in excess of five hundred dollars per month;

(20) Permitting agency heads to delegate the authority to appoint, reduce, dismiss, suspend, or demote employees within their agencies if such agency heads do not have specific statutory authority to so delegate: PROVIDED, That the board may not authorize such delegation to any position lower than the head of a major subdivision of the agency;

(21) Assuring persons who are or have been employed in classified positions under *chapter 28B.16 RCW before July 1, 1993, will be eligible for employment, reemployment, transfer, and promotion in respect to classified positions covered by this chapter;

(22) Affirmative action in appointment, promotion, transfer, recruitment, training, and career development; development and implementation of affirmative action goals and timetables; and monitoring of progress against those goals and timetables.

The board shall consult with the human rights commission in the development of rules pertaining to affirmative action. The department of personnel shall transmit a report annually to the human rights commission which states the progress each state agency has made in meeting affirmative action goals and timetables. [1993 1st sp.s. c 24 § 913; 1993 c 281 § 27; 1990 c 60 § 103. Prior: 1985 c 461 § 2; 1985 c 365 § 5; 1983 1st ex.s. c 75 § 5; 1982 1st ex.s. c 53 § 4; prior: 1982 c 79 § 1; 1981 c 311 § 18; 1980 c 118 § 3; 1979 c 151 § 57; 1977 ex.s. c 152 § 1; 1973 1st ex.s. c 75 § 1; 1973 c 154 § 1; 1971 ex.s. c 19 § 2; 1967 ex.s. c 108 § 13; 1961 c 1 § 15 (Initiative Measure No. 207, approved November 8, 1960).]

Reviser's note: (1) This section was amended by 1993 c 281 § 27 and by 1993 1st sp.s. c 24 § 913, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

*(2) Chapter 28B.16 RCW was repealed by 1993 c 281, with the exception of RCW 28B.16.240, which was recodified as a new section in chapter 41.06 RCW. The powers, duties, and functions of the state higher education personnel board were transferred to the Washington personnel resources board.

Severability—Effective dates—1993 1st sp.s. c 24: See notes following RCW 28A.165.070.

Effective date—1993 c 281: See note following RCW 41.06.022.

Severability—Subheadings not law—1990 c 60: See notes following RCW 41.06.070.

Severability—1985 c 461: See note following RCW 41.06.020.

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

Severability—1981 c 311: See RCW 41.64.910.

Severability—1980 c 118: See note following RCW 41.06.010.

Severability—1977 ex.s. c 152: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 152 § 14.]

Effective date—1973 1st ex.s. c 75: "This 1973 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect midnight June 6, 1973." [1973 1st ex.s. c 75 § 3.]

Leaves for public employees
military: RCW 38.40.060.
vacation: RCW 43.01.040.

Public employees' collective bargaining: Chapter 41.56 RCW.

41.06.155 Salaries—Implementation of changes to achieve comparable worth. Salary changes necessary to achieve comparable worth shall be implemented during the 1983-85 biennium under a schedule developed by the department. Increases in salaries and compensation solely for the purpose of achieving comparable worth shall be made at least annually. Comparable worth for the jobs of all employees under this chapter shall be fully achieved not later than June 30, 1993. [1993 c 281 § 28; 1983 1st ex.s. c 75 § 6.]

Effective date—1993 c 281: See note following RCW 41.06.022.

41.06.160 Classification and salary schedules to consider rates in other public and private employment—Wage and fringe benefits surveys—Recommendations to governor, standing committees on appropriations of the legislature, and the director of financial management—Data required. In preparing classification and salary schedules as set forth in RCW 41.06.150 as now or hereafter amended the department of personnel shall give full consideration to prevailing rates in other public employment and in private employment in this state. For this purpose the department shall undertake comprehensive salary and fringe benefit surveys, with such surveys to be conducted in the year prior to the convening of every other one hundred five day regular session of the state legislature. In the year prior to the convening of each one hundred five day regular session during which a comprehensive salary and fringe benefit survey is not conducted, the department shall plan and conduct a trend salary and fringe benefit survey. This survey shall measure average salary and fringe benefit movement for broad occupational groups which has occurred since the last comprehensive salary and fringe benefit survey was conducted. The results of each comprehensive and trend salary and fringe benefit survey shall be completed and forwarded by September 30 with a recommended state salary schedule to the governor and director of financial management for their use in preparing budgets to be submitted to the succeeding legislature. A copy of the data and supporting documentation shall be furnished by the department of personnel to the standing committees for appropriations of the senate and house of representatives.

In the case of comprehensive salary and fringe benefit surveys, the department shall furnish the following supplementary data in support of its recommended salary schedule:

(1) A total dollar figure which reflects the recommended increase or decrease in state salaries as a direct result of the specific salary and fringe benefit survey that has been conducted and which is categorized to indicate what portion of the increase or decrease is represented by salary survey data and what portion is represented by fringe benefit survey data;

(2) An additional total dollar figure which reflects the impact of recommended increases or decreases to state salaries based on other factors rather than directly on prevailing rate data obtained through the survey process and which is categorized to indicate the sources of the requests for deviation from prevailing rates and the reasons for the changes;

(3) A list of class codes and titles indicating recommended monthly salary ranges for all state classes under the control of the department of personnel with those salary ranges which do not substantially conform to the prevailing rates developed from the salary and fringe benefit survey distinctly marked and an explanation of the reason for the deviation included;

(4) A supplemental salary schedule which indicates the additional salary to be paid state employees for hazardous duties or other considerations requiring extra compensation under specific circumstances. Additional compensation for these circumstances shall not be included in the basic salary schedule but shall be maintained as a separate pay schedule for purposes of full disclosure and visibility; and

(5) A supplemental salary schedule which indicates those cases where the board determines that prevailing rates do not provide similar salaries for positions that require or impose similar responsibilities, judgment, knowledge, skills, and working conditions. This supplementary salary schedule shall contain proposed salary adjustments necessary to eliminate any such dissimilarities in compensation. Additional compensation needed to eliminate such salary dissimilarities shall not be included in the basic salary schedule but shall be maintained as a separate salary schedule for purposes of full disclosure and visibility.

It is the intention of the legislature that requests for funds to support recommendations for salary deviations from the prevailing rate survey data shall be kept to a minimum, and that the requests be fully documented when forwarded by the department of personnel.

Salary and fringe benefit survey information collected from private employers which identifies a specific employer with the salary and fringe benefit rates which that employer

pays to its employees shall not be subject to public disclosure under chapter 42.17 RCW.

The first comprehensive salary and fringe benefit survey required by this section shall be completed and forwarded to the governor and the director of financial management by September 30, 1986. The first trend salary and fringe benefit survey required by this section shall be completed and forwarded to the governor and the director of financial management by September 30, 1988. [1993 c 281 § 29; 1985 c 94 § 2; 1980 c 11 § 1; 1979 c 151 § 58; 1977 ex.s. c 152 § 2; 1961 c 1 § 16 (Initiative Measure No. 207, approved November 8, 1960).]

Effective date—1993 c 281: See note following RCW 41.06.022.

Severability—1977 ex.s. c 152: See note following RCW 41.06.150.

41.06.163 Comprehensive salary and fringe benefit survey plan required—Contents. (1) In the conduct of salary and fringe benefit surveys under RCW 41.06.160 as now or hereafter amended, it is the intention of the legislature that the surveys be undertaken in a manner consistent with statistically accurate sampling techniques. For this purpose, a comprehensive salary and fringe benefit survey plan shall be submitted to the director of financial management, employee organizations, and the standing committees for appropriations of the senate and house of representatives six months before the beginning of each periodic survey required before regular legislative sessions. This comprehensive plan shall include but not be limited to the following:

(a) A complete explanation of the technical, statistical process to be used in the salary and fringe benefit survey including the percentage of accuracy expected from the planned statistical sample chosen for the survey and a definition of the term "prevailing rates" which is to be used in the planned survey;

(b) A comprehensive salary and fringe benefit survey model based on scientific statistical principles which:

(i) Encompasses the interrelationships among the various elements of the survey sample including sources of salary and fringe benefit data by organization type, size, and regional location;

(ii) Is representative of private and public employment in this state;

(iii) Ensures that, wherever practical, data from smaller, private firms are included and proportionally weighted in the survey sample; and

(iv) Indicates the methodology to be used in application of survey data to job classes used by state government;

(c) A prediction of the increase or decrease in total funding requirements expected to result from the pending salary and fringe benefit survey based on consumer price index information and other available trend data pertaining to Washington state salaries and fringe benefits.

(2) Every comprehensive survey plan shall fully consider fringe benefits as an element of compensation in addition to basic salary data.

(3) Interim or special surveys conducted under RCW 41.06.160 as now or hereafter amended shall conform when possible to the statistical techniques and principles developed for regular periodic surveys under this section.

(4) The term "fringe benefits" as used in this section and in conjunction with salary surveys shall include but not be limited to compensation for:

(a) Leave time, including vacation, holiday, civil, and personal leave;

(b) Employer retirement contributions;

(c) Health and insurance payments, including life, accident, and health insurance, workers' compensation, and sick leave; and

(d) Stock options, bonuses, and purchase discounts where appropriate. [1993 c 281 § 30; 1987 c 185 § 9; 1986 c 158 § 6; 1979 c 151 § 59; 1977 ex.s. c 152 § 3.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

Severability—1977 ex.s. c 152: See note following RCW 41.06.150.

41.06.170 Suspension, dismissal, demotion of employee—Appeal to personnel appeals board. (1) The board or director, in the adoption of rules governing suspensions for cause, shall not authorize an appointing authority to suspend an employee for more than fifteen calendar days as a single penalty or more than thirty calendar days in any one calendar year as an accumulation of several penalties. The board or director shall require that the appointing authority give written notice to the employee not later than one day after the suspension takes effect, stating the reasons for and the duration thereof.

(2) Any employee who is reduced, dismissed, suspended, or demoted, after completing his or her probationary period of service as provided by the rules of the board, or any employee who is adversely affected by a violation of the state civil service law, chapter 41.06 RCW, or rules adopted under it, shall have the right to appeal to the personnel appeals board created by RCW 41.64.010 not later than thirty days after the effective date of such action. The employee shall be furnished with specified charges in writing when a reduction, dismissal, suspension, or demotion action is taken. Such appeal shall be in writing.

(3) Any employee whose position has been exempted after July 1, 1993, shall have the right to appeal to the personnel appeals board created by RCW 41.64.010 not later than thirty days after the effective date of such action.

(4) An employee incumbent in a position at the time of its allocation or reallocation, or the agency utilizing the position, may appeal the allocation or reallocation to the personnel appeals board created by RCW 41.64.010. Notice of such appeal must be filed in writing within thirty days of the action from which appeal is taken. [1993 c 281 § 31; 1981 c 311 § 19; 1975-'76 2nd ex.s. c 43 § 3; 1961 c 1 § 17 (Initiative Measure No. 207, approved November 8, 1960).]

Effective date—1993 c 281: See note following RCW 41.06.022.

Severability—1981 c 311: See RCW 41.64.910.

Decision of Washington personnel resources board under RCW 41.06.170(4) not subject to judicial review: RCW 41.64.100.

41.06.186 Employee performance evaluations—Termination of employment—Rules. The Washington personnel resources board shall adopt rules designed to terminate the state employment of any employee whose

performance is so inadequate as to warrant termination. [1993 c 281 § 32; 1985 c 461 § 5.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Severability—1985 c 461: See note following RCW 41.06.020.

41.06.196 Employee performance evaluations—Termination of supervisors tolerating deficient employees. The Washington personnel resources board shall adopt rules designed to remove from supervisory positions those supervisors who in violation of the rules adopted under RCW 41.06.186 have tolerated the continued employment of employees under their supervision whose performance has warranted termination from state employment. [1993 c 281 § 33; 1985 c 461 § 6.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Severability—1985 c 461: See note following RCW 41.06.020.

Duty of state officers to identify employees whose performance warrants termination from state employment: RCW 43.01.125.

41.06.230 Decodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

41.06.240 Decodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

41.06.280 Department of personnel service fund—Created—Charges to agencies, payment—Use, disbursement. There is hereby created a fund within the state treasury, designated as the "department of personnel service fund," to be used by the board as a revolving fund for the payment of salaries, wages, and operations required for the administration of the provisions of this chapter, applicable provisions of chapter 41.04 RCW, and chapter 41.60 RCW. An amount not to exceed one and one-half percent of the approved allotments of salaries and wages for all positions in the classified service in each of the agencies subject to this chapter, except the institutions of higher education, shall be charged to the operations appropriations of each agency and credited to the department of personnel service fund as the allotments are approved pursuant to chapter 43.88 RCW. Subject to the above limitations, the amount shall be charged against the allotments pro rata, at a rate to be fixed by the director from time to time which, together with income derived from services rendered under RCW 41.06.080, will provide the department with funds to meet its anticipated expenditures during the allotment period, including the training requirements in RCW 41.06.500 and 41.06.530.

The director of personnel shall fix the terms and charges for services rendered by the department of personnel pursuant to RCW 41.06.080, which amounts shall be credited to the department of personnel service fund and charged against the proper fund or appropriation of the recipient of such services on a quarterly basis. Payment for services so rendered under RCW 41.06.080 shall be made on a quarterly basis to the state treasurer and deposited by him in the department of personnel service fund.

Moneys from the department of personnel service fund shall be disbursed by the state treasurer by warrants on vouchers duly authorized by the board. [1993 c 379 § 309; 1993 c 281 § 34; 1987 c 248 § 4; 1984 c 7 § 45; 1982 c 167 § 13; 1963 c 215 § 1; 1961 c 1 § 28 (Initiative Measure No. 207, approved November 8, 1960).]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

Effective date—1993 c 281: See note following RCW 41.06.022.

Legislative findings—Purpose—1987 c 248: See note following RCW 41.04.362.

Severability—1984 c 7: See note following RCW 47.01.141.

Severability—1982 c 167: See note following RCW 41.60.015.

41.06.285 Higher education personnel service fund. (1) There is hereby created a fund within the state treasury, designated as the "higher education personnel service fund," to be used by the board as a revolving fund for the payment of salaries, wages, and operations required for the administration of institutions of higher education and related boards, the budget for which shall be subject to review and approval and appropriation by the legislature. Subject to the requirements of subsection (2) of this section, an amount not to exceed one-half of one percent of the salaries and wages for all positions in the classified service shall be contributed from the operations appropriations of each institution and the state board for community and technical colleges and credited to the higher education personnel service fund as such allotments are approved pursuant to chapter 43.88 RCW. Subject to the above limitations, such amount shall be charged against the allotments pro rata, at a rate to be fixed by the director of financial management from time to time, which will provide the board with funds to meet its anticipated expenditures during the allotment period.

(2) If employees of institutions of higher education cease to be classified under this chapter pursuant to an agreement authorized by RCW 41.56.201, each institution of higher education and the state board for community and technical colleges shall continue, for six months after the effective date of the agreement, to make contributions to the higher education personnel service fund based on employee salaries and wages that includes the employees under the agreement. At the expiration of the six-month period, the director of financial management shall make across-the-board reductions in allotments of the higher education personnel service fund for the remainder of the biennium so that the charge to the institutions of higher education and state board for community and technical colleges based on the salaries and wages of the remaining employees of institutions of higher education and related boards classified under this chapter does not increase during the biennium, unless an increase is authorized by the legislature. The director of financial management shall report the amount and impact of any across-the-board reductions made under this section to the appropriations committee of the house of representatives and the ways and means committee of the senate, or appropriate successor committees, within thirty days of making the reductions.

(3) Moneys from the higher education personnel service fund shall be disbursed by the state treasurer by warrants on vouchers duly authorized by the board. [1993 c 379 § 308.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

41.06.310 Decodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

41.06.340 Unfair labor practices provisions applicable to chapter. Each and every provision of RCW 41.56.140 through 41.56.190 shall be applicable to this chapter as it relates to state civil service employees and the Washington personnel resources board, or its designee, whose final decision shall be appealable to the Washington personnel resources board, which is granted all powers and authority granted to the department of labor and industries by RCW 41.56.140 through 41.56.190. [1993 c 281 § 35; 1969 ex.s. c 215 § 13.]

Effective date—1993 c 281: See note following RCW 41.06.022.

41.06.350 Acceptance of federal funds authorized. The Washington personnel resources board is authorized to receive federal funds now available or hereafter made available for the assistance and improvement of public personnel administration, which may be expended in addition to the department of personnel service fund established by RCW 41.06.280. [1993 c 281 § 36; 1969 ex.s. c 152 § 1.]

Effective date—1993 c 281: See note following RCW 41.06.022.

41.06.382 Purchasing services by contract not prohibited—Limitations. Nothing contained in this chapter shall prohibit any institution of higher education, as defined in RCW 28B.10.016, or related board from purchasing services by contract with individuals or business entities if such services were regularly purchased by valid contract at such institution prior to April 23, 1979: PROVIDED, That no such contract may be executed or renewed if it would have the effect of terminating classified employees or classified employee positions existing at the time of the execution or renewal of the contract. [1979 ex.s. c 46 § 1. Formerly RCW 28B.16.240.]

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

41.06.450 Destruction or retention of information relating to employee misconduct. (1) By January 1, 1983, the Washington personnel resources board shall adopt rules applicable to each agency to ensure that information relating to employee misconduct or alleged misconduct is destroyed or maintained as follows:

(a) All such information determined to be false and all such information in situations where the employee has been fully exonerated of wrongdoing, shall be promptly destroyed;

(b) All such information having no reasonable bearing on the employee's job performance or on the efficient and effective management of the agency, shall be promptly destroyed;

(c) All other information shall be retained only so long as it has a reasonable bearing on the employee's job performance or on the efficient and effective management of the agency.

(2) Notwithstanding subsection (1) of this section, an agency may retain information relating to employee misconduct or alleged misconduct if:

(a) The employee requests that the information be retained; or

(b) The information is related to pending legal action or legal action may be reasonably expected to result.

(3) In adopting rules under this section, the Washington personnel resources board shall consult with the public disclosure commission to ensure that the public policy of the state, as expressed in chapter 42.17 RCW, is adequately protected. [1993 c 281 § 37; 1982 c 208 § 10.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Legislative finding—Purpose—RCW 41.06.450: "The legislature finds that, under some circumstances, maintaining information relating to state employee misconduct or alleged misconduct is unfair to employees and serves no useful function to the state. The purpose of RCW 41.06.450 is to direct the personnel board to adopt rules governing maintenance of employee records so that the records are maintained in a manner which is fair to employees, which ensures proper management of state governmental affairs, and which adequately protects the public interest." [1982 c 208 § 9.]

Severability—1982 c 208: See RCW 42.40.900.

Application of public disclosure law to information relating to employee misconduct: RCW 42.17.295.

Employee inspection of personnel file: RCW 49.12.240 through 49.12.260.

41.06.475 State employment in the supervision, care, or treatment of children or developmentally disabled persons—Rules on background investigation. The Washington personnel resources board shall adopt rules, in cooperation with the secretary of social and health services, for the background investigation of persons being considered for state employment in positions directly responsible for the supervision, care, or treatment of children or developmentally disabled persons. [1993 c 281 § 38; 1986 c 269 § 2.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Children and vulnerable adults: RCW 43.43.830 through 43.43.842.

Children, mentally ill, or developmentally disabled persons: RCW 43.20A.710.

State employment in the supervision, care, or treatment of children or developmentally disabled persons—Investigation of conviction records or pending charges: RCW 43.20A.710.

State hospitals: RCW 72.23.035.

41.06.500 Managers—Rules—Goals. (1) Except as provided in RCW 41.06.070, notwithstanding any other provisions of this chapter, the director is authorized to adopt, after consultation with state agencies and employee organizations, rules for managers as defined in RCW 41.06.022. These rules shall not apply to managers employed by institutions of higher education or related boards or whose positions are exempt. The rules shall govern recruitment, appointment, classification and allocation of positions, examination, training and career development, hours of work, probation, certification, compensation, transfer, affirmative action, promotion, layoff, reemployment, performance appraisals, discipline, and any and all other personnel practices for managers. These rules shall be separate from rules adopted by the board for other employees, and to the extent that the rules adopted apply only to managers shall take precedence over rules adopted by the board, and are not subject to review by the board.

(2) In establishing rules for managers, the director shall adhere to the following goals:

(a) Development of a simplified classification system that facilitates movement of managers between agencies and promotes upward mobility;

(b) Creation of a compensation system consistent with the policy set forth in RCW 41.06.150(17). The system shall provide flexibility in setting and changing salaries;

(c) Establishment of a performance appraisal system that emphasizes individual accountability for program results and efficient management of resources; effective planning, organization, and communication skills; valuing and managing workplace diversity; development of leadership and interpersonal abilities; and employee development;

(d) Strengthening management training and career development programs that build critical management knowledge, skills, and abilities; focusing on managing and valuing workplace diversity; empowering employees by enabling them to share in workplace decision making and to be innovative, willing to take risks, and able to accept and deal with change; promoting a workplace where the overall focus is on the recipient of the government services and how these services can be improved; and enhancing mobility and career advancement opportunities;

(e) Permitting flexible recruitment and hiring procedures that enable agencies to compete effectively with other employers, both public and private, for managers with appropriate skills and training; allowing consideration of all qualified candidates for positions as managers; and achieving affirmative action goals and diversity in the workplace;

(f) Providing that managers may only be reduced, dismissed, suspended, or demoted for cause; and

(g) Facilitating decentralized and regional administration. [1993 c 281 § 9.]

Effective date—1993 c 281: See note following RCW 41.06.022.

41.06.510 Institutions of higher education—Designation of personnel officer. Each institution of higher education and each related board shall designate an officer who shall perform duties as personnel officer. The personnel officer at each institution or related board shall direct, supervise, and manage administrative and technical personnel activities for the classified service at the institution or related board consistent with policies established by the institution or related board and in accordance with the provisions of this chapter and the rules adopted under this chapter. Institutions may undertake jointly with one or more other institutions to appoint a person qualified to perform the duties of personnel officer, provide staff and financial support and may engage consultants to assist in the performance of specific projects. The services of the department of personnel may also be used by the institutions or related boards pursuant to RCW 41.06.080.

The state board for community and technical colleges shall have general supervision and control over activities undertaken by the various community colleges pursuant to this section. [1993 c 281 § 10.]

Effective date—1993 c 281: See note following RCW 41.06.022.

41.06.520 Administration, management of institutions of higher education—Rules—Audit and review by board. Rules adopted by the board shall provide for local administration and management by the institutions of higher education and related boards, subject to periodic audit and review by the board, of the following:

(1) Appointment, promotion, and transfer of employees;

(2) Dismissal, suspension, or demotion of an employee;

(3) Examinations for all positions in the competitive and noncompetitive service;

(4) Probationary periods of six to twelve months and rejection of probationary employees;

(5) Sick leaves and vacations;

(6) Hours of work;

(7) Layoffs when necessary and subsequent reemployment;

(8) Allocation and reallocation of positions within the classification plans;

(9) Training programs; and

(10) Maintenance of personnel records. [1993 c 281 § 11.]

Effective date—1993 c 281: See note following RCW 41.06.022.

41.06.530 Personnel resource and management policy—Implementation. (1) The legislature recognizes that:

(a) The labor market and the state government work force are diverse in terms of gender, race, ethnicity, age, and the presence of disabilities.

(b) The state's personnel resource and management practices must be responsive to the diverse nature of its work force composition.

(c) Managers in all agencies play a key role in the implementation of all critical personnel policies.

It is therefore the policy of the state to create an organizational culture in state government that respects and values individual differences and encourages the productive potential of every employee.

(2) To implement this policy, the department shall:

(a) In consultation with agencies, employee organizations, employees, institutions of higher education, and related boards, review civil service rules and related policies to ensure that they support the state's policy of valuing and managing diversity in the workplace;

(b) In consultation with agencies, employee organizations, and employees, institutions of higher education, and related boards, develop model policies, procedures, and technical information to be made available to such entities for the support of workplace diversity programs, including, but not limited to:

(i) Voluntary mentorship programs;

(ii) Alternative testing practices for persons of disability where deemed appropriate;

(iii) Career counseling;

(iv) Training opportunities, including management and employee awareness and skills training, English as a second language, and individual tutoring;

(v) Recruitment strategies;

(vi) Management performance appraisal techniques that focus on valuing and managing diversity in the workplace; and

(vii) Alternative work arrangements;

(c) In consultation with agencies, employee organizations, and employees, institutions of higher education, and related boards, develop training programs for all managers

to enhance their ability to implement diversity policies and to provide a thorough grounding in all aspects of the state civil service law and merit system rules, and how the proper implementation and application thereof can facilitate and further the mission of the agency.

(3) The department shall coordinate implementation of this section with the office of financial management and institutions of higher education and related boards to reduce duplication of effort. [1993 c 281 § 12.]

Effective date—1993 c 281: See note following RCW 41.06.022.

41.06.540 Joint employee-management committees. Meaningful and effective involvement of employees and their representatives is essential to the efficient and effective delivery of state government services. To accomplish this, agencies shall use joint employee-management committees to collaborate on the desired goals of streamlined organizational structures, continuous improvement in all systems and processes, empowerment of line level employees to solve workplace and system delivery problems, managers functioning as coaches and facilitators, and employee training and development as an investment in the future. If employees are represented by an exclusive bargaining representative, the representative shall select the employee committee members and also be on the committee. In addition, the committees shall be used for improvement of the quality of work life for state employees resulting in more productive and efficient service delivery to the general public and customers of state government. Nothing in this section supplants any collective bargaining process or provision. [1993 c 281 § 13.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Chapter 41.08
CIVIL SERVICE FOR CITY FIREMEN

Sections

41.08.040 Organization of commission—Secretary—Powers and duties of commission. Immediately after appointment the commission shall organize by electing one of its members chair and hold regular meetings at least once a month, and such additional meetings as may be required for the proper discharge of their duties.

They shall appoint a secretary and chief examiner, who shall keep the records of the commission, preserve all reports made to it, superintend and keep a record of all examinations held under its direction, and perform such other duties as the commission may prescribe.

The secretary and chief examiner shall be appointed as a result of competitive examination which examination may be either original and open to all properly qualified citizens of the city, town or municipality, or promotional and limited to persons already in the service of the fire department or of the fire department and other departments of said city, town or municipality, as the commission may decide. The secretary and chief examiner may be subject to suspension, reduction or discharge in the same manner and subject to the same limitations as are provided in the case of members of the fire department. It shall be the duty of the civil service commission:

(1) To make suitable rules and regulations not inconsistent with the provisions of this chapter. Such rules and regulations shall provide in detail the manner in which examinations may be held, and appointments, promotions, transfers, reinstatements, demotions, suspensions and discharges shall be made, and may also provide for any other matters connected with the general subject of personnel administration, and which may be considered desirable to further carry out the general purposes of this chapter, or which may be found to be in the interest of good personnel administration. Such rules and regulations may be changed from time to time. The rules and regulations and any amendments thereof shall be printed, mimeographed or multigraphed for free public distribution. Such rules and regulations may be changed from time to time.

(2) All tests shall be practical, and shall consist only of subjects which will fairly determine the capacity of persons examined to perform duties of the position to which appointment is to be made, and may include tests of physical fitness and/or of manual skill.

(3) The rules and regulations adopted by the commission shall provide for a credit in accordance with RCW 41.04.010 in favor of all applicants for appointment under civil service, who, in time of war, or in any expedition of the armed forces of the United States, have served in and been honorably discharged from the armed forces of the United States, including the army, navy, and marine corps and the American Red Cross. These credits apply to entrance examinations only.

(4) The commission shall make investigations concerning and report upon all matters touching the enforcement and effect of the provisions of this chapter, and the rules and regulations prescribed hereunder; inspect all institutions, departments, offices, places, positions and employments affected by this chapter, and ascertain whether this chapter and all such rules and regulations are being obeyed. Such investigations may be made by the commission or by any commissioner designated by the commission for that purpose. Not only must these investigations be made by the commission as aforesaid, but the commission must make like investigation on petition of a citizen, duly verified, stating that irregularities or abuses exist, or setting forth in concise language, in writing, the necessity for such investigation. In the course of such investigation the commission or designated commissioner, or chief examiner, shall have the power to administer oaths, subpoena and require the attendance of witnesses and the production by them of books, papers, documents and accounts appertaining to the investigation and also to cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior court; and the oaths administered hereunder and the subpoenas issued hereunder shall have the same force and effect as the oaths administered by a superior court judge in his or her judicial capacity; and the failure upon the part of any person so subpoenaed to comply with the provisions of this section shall be deemed a violation of this chapter, and punishable as such.

(5) All hearings and investigations before the commission, or designated commissioner, or chief examiner, shall be

governed by this chapter and by rules of practice and procedure to be adopted by the commission, and in the conduct thereof neither the commission, nor designated commissioner shall be bound by the technical rules of evidence. No informality in any proceedings or hearing, or in the manner of taking testimony before the commission or designated commissioner, shall invalidate any order, decision, rule or regulation made, approved or confirmed by the commission: PROVIDED, HOWEVER, That no order, decision, rule or regulation made by any designated commissioner conducting any hearing or investigation alone shall be of any force or effect whatsoever unless and until concurred in by at least one of the other two members.

(6) To hear and determine appeals or complaints respecting the administrative work of the personnel department; appeals upon the allocation of positions; the rejection of an examination, and such other matters as may be referred to the commission.

(7) Establish and maintain in card or other suitable form a roster of officers and employees.

(8) Provide for, formulate and hold competitive tests to determine the relative qualifications of persons who seek employment in any class or position and as a result thereof establish eligible lists for the various classes of positions, and to provide that persons laid off because of curtailment of expenditures, reduction in force, and for like causes, head the list in the order of their seniority, to the end that they shall be the first to be reemployed.

(9) When a vacant position is to be filled, to certify to the appointing authority, on written request, the name of the person highest on the eligible list for the class. If there are no such lists, to authorize provisional or temporary appointment list of such class. Such temporary or provisional appointment shall not continue for a period longer than four months; nor shall any person receive more than one provisional appointment or serve more than four months as a provisional appointee in any one fiscal year.

(10) Keep such records as may be necessary for the proper administration of this chapter. [1993 c 47 § 4; 1973 1st ex.s. c 154 § 60; 1935 c 31 § 5; RRS § 9558-5.]

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

Preferred rights in employment, examinations, appointments, etc., limited to actual members of armed forces: RCW 73.04.090.

Veterans' preference in examinations: RCW 41.04.010.

Chapter 41.12
CIVIL SERVICE FOR CITY POLICE

Sections

41.12.040 Organization of commission—Secretary—Powers and duties of commission. Immediately after appointment the commission shall organize by electing one of its members chair and hold regular meetings at least once a month, and such additional meetings as may be required for the proper discharge of their duties.

They shall appoint a secretary and chief examiner, who shall keep the records for the commission, preserve all reports made to it, superintend and keep a record of all examinations held under its direction, and perform such other duties as the commission may prescribe.

The secretary and chief examiner shall be appointed as a result of competitive examination which examination may be either original and open to all properly qualified citizens of the city, town, or municipality, or promotional and limited to persons already in the service of the police department or of the police department and other departments of the city, town, or municipality, as the commission may decide. The secretary and chief examiner may be subject to suspension, reduction, or discharge in the same manner and subject to the same limitations as are provided in the case of members of the police department. It shall be the duty of the civil service commission:

(1) To make suitable rules and regulations not inconsistent with the provisions of this chapter. Such rules and regulations shall provide in detail the manner in which examinations may be held, and appointments, promotions, transfers, reinstatements, demotions, suspensions, and discharges shall be made, and may also provide for any other matters connected with the general subject of personnel administration, and which may be considered desirable to further carry out the general purposes of this chapter, or which may be found to be in the interest of good personnel administration. Such rules and regulations may be changed from time to time. The rules and regulations and any amendments thereof shall be printed, mimeographed, or multigraphed for free public distribution. Such rules and regulations may be changed from time to time;

(2) All tests shall be practical, and shall consist only of subjects which will fairly determine the capacity of persons examined to perform duties of the position to which appointment is to be made, and may include tests of physical fitness and/or of manual skill;

(3) The rules and regulations adopted by the commission shall provide for a credit in accordance with RCW 41.04.010 in favor of all applicants for appointment under civil service, who, in time of war, or in any expedition of the armed forces of the United States, have served in and been honorably discharged from the armed forces of the United States, including the army, navy, and marine corps and the American Red Cross. These credits apply to entrance examinations only;

(4) The commission shall make investigations concerning and report upon all matters touching the enforcement and effect of the provisions of this chapter, and the rules and regulations prescribed hereunder; inspect all institutions, departments, offices, places, positions, and employments affected by this chapter, and ascertain whether this chapter and all such rules and regulations are being obeyed. Such investigations may be made by the commission or by any commissioner designated by the commission for that purpose. Not only must these investigations be made by the commission, but the commission must make like investigation on petition of a citizen, duly verified, stating that irregularities or abuses exist, or setting forth in concise language, in writing, the necessity for such investigation. In the course of such investigation the commission or designat-

ed commissioner, or chief examiner, shall have the power to administer oaths, subpoena and require the attendance of witnesses and the production by them of books, papers, documents, and accounts appertaining to the investigation, and also to cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior court; and the oaths administered hereunder and the subpoenas issued hereunder shall have the same force and effect as the oaths administered by a superior court judge in his or her judicial capacity; and the failure upon the part of any person so subpoenaed to comply with the provisions of this section shall be deemed a violation of this chapter, and punishable as such;

(5) Hearings and Investigations: How conducted. All hearings and investigations before the commission, or designated commissioner, or chief examiner, shall be governed by this chapter and by rules of practice and procedure to be adopted by the commission, and in the conduct thereof neither the commission, nor designated commissioner shall be bound by the technical rules of evidence. No informality in any proceedings or hearing, or in the manner of taking testimony before the commission or designated commissioner, shall invalidate any order, decision, rule or regulation made, approved or confirmed by the commission: PROVIDED, HOWEVER, That no order, decision, rule or regulation made by any designated commissioner conducting any hearing or investigation alone shall be of any force or effect whatsoever unless and until concurred in by at least one of the other two members;

(6) To hear and determine appeals or complaints respecting the administrative work of the personnel department; appeals upon the allocation of positions; the rejection of an examination, and such other matters as may be referred to the commission;

(7) Establish and maintain in card or other suitable form a roster of officers and employees;

(8) Provide for, formulate and hold competitive tests to determine the relative qualifications of persons who seek employment in any class or position and as a result thereof establish eligible lists for the various classes of positions, and to provide that persons laid off because of curtailment of expenditures, reduction in force, and for like causes, head the list in the order of their seniority, to the end that they shall be the first to be reemployed;

(9) When a vacant position is to be filled, to certify to the appointing authority, on written request, the name of the person highest on the eligible list for the class. If there are no such lists, to authorize provisional or temporary appointment list of such class. Such temporary or provisional appointment shall not continue for a period longer than four months; nor shall any person receive more than one provisional appointment or serve more than four months as provisional appointee in any one fiscal year;

(10) Keep such records as may be necessary for the proper administration of this chapter. [1993 c 47 § 5; 1937 c 13 § 5; RRS § 9558a-5.]

Preferred rights in employment, examinations, appointments, etc., limited to actual members of armed forces: RCW 73.04.090.

Veterans' preference in examinations: RCW 41.04.010.

41.12.050 Persons included—Competitive examinations—Transfers, discharges, and reinstatements. The classified civil service and provisions of this chapter shall include all full paid employees of the police department of each city, town or municipality coming within its purview, except that individuals appointed as police chief after July 1, 1987, to a department with six or more commissioned officers, including the police chief, may be excluded by the legislative body of the city, town or municipality. All appointments to and promotions in the department shall be made solely on merit, efficiency and fitness except as provided in RCW 35.13.360 through 35.13.400, which shall be ascertained by open competitive examination and impartial investigation. No person shall be reinstated in or transferred, suspended or discharged from any such place, position or employment contrary to the provisions of this chapter. [1993 c 189 § 1; 1987 c 339 § 2; 1937 c 13 § 4; RRS § 9558a-4.]

Severability—Effective date—1987 c 339: See notes following RCW 35.21.333.

Chief of police or marshal—Eligibility requirements: RCW 35.21.333.

Chapter 41.24
VOLUNTEER FIRE FIGHTERS' RELIEF AND PENSIONS

Sections

41.24.010 Definitions. As used in this chapter:

"Municipal corporation" or "municipality" includes any city or town, fire protection district, or any water, irrigation, or other district, authorized by law to afford emergency medical services or protection to life and property within its boundaries from fire.

"Fire department" means any regularly organized fire department or emergency medical service district consisting wholly of volunteer fire fighters, or any part-paid and part-volunteer fire department duly organized and maintained by any municipality: PROVIDED, That any such municipality wherein a part-paid fire department is maintained may by appropriate legislation permit the full-paid members of its department to come under the provisions of chapter 41.16 RCW.

"Fire fighter" includes any fire fighter or emergency worker who is a member of any fire department of any municipality but shall not include full time, paid fire fighters who are members of the Washington law enforcement officers' and fire fighters' retirement system, with respect to periods of service rendered in such capacity.

"Emergency worker" means any emergency medical service personnel, regulated by chapters 18.71 and 18.73 RCW, who is a member of an emergency medical service district but shall not include full-time, paid emergency medical service personnel who are members of the Washing-

ton public employees' retirement system, with respect to periods of service rendered in such capacity.

"Performance of duty" shall be construed to mean and include any work in and about company quarters or any fire station or any other place under the direction or general orders of the chief or other officer having authority to order such member to perform such work; responding to, working at, or returning from an alarm of fire; drill; or any work performed of an emergency nature in accordance with the rules and regulations of the fire department.

"State board" means the state board for volunteer fire fighters created herein.

"Board of trustees" means a board of trustees created under RCW 41.24.060 or, for matters affecting an emergency worker, an emergency medical service district board of trustees created under RCW 41.24.330.

"Appropriate legislation" means an ordinance when an ordinance is the means of legislating by any municipality, and resolution in all other cases. [1993 c 331 § 1; 1989 c 91 § 8; 1970 ex.s. c 6 § 18; 1955 c 263 § 1; 1945 c 261 § 1; Rem. Supp. 1945 § 9578-15.]

Effective date—1989 c 91: "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, 1989." [1989 c 91 § 27.]

Construction—Saving—1955 c 263: "Any provisions of chapter 41.24 RCW inconsistent with the provisions of this act are hereby repealed: PROVIDED, That such repeal shall not affect any act or proceeding had or pending, under such provision repealed, but the same shall be construed and prosecuted as though such provision had not been repealed." [1955 c 263 § 12.] This applies to RCW 41.24.010, 41.24.080, 41.24.120, and 41.24.250 through 41.24.310.

Severability—1945 c 261: "If any provision of this act, or the application thereof to any person or circumstance, is held invalid, the remainder of the act, and the application of such provision to other persons or circumstances, shall not be affected thereby. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act and each section, subsection, clause and phrase thereof irrespective of the fact that any one or more of the other sections, subsections, sentences, clauses and phrases be declared unconstitutional." [1945 c 261 § 26.]

Construction—Saving—1945 c 261: "Chapter 121, Laws of 1935 (sections 9578-1 to 9578-11, inclusive, Remington's Revised Statutes, also Pierce's Perpetual Code 773-37 to -57), is hereby repealed: PROVIDED, That such repeal shall not be construed as affecting any act done or right acquired, or obligation incurred, or proceedings had or pending, under said act repealed, but the same shall be continued and prosecuted as though such act had not been repealed." [1945 c 261 § 27.]

The two foregoing annotations apply to RCW 41.24.010 through 41.24.240.

Fire protection district having full paid fire department: RCW 41.16.240.

41.24.330 Emergency medical service districts—Board of trustees—Creation. In every county maintaining a regularly organized emergency medical service district there is hereby created an emergency medical service district board of trustees for the administration of this chapter. The emergency medical service district board shall consist of three of the members of the county legislative authority or their designees, the county auditor or the auditor's designee, the head of the emergency medical service district, and one emergency worker from the emergency medical service district to be elected by the emergency workers of the emergency medical service district for a term of one year and annually thereafter. [1993 c 331 § 2.]

41.24.340 Emergency medical service districts—Board of trustees—Officers—Annual report. The chair of the board of county commissioners shall be chair of the emergency medical service district board of trustees, and the county clerk shall be the secretary-treasurer of the emergency medical service district board of trustees. The secretary shall keep a public record of all proceedings, of all receipts and disbursements made by the emergency medical service district board of trustees and shall make an annual report of its expenses and disbursements with a full list of the beneficiaries of said fund in the county, the record to be placed on file in the county. Such forms as shall be necessary for the proper administration of this fund and of making the reports required hereunder shall be provided by the state board. [1993 c 331 § 3.]

41.24.350 Emergency medical service districts—State board shall set pension fees. The state board shall set the amount consistent with the most recent valuation of the volunteer fire fighters relief and pension fund to be paid for the purposes of this chapter by emergency medical service districts for emergency worker relief and pension fees and by emergency workers for emergency worker pensions. The fees set under this section are subject to the other provisions of this chapter. [1993 c 331 § 4.]

Chapter 41.26

LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' RETIREMENT SYSTEM

Sections

41.26.030 Definitions. (Effective until January 1, 1994.) As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Retirement system" means the "Washington law enforcement officers' and fire fighters' retirement system" provided herein.

(2)(a) "Employer" for plan I members, means the legislative authority of any city, town, county, or district or the elected officials of any municipal corporation that employs any law enforcement officer and/or fire fighter, any authorized association of such municipalities, and, except for the purposes of RCW 41.26.150, any labor guild, association, or organization, which represents the fire fighters or law enforcement officers of at least seven cities of over 20,000

population and the membership of each local lodge or division of which is composed of at least sixty percent law enforcement officers or fire fighters as defined in this chapter.

(b) "Employer" for plan II members, means the legislative authority of any city, town, county, or district or the elected officials of any municipal corporation that employs any law enforcement officer and/or fire fighter.

(3) "Law enforcement officer" means any person who is serving on a full time, fully compensated basis as a county sheriff or deputy sheriff, including sheriffs or deputy sheriffs serving under a different title pursuant to a county charter, city police officer, or town marshal or deputy marshal, with the following qualifications:

(a) No person who is serving in a position that is basically clerical or secretarial in nature, and who is not commissioned shall be considered a law enforcement officer;

(b) Only those deputy sheriffs, including those serving under a different title pursuant to county charter, who have successfully completed a civil service examination for deputy sheriff or the equivalent position, where a different title is used, and those persons serving in unclassified positions authorized by RCW 41.14.070 except a private secretary will be considered law enforcement officers;

(c) Only such full time commissioned law enforcement personnel as have been appointed to offices, positions, or ranks in the police department which have been specifically created or otherwise expressly provided for and designated by city charter provision or by ordinance enacted by the legislative body of the city shall be considered city police officers;

(d) The term "law enforcement officer" also includes the executive secretary of a labor guild, association or organization (which is an employer under RCW 41.26.030(2) as now or hereafter amended) if that individual has five years previous membership in the retirement system established in chapter 41.20 RCW. The provisions of this subsection shall not apply to plan II members; and

(e) The term "law enforcement officer" also includes a person employed on or after January 1, 1993, as a public safety officer or director of public safety, so long as the job duties substantially involve only either police or fire duties, or both, and no other duties in a city or town with a population of less than ten thousand. The provisions of this subsection (3)(e) shall not apply to any public safety officer or director of public safety who is receiving a retirement allowance under this chapter as of May 12, 1993.

(4) "Fire fighter" means:

(a) Any person who is serving on a full time, fully compensated basis as a member of a fire department of an employer and who is serving in a position which requires passing a civil service examination for fire fighter, and who is actively employed as such;

(b) Anyone who is actively employed as a full time fire fighter where the fire department does not have a civil service examination;

(c) Supervisory fire fighter personnel;

(d) Any full time executive secretary of an association of fire protection districts authorized under RCW 52.12.031. The provisions of this subsection shall not apply to plan II members;

(e) The executive secretary of a labor guild, association or organization (which is an employer under RCW 41.26.030(2) as now or hereafter amended), if such individual has five years previous membership in a retirement system established in chapter 41.16 or 41.18 RCW. The provisions of this subsection shall not apply to plan II members;

(f) Any person who is serving on a full time, fully compensated basis for an employer, as a fire dispatcher, in a department in which, on March 1, 1970, a dispatcher was required to have passed a civil service examination for fire fighter; and

(g) Any person who on March 1, 1970, was employed on a full time, fully compensated basis by an employer, and who on May 21, 1971 was making retirement contributions under the provisions of chapter 41.16 or 41.18 RCW.

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

(6) "Surviving spouse" means the surviving widow or widower of a member. "Surviving spouse" shall not include the divorced spouse of a member except as provided in RCW 41.26.162.

(7)(a) "Child" or "children" means an unmarried person who is under the age of eighteen or mentally or physically handicapped as determined by the department, except a handicapped person in the full time care of a state institution, who is:

(i) A natural born child;

(ii) A stepchild where that relationship was in existence prior to the date benefits are payable under this chapter;

(iii) A posthumous child;

(iv) A child legally adopted or made a legal ward of a member prior to the date benefits are payable under this chapter; or

(v) An illegitimate child legitimized prior to the date any benefits are payable under this chapter.

(b) A person shall also be deemed to be a child up to and including the age of twenty years and eleven months while attending any high school, college, or vocational or other educational institution accredited, licensed, or approved by the state, in which it is located, including the summer vacation months and all other normal and regular vacation periods at the particular educational institution after which the child returns to school.

(8) "Member" means any fire fighter, law enforcement officer, or other person as would apply under subsections (3) or (4) of this section whose membership is transferred to the Washington law enforcement officers' and fire fighters' retirement system on or after March 1, 1970, and every law enforcement officer and fire fighter who is employed in that capacity on or after such date.

(9) "Retirement fund" means the "Washington law enforcement officers' and fire fighters' retirement system fund" as provided for herein.

(10) "Employee" means any law enforcement officer or fire fighter as defined in subsections (3) and (4) of this section.

(11)(a) "Beneficiary" for plan I members, means any person in receipt of a retirement allowance, disability allowance, death benefit, or any other benefit described herein.

(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.

(12)(a) "Final average salary" for plan I members, means (i) for a member holding the same position or rank for a minimum of twelve months preceding the date of retirement, the basic salary attached to such same position or rank at time of retirement; (ii) for any other member, including a civil service member who has not served a minimum of twelve months in the same position or rank preceding the date of retirement, the average of the greatest basic salaries payable to such member during any consecutive twenty-four month period within such member's last ten years of service for which service credit is allowed, computed by dividing the total basic salaries payable to such member during the selected twenty-four month period by twenty-four; (iii) in the case of disability of any member, the basic salary payable to such member at the time of disability retirement; (iv) in the case of a member who hereafter vests pursuant to RCW 41.26.090, the basic salary payable to such member at the time of vesting.

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

(13)(a) "Basic salary" for plan I members, means the basic monthly rate of salary or wages, including longevity pay but not including overtime earnings or special salary or wages, upon which pension or retirement benefits will be computed and upon which employer contributions and salary deductions will be based.

(b) "Basic salary" 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. In any year in which a member serves in the legislature the member shall have the option of having such member's basic salary be the greater of:

(i) The basic salary the member would have received had such member not served in the legislature; or

(ii) Such member's actual basic salary received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because basic salary under (b)(i) of this subsection is greater than basic salary under (b)(ii) of this subsection shall be paid by the member for both member and employer contributions.

(14)(a) "Service" for plan I members, means all periods of employment for an employer as a fire fighter or law enforcement officer, for which compensation is paid, together with periods of suspension not exceeding thirty days in duration. For the purposes of this chapter service shall also include service in the armed forces of the United States as provided in RCW 41.26.190. Credit shall be allowed for all service credit months of service rendered by a member from and after the member's initial commencement of employment as a fire fighter or law enforcement officer, during which the member worked for seventy or more hours, or was on disability leave or disability retirement. Only service credit months of service shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter.

(i) For members retiring after May 21, 1971 who were employed under the coverage of a prior pension act before March 1, 1970, "service" shall also include (A) such military service not exceeding five years as was creditable to the member as of March 1, 1970, under the member's particular prior pension act, and (B) such other periods of service as were then creditable to a particular member under the provisions of RCW 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit be allowed for any service rendered prior to March 1, 1970, where the member at the time of rendition of such service was employed in a position covered by a prior pension act, unless such service, at the time credit is claimed therefor, is also creditable under the provisions of such prior act.

(ii) A member who is employed by two employers at the same time shall only be credited with service to one such employer for any month during which the member rendered such dual service.

(b) "Service" for plan II members, means periods of employment by a member for one or more employers for which basic salary is earned for ninety or more hours per calendar month which shall constitute a service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for at least seventy hours but less than ninety hours per calendar month shall constitute one-half service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for less than seventy hours shall constitute a one-quarter service credit month.

Members of the retirement system who are elected or appointed to a state elective position may elect to continue to be members of this retirement system.

Service credit years of service shall be determined by dividing the total number of service credit months of service by twelve. Any fraction of a service credit year of service as so determined shall be taken into account in the computation of such retirement allowance or benefits.

If a member receives basic salary from two or more employers during any calendar month, the individual shall receive one service credit month's service credit during any calendar month in which multiple service for ninety or more hours is rendered; or one-half service credit month's service credit during any calendar month in which multiple service for at least seventy hours but less than ninety hours is rendered; or one-quarter service credit month during any calendar month in which multiple service for less than seventy hours is rendered.

(15) "Accumulated contributions" means the employee's contributions made by a member plus accrued interest credited thereon.

(16) "Actuarial reserve" means a method of financing a pension or retirement plan wherein reserves are accumulated as the liabilities for benefit payments are incurred in order that sufficient funds will be available on the date of retire-

ment of each member to pay the member's future benefits during the period of retirement.

(17) "Actuarial valuation" means a mathematical determination of the financial condition of a retirement plan. It includes the computation of the present monetary value of benefits payable to present members, and the present monetary value of future employer and employee contributions, giving effect to mortality among active and retired members and also to the rates of disability, retirement, withdrawal from service, salary and interest earned on investments.

(18) "Disability board" for plan I members means either the county disability board or the city disability board established in RCW 41.26.110.

(19) "Disability leave" means the period of six months or any portion thereof during which a member is on leave at an allowance equal to the member's full salary prior to the commencement of disability retirement. The definition contained in this subsection shall apply only to plan I members.

(20) "Disability retirement" for plan I members, means the period following termination of a member's disability leave, during which the member is in receipt of a disability retirement allowance.

(21) "Position" means the employment held at any particular time, which may or may not be the same as civil service rank.

(22) "Medical services" for plan I members, shall include the following as minimum services to be provided. Reasonable charges for these services shall be paid in accordance with RCW 41.26.150.

(a) Hospital expenses: These are the charges made by a hospital, in its own behalf, for

(i) Board and room not to exceed semiprivate room rate unless private room is required by the attending physician due to the condition of the patient.

(ii) Necessary hospital services, other than board and room, furnished by the hospital.

(b) Other medical expenses: The following charges are considered "other medical expenses", provided that they have not been considered as "hospital expenses".

(i) The fees of the following:

(A) A physician or surgeon licensed under the provisions of chapter 18.71 RCW;

(B) An osteopath licensed under the provisions of chapter 18.57 RCW;

(C) A chiropractor licensed under the provisions of chapter 18.25 RCW.

(ii) The charges of a registered graduate nurse other than a nurse who ordinarily resides in the member's home, or is a member of the family of either the member or the member's spouse.

(iii) The charges for the following medical services and supplies:

(A) Drugs and medicines upon a physician's prescription;

(B) Diagnostic x-ray and laboratory examinations;

(C) X-ray, radium, and radioactive isotopes therapy;

(D) Anesthesia and oxygen;

(E) Rental of iron lung and other durable medical and surgical equipment;

(F) Artificial limbs and eyes, and casts, splints, and trusses;

(G) Professional ambulance service when used to transport the member to or from a hospital when injured by an accident or stricken by a disease;

(H) Dental charges incurred by a member who sustains an accidental injury to his or her teeth and who commences treatment by a legally licensed dentist within ninety days after the accident;

(I) Nursing home confinement or hospital extended care facility;

(J) Physical therapy by a registered physical therapist;

(K) Blood transfusions, including the cost of blood and blood plasma not replaced by voluntary donors;

(L) An optometrist licensed under the provisions of chapter 18.53 RCW.

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

(24) "Retiree" for persons who establish membership in the retirement system on or after October 1, 1977, means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

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

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

(27) "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.

(28) "Plan I" means the law enforcement officers' and fire fighters' retirement system, plan I providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(29) "Plan II" means the law enforcement officers' and fire fighters' 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.

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

(31) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one. [1993 c 322 § 1; 1991 sp.s. c 12 § 1. Prior: (1991 sp.s. c 11 § 3 repealed by 1991 sp.s. c 12 § 3); 1991 c 365 § 35; 1991 c 343 § 14; 1991 c 35 § 13; 1987 c 418 § 1; 1985 c 13 § 5; 1984 c 230 § 83; 1981 c 256 § 4; 1979 ex.s. c 249 § 2; 1977 ex.s. c 294 § 17; 1974 ex.s. c 120 § 1; 1972 ex.s. c 131 § 1; 1971 ex.s. c 257 § 6; 1970 ex.s. c 6 § 1; 1969 ex.s. c 209 § 3.]

Application—1993 c 322 § 1: "Section 1 of this act shall apply retroactively to January 1, 1993." [1993 c 322 § 2.]

Effective date—1993 c 322: "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 [May 12, 1993]." [1993 c 322 § 3.]

Severability—1991 c 365: See note following RCW 41.50.500.

Findings—Effective dates—1991 c 343: See notes following RCW 41.50.005.

Intent—1991 c 35: See note following RCW 41.26.005.

Purpose—Application—Retrospective application—1985 c 13: See notes following RCW 41.04.445.

Purpose—Severability—1981 c 256: See notes following RCW 41.04.250.

Severability—1974 ex.s. c 120: "If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 120 § 15.]

Severability—1972 ex.s. c 131: "If any provision of this 1972 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1972 ex.s. c 131 § 12.]

Purpose—1971 ex.s. c 257: "It is the purpose of this act to provide minimum medical and health standards for membership coverage into the Washington law enforcement officers' and fire fighters' retirement system act, for the improvement of the public service, and to safeguard the integrity and actuarial soundness of their pension systems, and to improve their retirement and pension systems and related provisions." [1971 ex.s. c 257 § 1.]

Severability—1971 ex.s. c 257: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 257 § 22.]

The above two annotations apply to 1971 ex.s. c 257. For codification of that act, see Codification Tables, Volume 0.

41.26.030 Definitions. (Effective January 1, 1994.) As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Retirement system" means the "Washington law enforcement officers' and fire fighters' retirement system" provided herein.

(2)(a) "Employer" for plan I members, means the legislative authority of any city, town, county, or district or the elected officials of any municipal corporation that employs any law enforcement officer and/or fire fighter, any authorized association of such municipalities, and, except for the purposes of RCW 41.26.150, any labor guild, association, or organization, which represents the fire fighters or law enforcement officers of at least seven cities of over 20,000 population and the membership of each local lodge or division of which is composed of at least sixty percent law enforcement officers or fire fighters as defined in this chapter.

(b) "Employer" for plan II members, means the following entities to the extent that the entity employs any law enforcement officer and/or fire fighter:

(i) The legislative authority of any city, town, county, or district;

(ii) The elected officials of any municipal corporation; or

(iii) The governing body of any other general authority law enforcement agency.

(3) "Law enforcement officer" beginning January 1, 1994, means any person who is commissioned and employed by an employer on a full time, fully compensated basis to enforce the criminal laws of the state of Washington generally, with the following qualifications:

(a) No person who is serving in a position that is basically clerical or secretarial in nature, and who is not commissioned shall be considered a law enforcement officer;

(b) Only those deputy sheriffs, including those serving under a different title pursuant to county charter, who have successfully completed a civil service examination for deputy sheriff or the equivalent position, where a different title is used, and those persons serving in unclassified positions authorized by RCW 41.14.070 except a private secretary will be considered law enforcement officers;

(c) Only such full time commissioned law enforcement personnel as have been appointed to offices, positions, or ranks in the police department which have been specifically created or otherwise expressly provided for and designated by city charter provision or by ordinance enacted by the legislative body of the city shall be considered city police officers;

(d) The term "law enforcement officer" also includes the executive secretary of a labor guild, association or organization (which is an employer under RCW 41.26.030(2) as now or hereafter amended) if that individual has five years previous membership in the retirement system established in chapter 41.20 RCW. The provisions of this subsection (3)(d) shall not apply to plan II members; and

(e) The term "law enforcement officer" also includes a person employed on or after January 1, 1993, as a public safety officer or director of public safety, so long as the job duties substantially involve only either police or fire duties, or both, and no other duties in a city or town with a population of less than ten thousand. The provisions of this subsection (3)(e) shall not apply to any public safety officer or director of public safety who is receiving a retirement allowance under this chapter as of May 12, 1993.

(4) "Fire fighter" means:

(a) Any person who is serving on a full time, fully compensated basis as a member of a fire department of an employer and who is serving in a position which requires passing a civil service examination for fire fighter, and who is actively employed as such;

(b) Anyone who is actively employed as a full time fire fighter where the fire department does not have a civil service examination;

(c) Supervisory fire fighter personnel;

(d) Any full time executive secretary of an association of fire protection districts authorized under RCW 52.12.031. The provisions of this subsection (4)(d) shall not apply to plan II members;

(e) The executive secretary of a labor guild, association or organization (which is an employer under RCW 41.26.030(2) as now or hereafter amended), if such individual has five years previous membership in a retirement system established in chapter 41.16 or 41.18 RCW. The provisions of this subsection (4)(e) shall not apply to plan II members;

(f) Any person who is serving on a full time, fully compensated basis for an employer, as a fire dispatcher, in a department in which, on March 1, 1970, a dispatcher was required to have passed a civil service examination for fire fighter; and

(g) Any person who on March 1, 1970, was employed on a full time, fully compensated basis by an employer, and who on May 21, 1971, was making retirement contributions under the provisions of chapter 41.16 or 41.18 RCW.

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

(6) "Surviving spouse" means the surviving widow or widower of a member. "Surviving spouse" shall not include the divorced spouse of a member except as provided in RCW 41.26.162.

(7)(a) "Child" or "children" means an unmarried person who is under the age of eighteen or mentally or physically handicapped as determined by the department, except a

handicapped person in the full time care of a state institution, who is:

(i) A natural born child;

(ii) A stepchild where that relationship was in existence prior to the date benefits are payable under this chapter;

(iii) A posthumous child;

(iv) A child legally adopted or made a legal ward of a member prior to the date benefits are payable under this chapter; or

(v) An illegitimate child legitimized prior to the date any benefits are payable under this chapter.

(b) A person shall also be deemed to be a child up to and including the age of twenty years and eleven months while attending any high school, college, or vocational or other educational institution accredited, licensed, or approved by the state, in which it is located, including the summer vacation months and all other normal and regular vacation periods at the particular educational institution after which the child returns to school.

(8) "Member" means any fire fighter, law enforcement officer, or other person as would apply under subsections (3) or (4) of this section whose membership is transferred to the Washington law enforcement officers' and fire fighters' retirement system on or after March 1, 1970, and every law enforcement officer and fire fighter who is employed in that capacity on or after such date.

(9) "Retirement fund" means the "Washington law enforcement officers' and fire fighters' retirement system fund" as provided for herein.

(10) "Employee" means any law enforcement officer or fire fighter as defined in subsections (3) and (4) of this section.

(11)(a) "Beneficiary" for plan I members, means any person in receipt of a retirement allowance, disability allowance, death benefit, or any other benefit described herein.

(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.

(12)(a) "Final average salary" for plan I members, means (i) for a member holding the same position or rank for a minimum of twelve months preceding the date of retirement, the basic salary attached to such same position or rank at time of retirement; (ii) for any other member, including a civil service member who has not served a minimum of twelve months in the same position or rank preceding the date of retirement, the average of the greatest basic salaries payable to such member during any consecutive twenty-four month period within such member's last ten years of service for which service credit is allowed, computed by dividing the total basic salaries payable to such member during the selected twenty-four month period by twenty-four; (iii) in the case of disability of any member, the basic salary payable to such member at the time of disability retirement; (iv) in the case of a member who hereafter vests pursuant to RCW 41.26.090, the basic salary payable to such member at the time of vesting.

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

(13)(a) "Basic salary" for plan I members, means the basic monthly rate of salary or wages, including longevity pay but not including overtime earnings or special salary or wages, upon which pension or retirement benefits will be computed and upon which employer contributions and salary deductions will be based.

(b) "Basic salary" 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. In any year in which a member serves in the legislature the member shall have the option of having such member's basic salary be the greater of:

(i) The basic salary the member would have received had such member not served in the legislature; or

(ii) Such member's actual basic salary received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because basic salary under (b)(i) of this subsection is greater than basic salary under (b)(ii) of this subsection shall be paid by the member for both member and employer contributions.

(14)(a) "Service" for plan I members, means all periods of employment for an employer as a fire fighter or law enforcement officer, for which compensation is paid, together with periods of suspension not exceeding thirty days in duration. For the purposes of this chapter service shall also include service in the armed forces of the United States as provided in RCW 41.26.190. Credit shall be allowed for all service credit months of service rendered by a member from and after the member's initial commencement of employment as a fire fighter or law enforcement officer, during which the member worked for seventy or more hours, or was on disability leave or disability retirement. Only service credit months of service shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter.

(i) For members retiring after May 21, 1971 who were employed under the coverage of a prior pension act before March 1, 1970, "service" shall also include (A) such military service not exceeding five years as was creditable to the member as of March 1, 1970, under the member's particular prior pension act, and (B) such other periods of service as were then creditable to a particular member under the provisions of RCW 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit be allowed for any service rendered prior to March 1, 1970, where the member at the time of rendition of such service was employed in a position covered by a prior pension act, unless such service, at the time credit is claimed therefor, is also creditable under the provisions of such prior act.

(ii) A member who is employed by two employers at the same time shall only be credited with service to one such employer for any month during which the member rendered such dual service.

(b) "Service" for plan II members, means periods of employment by a member for one or more employers for which basic salary is earned for ninety or more hours per calendar month which shall constitute a service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for at least seventy hours but less than ninety hours per calendar month shall constitute one-half service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for less than seventy hours shall constitute a one-quarter service credit month.

Members of the retirement system who are elected or appointed to a state elective position may elect to continue to be members of this retirement system.

Service credit years of service shall be determined by dividing the total number of service credit months of service by twelve. Any fraction of a service credit year of service as so determined shall be taken into account in the computation of such retirement allowance or benefits.

If a member receives basic salary from two or more employers during any calendar month, the individual shall receive one service credit month's service credit during any calendar month in which multiple service for ninety or more hours is rendered; or one-half service credit month's service credit during any calendar month in which multiple service for at least seventy hours but less than ninety hours is rendered; or one-quarter service credit month during any calendar month in which multiple service for less than seventy hours is rendered.

(15) "Accumulated contributions" means the employee's contributions made by a member plus accrued interest credited thereon.

(16) "Actuarial reserve" means a method of financing a pension or retirement plan wherein reserves are accumulated as the liabilities for benefit payments are incurred in order that sufficient funds will be available on the date of retirement of each member to pay the member's future benefits during the period of retirement.

(17) "Actuarial valuation" means a mathematical determination of the financial condition of a retirement plan. It includes the computation of the present monetary value of benefits payable to present members, and the present monetary value of future employer and employee contributions, giving effect to mortality among active and retired members and also to the rates of disability, retirement, withdrawal from service, salary and interest earned on investments.

(18) "Disability board" for plan I members means either the county disability board or the city disability board established in RCW 41.26.110.

(19) "Disability leave" means the period of six months or any portion thereof during which a member is on leave at an allowance equal to the member's full salary prior to the commencement of disability retirement. The definition contained in this subsection shall apply only to plan I members.

(20) "Disability retirement" for plan I members, means the period following termination of a member's disability leave, during which the member is in receipt of a disability retirement allowance.

(21) "Position" means the employment held at any particular time, which may or may not be the same as civil service rank.

(22) "Medical services" for plan I members, shall include the following as minimum services to be provided. Reasonable charges for these services shall be paid in accordance with RCW 41.26.150.

(a) Hospital expenses: These are the charges made by a hospital, in its own behalf, for

(i) Board and room not to exceed semiprivate room rate unless private room is required by the attending physician due to the condition of the patient.

(ii) Necessary hospital services, other than board and room, furnished by the hospital.

(b) Other medical expenses: The following charges are considered "other medical expenses", provided that they have not been considered as "hospital expenses".

(i) The fees of the following:

(A) A physician or surgeon licensed under the provisions of chapter 18.71 RCW;

(B) An osteopath licensed under the provisions of chapter 18.57 RCW;

(C) A chiropractor licensed under the provisions of chapter 18.25 RCW.

(ii) The charges of a registered graduate nurse other than a nurse who ordinarily resides in the member's home, or is a member of the family of either the member or the member's spouse.

(iii) The charges for the following medical services and supplies:

(A) Drugs and medicines upon a physician's prescription;

(B) Diagnostic x-ray and laboratory examinations;

(C) X-ray, radium, and radioactive isotopes therapy;

(D) Anesthesia and oxygen;

(E) Rental of iron lung and other durable medical and surgical equipment;

(F) Artificial limbs and eyes, and casts, splints, and trusses;

(G) Professional ambulance service when used to transport the member to or from a hospital when injured by an accident or stricken by a disease;

(H) Dental charges incurred by a member who sustains an accidental injury to his or her teeth and who commences treatment by a legally licensed dentist within ninety days after the accident;

(I) Nursing home confinement or hospital extended care facility;

(J) Physical therapy by a registered physical therapist;

(K) Blood transfusions, including the cost of blood and blood plasma not replaced by voluntary donors;

(L) An optometrist licensed under the provisions of chapter 18.53 RCW.

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

(24) "Retiree" for persons who establish membership in the retirement system on or after October 1, 1977, means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

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

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

(27) "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.

(28) "Plan I" means the law enforcement officers' and fire fighters' retirement system, plan I providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(29) "Plan II" means the law enforcement officers' and fire fighters' 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.

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

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

(32) "General authority law enforcement agency" means any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government of this state, and any agency, department, or division of state government, having as its primary function the detection and apprehension of persons committing infractions or violating the traffic or criminal laws in general, but not including the Washington state patrol. Such an agency, department, or division is distinguished from a limited authority law enforcement agency having as one of its functions the apprehension or detection of persons committing infractions or violating the traffic or criminal laws relating to limited subject areas, including but not limited to, the state departments of natural resources, fisheries, wildlife, and social and health services, the state gambling commission, the state lottery commission, the state parks and recreation commission, the state utilities and transportation commission, the state liquor control board, and the state department of corrections. [1993 c 502 § 1; 1993 c 322 § 1; 1991 sp.s. c 12 § 1. Prior: (1991 sp.s. c 11 § 3 repealed by 1991 sp.s. c 12 § 3); 1991 c 365 § 35; 1991 c 343 § 14; 1991 c 35 § 13; 1987 c 418 § 1; 1985 c 13 § 5; 1984 c 230 § 83; 1981 c 256 § 4; 1979 ex.s. c 249 § 2; 1977 ex.s. c 294 § 17; 1974 ex.s. c 120 § 1; 1972 ex.s. c 131 § 1; 1971 ex.s. c 257 § 6; 1970 ex.s. c 6 § 1; 1969 ex.s. c 209 § 3.]

Reviser's note: This section was amended by 1993 c 322 § 1 and by 1993 c 502 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—1993 c 502: "This act shall take effect January 1, 1994." [1993 c 502 § 6.]

Application—1993 c 322 § 1: "Section 1 of this act shall apply retroactively to January 1, 1993." [1993 c 322 § 2.]

Effective date—1993 c 322: "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 [May 12, 1993]." [1993 c 322 § 3.]

Severability—1991 c 365: See note following RCW 41.50.500.

Findings—Effective dates—1991 c 343: See notes following RCW 41.50.005.

Intent—1991 c 35: See note following RCW 41.26.005.

Purpose—Application—Retrospective application—1985 c 13: See notes following RCW 41.04.445.

Purpose—Severability—1981 c 256: See notes following RCW 41.04.250.

Severability—1974 ex.s. c 120: "If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 120 § 15.]

Severability—1972 ex.s. c 131: "If any provision of this 1972 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1972 ex.s. c 131 § 12.]

Purpose—1971 ex.s. c 257: "It is the purpose of this act to provide minimum medical and health standards for membership coverage into the Washington law enforcement officers' and fire fighters' retirement system act, for the improvement of the public service, and to safeguard the integrity and actuarial soundness of their pension systems, and to improve their retirement and pension systems and related provisions." [1971 ex.s. c 257 § 1.]

Severability—1971 ex.s. c 257: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 257 § 22.]

The above two annotations apply to 1971 ex.s. c 257. For codification of that act, see Codification Tables, Volume 0.

41.26.197 Service credit for paid leave of absence—Application to elected officials of labor organizations. (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 under the provisions of RCW 41.26.080 through 41.26.3903.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The basic salary reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement. [1993 c 95 § 3.]

Retroactive application—Effective date—1993 c 95: See notes following RCW 41.40.175.

41.26.420 Computation of the retirement allowance. Except as provided in RCW 41.26.530, a member of the retirement system shall receive a retirement allowance equal to two percent of such member's final average salary for each year of service. [1993 c 517 § 2; 1979 ex.s. c 249 § 4; 1977 ex.s. c 294 § 3.]

Purpose—1993 c 517: "The legislature recognizes the demanding, physical nature of law enforcement and fire fighting, and the resulting need to allow law enforcement officers and fire fighters to make transitions into other careers when these employees feel they can no longer pursue law enforcement or fire fighting. The legislature also recognizes the challenge and cost of maintaining the viability of a retired employee's benefit over longer periods of retirement as longevity increases, and that this problem is compounded for employees who leave a career before they retire from the work force.

Therefore, the purpose of this act is to: (1) Provide full retirement benefits to law enforcement officers and fire fighters at an appropriate age that reflects the unique and physically demanding nature of their work; (2) provide a fair and reasonable value from the retirement system for those who leave the law enforcement or fire fighting profession before retirement;

(3) increase flexibility for law enforcement officers and fire fighters to make transitions into other public or private sector employment; (4) increase employee options for addressing retirement needs, personal financial planning, and career transitions; and (5) continue the legislature's established policy of having employees pay a fifty percent share of the contributions toward their retirement benefits and any enhancements." [1993 c 517 § 1.]

Reviser's note: 1993 c 517 directed that this section be added to chapter 41.26 RCW. However, it appears more appropriate to include it as a note to the sections affected by 1993 c 517.

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

41.26.430 Retirement for service. (1) NORMAL RETIREMENT. Any member with at least five service credit years of service who has attained at least age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.26.420.

(2) EARLY RETIREMENT. Any member who has completed at least twenty service credit years of service and has attained age fifty shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.26.420, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age fifty-five. [1993 c 517 § 3; 1991 c 343 § 18; 1977 ex.s. c 294 § 4.]

Purpose—1993 c 517: See note following RCW 41.26.420.

Findings—Effective dates—1991 c 343: See notes following RCW 41.50.005.

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

41.26.450 Plan II employer, member, and state contributions. (Effective January 1, 1994.) The required contribution rates to the plan II system for members, employers, and the state of Washington shall be established by the director from time to time as may be necessary upon the advice of the state actuary. The state actuary shall use the aggregate actuarial cost method to calculate contribution rates.

The member, the employer and the state shall each contribute the following shares of the cost of the retirement system:

Member	50%
Employer	30%
State	20%

However, port districts established under Title 53 RCW and institutions of higher education as defined in RCW 28B.10.016 shall contribute both the employer and state shares of the cost of the retirement system for any of their employees who are law enforcement officers.

Effective January 1, 1987, however, no member or employer contributions are required for any calendar month in which the member is not granted service credit.

Any adjustments in contribution rates required from time to time for future costs shall likewise be shared proportionally by the members, employers, and the state.

Any increase in the contribution rate required as the result of a failure of the state or of an employer to make any contribution required by this section shall be borne in full by the state or by that employer not making the contribution.

The director shall notify all employers of any pending adjustment in the required contribution rate and such increase shall be announced at least thirty days prior to the effective date of the change.

Members' contributions required by this section shall be deducted from the members basic salary each payroll period. The members contribution and the employers contribution shall be remitted directly to the department within fifteen days following the end of the calendar month during which the payroll period ends. The state's contribution required by this section shall be transferred to the plan II fund from the total contributions transferred by the state treasurer under RCW 41.45.060 and 41.45.070. [1993 c 502 § 2; 1989 c 273 § 14; 1986 c 268 § 1; 1984 c 184 § 10; 1977 ex.s. c 294 § 6.]

Effective date—1993 c 502: See note following RCW 41.26.030.

Severability—Effective dates—1989 c 273: See RCW 41.45.900 and 41.45.901.

Severability—1984 c 184: See note following RCW 41.50.150.

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

41.26.470 Earned disability allowance—Cancellation of allowance—Reentry—Receipt of service credit while disabled—Conditions—Disposition upon death of recipient. (1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the director shall be eligible to receive an allowance under the provisions of RCW 41.26.410 through 41.26.550. Such member shall receive a monthly disability allowance computed as provided for in RCW 41.26.420 and shall have such allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age fifty-five.

(2) Any member who receives an allowance under the provisions of this section shall be subject to such comprehensive medical examinations as required by the department. If such medical examinations reveal that such a member has recovered from the incapacitating disability and the member is no longer entitled to benefits under Title 51 RCW, the retirement allowance shall be canceled and the member shall be restored to duty in the same civil service rank, if any, held by the member at the time of retirement or, if unable to perform the duties of the rank, then, at the member's request, in such other like or lesser rank as may be or become open and available, the duties of which the member is then able to perform. In no event shall a member previously drawing a disability allowance be returned or be restored to duty at a salary or rate of pay less than the current salary attached to the rank or position held by the member at the date of the retirement for disability. If the department determines that the member is able to return to service, the member is entitled to notice and a hearing. Both the notice and the hearing shall comply with the requirements of chapter 34.05 RCW, the Administrative Procedure Act.

(3) Those members subject to this chapter who became disabled in the line of duty on or after July 23, 1989, and who receive benefits under RCW 41.04.500 through

41.04.530 or similar benefits under RCW 41.04.535 shall receive or continue to receive service credit subject to the following:

(a) No member may receive more than one month's service credit in a calendar month.

(b) No service credit under this section may be allowed after a member separates or is separated without leave of absence.

(c) Employer contributions shall be paid by the employer at the rate in effect for the period of the service credited.

(d) Employee contributions shall be collected by the employer and paid to the department at the rate in effect for the period of service credited.

(e) State contributions shall be as provided in RCW 41.26.450.

(f) Contributions shall be based on the regular compensation which the member would have received had the disability not occurred.

(g) The service and compensation credit under this section shall be granted for a period not to exceed six consecutive months.

(h) Should the legislature revoke the service credit authorized under this section or repeal this section, no affected employee is entitled to receive the credit as a matter of contractual right.

(4)(a) If the recipient of a monthly retirement allowance under this section dies before the total of the retirement allowance paid to the recipient equals the amount of the accumulated contributions at the date of retirement, then the balance shall be paid to such person or persons having an insurable interest in his or her life as the recipient has nominated by written designation duly executed and filed with the director, or, if there is no such designated person or persons still living at the time of the recipient's death, then to the surviving spouse, or, if there is neither such designated person or persons still living at the time of his or her death nor a surviving spouse, then to his or her legal representative.

(b) If a recipient of a monthly retirement allowance under this section died before April 27, 1989, and before the total of the retirement allowance paid to the recipient equaled the amount of his or her accumulated contributions at the date of retirement, then the department shall pay the balance of the accumulated contributions to the member's surviving spouse or, if there is no surviving spouse, then in equal shares to the member's children. If there is no surviving spouse or children, the department shall retain the contributions. [1993 c 517 § 4; 1990 c 249 § 19. Prior: 1989 c 191 § 1; 1989 c 88 § 1; 1982 c 12 § 2; 1981 c 294 § 9; 1977 ex.s. c 294 § 8.]

Purpose—1993 c 517: See note following RCW 41.26.420.

Findings—1990 c 249: See note following RCW 2.10.146.

Severability—1981 c 294: See note following RCW 41.26.115.

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

Disability leave supplement for law enforcement officers and fire fighters: RCW 41.04.500 through 41.04.550.

41.26.510 Death benefits. (1) Except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death, 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 such person or persons having an insurable interest in such member's life as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, 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 the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 41.26.430(1), 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 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 41.26.460 and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.26.430(2); if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated as herein provided making the assumption that the ages of the spouse and member were equal at the time of the member's death; or

(b) The member's 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.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies after October 1, 1977, and is not survived by a spouse or an eligible child, then the accumulated contributions standing to the member's credit, 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:

(a) To a person or persons, having an insurable interest in the member's life, as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives. [1993 c 236 § 3; 1991 c 365 § 31; 1990 c 249 § 14; 1977 ex.s. c 294 § 12.]

Severability—1991 c 365: See note following RCW 41.50.500.

Findings—1990 c 249: See note following RCW 2.10.146.

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

41.26.520 Service credit for paid leave of absence, officers of labor organizations, unpaid leave of absence, military service. (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) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The basic salary reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement.

(3) Except as specified in subsection (4) 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.

(4) A member who leaves the employ of an employer to enter the armed forces of the United States shall be 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.

(5) 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. [1993 c 95 § 4; 1992 c 119 § 1; 1989 c 88 § 2; 1977 ex.s. c 294 § 13.]

Retroactive application—Effective date—1993 c 95: See notes following RCW 41.40.175.

Retroactive application—1992 c 119: "This act applies retroactively for retirement system service credit for military service which began on or after January 1, 1990." [1992 c 119 § 4.]

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

41.26.530 Vested membership. (1) A member who separates or has separated after having completed at least five years of service may remain a member during the period of such member's absence from service for the exclusive purpose only of receiving a retirement allowance under the provisions of RCW 41.26.430 if such member maintains the member's accumulated contributions intact.

(2) The retirement allowance payable under the provisions of RCW 41.26.430 to a member who separates after having completed at least twenty years of service, and remains a member during the period of his or her absence from service by maintaining his or her accumulated contributions intact, shall be increased by twenty-five one-hundredths of one percent, compounded for each month from the date of separation to the date the retirement allowance commences as provided in RCW 41.26.490. [1993 c 517 § 5; 1977 ex.s. c 294 § 14.]

Purpose—1993 c 517: See note following RCW 41.26.420.

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

41.26.540 Refund of contributions on termination. (1) A member who has completed less than ten years of service, who ceases to be an employee of an employer except by service or disability retirement, may request a refund of the member's accumulated contributions. A member who has completed ten or more years of service, who ceases to be an employee of an employer except by service or disability retirement, may request a refund of one hundred fifty percent of the member's accumulated contributions.

(2) The refund shall be made within ninety days following the receipt of the request and notification of termination through the contribution reporting system by the employer; except that in the case of death, an initial payment shall be made within thirty days of receipt of request for such payment and notification of termination through the contribution reporting system by the employer. A member who files a request for refund and subsequently enters into employment with another employer prior to the refund being made shall not be eligible for a refund. The refund of accumulated contributions shall terminate all rights to benefits under RCW 41.26.410 through 41.26.550. [1993 c 517 § 6; 1982 1st ex.s. c 52 § 5; 1977 ex.s. c 294 § 15.]

Purpose—1993 c 517: See note following RCW 41.26.420.

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

41.26.550 Reentry. A member, who had left service and withdrawn the member's funds pursuant to RCW 41.26.540, shall receive service credit for such prior service if the member restores all withdrawn funds together with interest since the time of withdrawal as determined by the department.

The restoration of such funds must be completed within five years of the resumption of service or prior to retirement, whichever occurs first. [1993 c 517 § 7; 1977 ex.s. c 294 § 16.]

Purpose—1993 c 517: See note following RCW 41.26.420.

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

Chapter 41.32
TEACHERS' RETIREMENT

Sections

41.32.010 Definitions. 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) "Member reserve" means the fund in which all of the accumulated contributions of members are held.

(5)(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.

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

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

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

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

(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 41.32.345. 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) 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.

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

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

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

(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.

(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 member reserve.

(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.

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

(18) "Pension reserve" 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.

(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.

(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.

(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.

(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 member reserve. This subsection shall apply only to plan I members.

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

(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.

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

(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.

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

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

(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.

(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 except under RCW 41.32.810(2).

(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.

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

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

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

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

(36) "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.

(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.

(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.

(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. [1993 c 95 § 7. Prior: 1992 c 212 § 1; 1992 c 3 § 3; prior: 1991 c 343 § 3; 1991 c 35 § 31; 1990 c 274 § 2; 1987 c 265 § 1; 1985 c 13 § 6; prior: 1984 c 256 § 1; 1984 c 5 § 1; 1983 c 5 § 1; 1982 1st ex.s. c 52 § 6; 1981 c 256 § 5; 1979 ex.s. c 249 § 5; 1977 ex.s. c 293 § 18; 1975 1st ex.s. c 275 § 149; 1974 ex.s. c 199 § 1; 1969 ex.s. c 176 § 95; 1967 c 50 § 11; 1965 ex.s. c 81 § 1; 1963 ex.s. c 14 § 1; 1955 c 274 § 1; 1947 c 80 § 1; Rem. Supp. 1947 § 4995-20; prior: 1941 c 97 § 1; 1939 c 86 § 1; 1937 c 221 § 1; 1931 c 115 § 1; 1923 c 187 § 1; 1917 c 163 § 1; Rem. Supp. 1941 § 4995-1.]

Retroactive application—Effective date—1993 c 95: See notes following RCW 41.40.175.

Findings—Effective dates—1991 c 343: See notes following RCW 41.50.005.

Intent—1991 c 35: See note following RCW 41.26.005.

Findings—1990 c 274: "(1) The current system for calculating service credit for school district employees is difficult and costly to administer. By changing from the current hours per month calculation to an hours per year calculation, the accumulation of service credit by school district employees will be easier to understand and to administer.

(2) The current system for granting service credit for substitute teachers is difficult and costly to administer. By notifying substitute teachers of their eligibility for service credit and allowing the substitute teacher to apply for service credit, the accumulation of service credit by substitute teachers will be easier to understand and to administer.

(3) Currently, temporary employees in eligible positions in the public employees' retirement system are exempted from membership in the system for up to six months. If the position lasts for longer than six months the employee is made a member retroactively. This conditional exemption causes tracking problems for the department of retirement systems and places a heavy financial burden for back contributions on a temporary employee who crosses the six-month barrier. Under the provisions of this act all persons, other than retirees, who are hired in an eligible position will become members immediately, thereby alleviating the problems described in this section.

(4) The legislature finds that retirees from the plan II systems of the law enforcement officers' and fire fighters' retirement system, the teachers' retirement system, and the public employees' retirement system, may not work for a nonfederal public employer without suffering a suspension of their retirement benefits. This fails to recognize the current and projected demographics indicating the decreasing work force and that the expertise possessed by retired workers can provide a substantial benefit to the state. At the same time, the legislature recognizes that a person who is working full time should have his or her pension delayed until he or she enters full or partial retirement. By allowing plan II retirees to work in ineligible positions, the competing concerns listed above are both properly addressed." [1990 c 274 § 1.]

Intent—Reservation—1990 c 274 §§ 2 and 4: "The 1990 amendments to RCW 41.32.010(27)(b) and 41.40.450 are intended by the legislature to effect administrative, rather than substantive, changes to the affected retirement plan. The legislature therefore reserves the right to revoke or amend the 1990 amendments to RCW 41.32.010(27)(b) and 41.40.450. No member is entitled to have his or her service credit calculated under the 1990 amendments to RCW 41.32.010(27)(b) and 41.40.450 as a matter of contractual right." [1990 c 274 § 18.]

Effective date—1990 c 274: "Sections 1 through 8 of this act shall take effect September 1, 1990." [1990 c 274 § 21.]

Construction—1990 c 274: "This act shall not be construed as affecting any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule or order adopted under those sections, nor as affecting any proceeding instituted under those sections." [1990 c 274 § 17.]

The above four annotations apply to 1990 c 274. For codification of that act, see Codification Tables, Volume 0.

Purpose—Application—Retrospective application—1985 c 13: See notes following RCW 41.04.445.

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

Purpose—Severability—1981 c 256: See notes following RCW 41.04.250.

Effective date—Severability—1977 ex.s. c 293: See notes following RCW 41.32.755.

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

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

The above two annotations apply to 1974 ex.s. c 199. For codification of that act, see Codification Tables, Volume 0.

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

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

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

Reviser's note: (1) "Subsection (3) of section 4 of this 1974 amendatory act" is codified as RCW 41.32.498(3).

(2) Sections 1 and 2 of 1974 ex.s. c 199 consist of amendments to RCW 41.32.010 and 41.32.260. For amendatory language, a portion of which was vetoed, see the 1973-1974 session laws.

(3) "this 1974 amendatory act" [1974 ex.s. c 199] is codified in RCW 41.32.010, 41.32.260, 41.32.497, 41.32.498, and 41.32.4945. The effective date of 1974 ex.s. c 199 is May 6, 1974.

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

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

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

The above two annotations apply to 1967 c 50. For codification of that act, see Codification Tables, Volume 0.

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

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

The above two annotations apply to 1965 ex.s. c 81. For codification of that act, see Codification Tables, Volume 0.

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

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

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

The above three annotations apply to 1963 ex.s. c 14. For codification of that act, see Codification Tables, Volume 0.

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

41.32.267 Service credit for paid leave of absence—Application to elected officials of labor organizations. (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 under the provisions of RCW 41.32.240 through 41.32.575.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The earnable compensation reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement. [1993 c 95 § 5.]

Retroactive application—Effective date—1993 c 95: See notes following RCW 41.40.175.

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

41.32.4871 Monthly benefit—Temporary increase—Conditions. (1) Effective July 1, 1993, through June 30, 1995, the monthly benefit of each plan I beneficiary under this chapter is increased three dollars per month per year of creditable service established by the member, reflecting any actuarial reduction made or survivor option taken, if the beneficiary:

(a) Is not receiving a minimum benefit under RCW 41.32.487 or cost-of-living adjustment under RCW 41.32.575; and

(b) Is at least age seventy as of July 1, 1993; and

(c) Was receiving benefits as of July 1, 1988; and

(d) Is not a recipient of the temporary disability under RCW 41.32.540.

(2) Any fraction of a year is counted in the computation of this adjustment. [1993 c 519 § 2.]

Part headings not law—1993 c 519: "Part headings as used in this act do not constitute any part of the law." [1993 c 519 § 24.]

Effective date—1993 c 519: "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 [May 18, 1993]." [1993 c 519 § 25.]

41.32.520 Payment on death before retirement. (1) Except as specified in subsection (3) of this section, 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) If a member who has received a determination of disability as specified in RCW 41.32.550 and selected a retirement option under RCW 41.32.530(1)(b) dies before the first retirement allowance installment becomes due, he or she shall receive the benefit provided under the selected retirement option. [1993 c 16 § 1; 1992 c 212 § 7. Prior: 1991 c 365 § 29; 1991 c 35 § 58; 1990 c 249 § 15; 1974 ex.s. c 193 § 5; 1973 2nd ex.s. c 32 § 4; 1973 1st ex.s. c 154 § 76; 1967 c 50 § 7; 1965 ex.s. c 81 § 6; 1957 c 183 § 3; 1955 c 274 § 25; 1947 c 80 § 52; Rem. Supp. 1947 § 4995-71; prior: 1941 c 97 § 6; 1939 c 86 § 6; 1937 c 221 § 7; 1923 c 187 § 22; 1917 c 163 § 21; Rem. Supp. 1941 § 4995-7.]

Application—1993 c 16 § 1: "The provisions of section 1(3) of this act shall apply to all determinations of disability made after June 30, 1992." [1993 c 16 § 2.]

Effective date—1993 c 16: "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 [April 12, 1993]." [1993 c 16 § 3.]

Severability—1991 c 365: See note following RCW 41.50.500.

Intent—1991 c 35: See note following RCW 41.26.005.

Findings—1990 c 249: See note following RCW 2.10.146.

Emergency—Severability—1974 ex.s. c 193: See notes following RCW 41.32.310.

Emergency—Severability—1973 2nd ex.s. c 32: See notes following RCW 41.32.310.

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

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

Effective date—Severability—1965 ex.s. c 81: See notes following RCW 41.32.010.

Severability—1957 c 183: See RCW 41.33.900.

41.32.805 Death benefits. (1) Except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system, 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, at the time of such member's death shall be paid to such person or persons having an insurable interest in such member's life as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, 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 the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 41.32.765(1), 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 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 41.32.785 and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.32.765(2); if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated as herein provided making the assumption that the ages of the spouse and member were equal at the time of the member's death; or

(b) The member's 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.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies after October 1, 1977, and is not survived by a spouse or an eligible child, then the accumulated contributions standing to the member's credit, 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:

(a) To a person or persons, having an insurable interest in the member's life, as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives. [1993 c 236 § 4; 1991 c 365 § 30; 1990 c 249 § 16; 1977 ex.s. c 293 § 12.]

Severability—1991 c 365: See note following RCW 41.50.500.

Findings—1990 c 249: See note following RCW 2.10.146.

Effective date—Severability—Legislative direction and placement—Section headings—1977 ex.s. c 293: See notes following RCW 41.32.755.

41.32.810 Service credit for paid leave of absence, officers of labor organizations, unpaid leave of absence, military service. (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) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The earnable compensation reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement.

(3) Except as specified in subsection (4) 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 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 earnable compensation at both the time the authorized leave of absence was granted and the time the member resumed employment.

(4) A member who leaves the employ of an employer to enter the armed forces of the United States shall be 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. [1993 c 95 § 6; 1992 c 119 § 2; 1977 ex.s. c 293 § 13.]

Retroactive application—Effective date—1993 c 95: See notes following RCW 41.40.175.

Retroactive application—1992 c 119: See note following RCW 41.26.520.

Effective date—Severability—Legislative direction and placement—Section headings—1977 ex.s. c 293: See notes following RCW 41.32.755.

Chapter 41.40
WASHINGTON PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Sections

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

(1) "Retirement system" means the public employees' retirement system provided for in this chapter.

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

(3) "State treasurer" means the treasurer of the state of Washington.

(4)(a) "Employer" for plan I members, means every branch, department, agency, commission, board, and office of the state, any political subdivision or association of political subdivisions of the state admitted into the retirement system, and legal entities authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW as now or hereafter amended; and the term shall also include any labor guild, association, or organization the membership of a local lodge or division of which is comprised of at least forty percent employees of an employer (other than such labor guild, association, or organization) within this chapter. The term may also include any city of the first class that has its own retirement system.

(b) "Employer" for plan II members, means every branch, department, agency, commission, board, and office of the state, and any political subdivision and municipal corporation of the state admitted into the retirement system, including public agencies created pursuant to RCW 35.63.070, 36.70.060, and 39.34.030.

(5) "Member" means any employee included in the membership of the retirement system, as provided for in RCW 41.40.023.

(6) "Original member" of this retirement system means:

(a) Any person who became a member of the system prior to April 1, 1949;

(b) Any person who becomes a member through the admission of an employer into the retirement system on and after April 1, 1949, and prior to April 1, 1951;

(c) Any person who first becomes a member by securing employment with an employer prior to April 1, 1951, provided the member has rendered at least one or more years of service to any employer prior to October 1, 1947;

(d) Any person who first becomes a member through the admission of an employer into the retirement system on or after April 1, 1951, provided, such person has been in the regular employ of the employer for at least six months of the twelve-month period preceding the said admission date;

(e) Any member who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement becomes entitled to be credited with ten years or more of membership service except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member;

(f) Any member who has been a contributor under the system for two or more years and who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement has rendered five or more years of service for the state or any political subdivision prior to the time of the admission of the employer into the system; except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member.

(7) "New member" means a person who becomes a member on or after April 1, 1949, except as otherwise provided in this section.

(8)(a) "Compensation earnable" for plan I members, means salaries or wages earned during a payroll period for personal services and where the compensation is not all paid in money, maintenance compensation shall be included upon the basis of the schedules established by the member's employer: PROVIDED, That retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable and the individual shall receive the equivalent service credit: PROVIDED FURTHER, That if a leave of absence is taken by an individual for the purpose of serving in the state legislature, 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 is paid by the employee and the employer's contribution is paid by the employer or employee.

(b) "Compensation earnable" 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 nonmoney maintenance compensation and lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay: PROVIDED, That retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable to the extent provided above, and the individual shall receive the equivalent service credit: PROVIDED FURTHER, That in any year in which a member serves in the legislature, the member shall have the option of having such member's compensation earnable be the greater of:

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

(ii) Such member's actual compensation earnable received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under subparagraph (i) of this subsection is greater than

compensation earnable under subparagraph (ii) of this subsection shall be paid by the member for both member and employer contributions.

(9)(a) "Service" for plan I members, except as provided in RCW 41.40.088, means periods of employment in an eligible position or positions for one or more employers rendered to any employer for which compensation is paid, and includes time spent in office as an elected or appointed official of an employer. Compensation earnable earned in full time work for seventy hours or more in any given calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service except as provided in RCW 41.40.088. Only service credit months and one-quarter service credit months shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter. Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits.

Service by a state employee officially assigned by the state on a temporary basis to assist another public agency, shall be considered as service as a state employee: PROVIDED, That service to any other public agency shall not be considered service as a state employee if such service has been used to establish benefits in any other public retirement system: PROVIDED FURTHER, That an individual shall receive no more than a total of twelve service credit months of service during any calendar year: PROVIDED FURTHER, That where an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for seventy or more hours is rendered.

(b) "Service" for plan II members, means periods of employment by a member in an eligible position or positions for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service.

Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits.

Service in any state elective position shall be deemed to be full time service, except that persons serving in state elective positions who are members of the teachers' retirement system or law enforcement officers' and fire fighters' retirement system at the time of election or appointment to such position may elect to continue membership in the teachers' retirement system or law enforcement officers' and fire fighters' retirement system.

A member shall receive a total of not more than twelve service credit months of service for such calendar year: PROVIDED, That when an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for ninety or more hours is rendered.

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

(11) "Service credit month" means a month or an accumulation of months of service credit which is equal to one.

(12) "Prior service" means all service of an original member rendered to any employer prior to October 1, 1947.

(13) "Membership service" means:

(a) All service rendered, as a member, after October 1, 1947;

(b) All service after October 1, 1947, to any employer prior to the time of its admission into the retirement system: PROVIDED, That an amount equal to the employer and employee contributions which would have been paid to the retirement system on account of such service shall have been paid to the retirement system with interest (as computed by the department) on the employee's portion prior to retirement of such person, by the employee or his employer, except as qualified by RCW 41.40.023: PROVIDED FURTHER, That employer contributions plus employee contributions with interest submitted by the employee under this subsection shall be placed in the employee's individual account in the employees' savings fund and be treated as any other contribution made by the employee, with the exception that the contributions submitted by the employee in payment of the employer's obligation, together with the interest the director may apply to the employer's contribution, shall be excluded from the calculation of the member's annuity in the event the member selects a benefit with an annuity option;

(c) Service not to exceed six consecutive months of probationary service rendered after April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of the total amount of the employer's contribution to the retirement fund which would have been required under the law in effect when such probationary service was rendered if the member had been a member during such period, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member;

(d) Service not to exceed six consecutive months of probationary service, rendered after October 1, 1947, and before April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of five percent of such member's salary during said period of probationary service, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member.

(14)(a) "Beneficiary" for plan I members, means any person in receipt of a retirement allowance, pension 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.

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

(16) "Accumulated contributions" 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.

(17)(a) "Average final compensation" for plan I members, means the annual average of the greatest compensation earnable by a member during any consecutive two year period of service credit months for which service credit is allowed; or if the member has less than two years of service credit months then the annual average compensation earnable during the total years of service for which service credit is allowed.

(b) "Average final compensation" for plan II members, means the member's average compensation earnable of the highest consecutive sixty months of 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 except under RCW 41.40.710(2).

(18) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(19) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(20) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(21) "Retirement allowance" means the sum of the annuity and the pension.

(22) "Employee" means any person who may become eligible for membership under this chapter, as set forth in RCW 41.40.023.

(23) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality and other tables as may be adopted by the director.

(24) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(25) "Eligible position" means:

(a) Any position that, as defined by the employer, normally requires five or more months of service a year for which regular compensation for at least seventy hours is earned by the occupant thereof. 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;

(b) Any position occupied by an elected official or person appointed directly by the governor for which compensation is paid.

(26) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (25) of this section.

(27) "Leave of absence" means the period of time a member is authorized by the employer to be absent from service without being separated from membership.

(28) "Totally incapacitated for duty" means total inability to perform the duties of a member's employment or office or any other work for which the member is qualified by training or experience.

(29) "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.

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

(31) "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.

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

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

(34) "Plan II" means the public employees' 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. [1993 c 95 § 8. Prior: 1991 c 343 § 6; 1991 c 35 § 70; 1990 c 274 § 3; prior: 1989 c 309 § 1; 1989 c 289 § 1; 1985 c 13 § 7; 1983 c 69 § 1; 1981 c 256 § 6; 1979 ex.s. c 249 § 7; 1977 ex.s. c 295 § 16; 1973 1st ex.s. c 190 § 2; 1972 ex.s. c 151 § 1; 1971 ex.s. c 271 § 2; 1969 c 128 § 1; 1965 c 155 § 1; 1963 c 225 § 1; 1963 c 174 § 1; 1961 c 291 § 1; 1957 c 231 § 1; 1955 c 277 § 1; 1953 c 200 § 1; 1951 c 50 § 1; 1949 c 240 § 1; 1947 c 274 § 1; Rem. Supp. 1949 § 11072-1.]

Retroactive application—Effective date—1993 c 95: See notes following RCW 41.40.175.

Findings—Effective dates—1991 c 343: See notes following RCW 41.50.005.

Intent—1991 c 35: See note following RCW 41.26.005.

Findings—Effective date—Construction—1990 c 274: See notes following RCW 41.32.010.

Purpose—Application—Retrospective application—1985 c 13: See notes following RCW 41.04.445.

Applicability—1983 c 69: "Section 1 of this 1983 act applies only to service credit accruing after July 24, 1983." [1983 c 69 § 3.] This applies to the 1983 c 69 amendment to RCW 41.40.010.

Purpose—Severability—1981 c 256: See notes following RCW 41.04.250.

Severability—1973 1st ex.s. c 190: "If any provision of this 1973 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 1st ex.s. c 190 § 16.] For codification of 1973 1st ex.s. c 190, see Codification Tables, Volume 0.

Severability—1971 ex.s. c 271: See note following RCW 41.32.260.

Severability—1969 c 128: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 c 128 § 19.] For codification of 1969 c 128, see Codification Tables, Volume 0.

Severability—1965 c 155: "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." [1965 c 155 § 10.] For codification of 1965 c 155, see Codification Tables, Volume 0.

Severability—1963 c 174: "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." [1963 c 174 § 19.] For codification of 1963 c 174, see Codification Tables, Volume 0.

Severability—1961 c 291: "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." [1961 c 291 § 18.] For codification of 1961 c 291, see Codification Tables, Volume 0.

41.40.023 Membership. Membership in the retirement system shall consist of all regularly compensated employees and appointive and elective officials of employers, as defined in this chapter, with the following exceptions:

(1) Persons in ineligible positions;

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

(3)(a) Persons holding elective offices or persons appointed directly by the governor: PROVIDED, That such persons shall have the option of applying for membership during such periods of employment: AND PROVIDED FURTHER, That any persons holding or who have held elective offices or persons appointed by the governor who are members in the retirement system and who have, prior to becoming such members, previously held an elective office, and did not at the start of such initial or successive terms of office exercise their option to become members, may apply for membership to be effective during such term or terms of office, and shall be allowed to establish the service credit applicable to such term or terms of office upon payment of the employee contributions therefor by the employee with interest as determined by the director and employer contributions therefor by the employer or employee with interest as determined by the director: AND PROVIDED FURTHER, That all contributions with interest submitted by the employee under this subsection shall be placed in the employee's individual account in the employee's savings fund and be treated as any other contribution made by the employee, with the exception that any contributions submitted by the employee in payment of the employer's obligation, together with the interest the director may apply to the employer's contribution, shall not be considered part of the member's annuity for any purpose except withdrawal of contributions;

(b) A member holding elective office who has elected to apply for membership pursuant to (a) of this subsection and who later wishes to be eligible for a retirement allowance shall have the option of ending his or her membership in the retirement system. A member wishing to end his or her membership under this subsection must file, on a form supplied by the department, a statement indicating that the member agrees to irrevocably abandon any claim for service for future periods served as an elected official. A member who receives more than fifteen thousand dollars per year in compensation for his or her elective service, adjusted annually for inflation by the director, is not eligible for the option provided by this subsection (3)(b);

(4) Employees holding membership in, or receiving pension benefits under, any retirement plan operated wholly or in part by an agency of the state or political subdivision thereof, or who are by reason of their current employment contributing to or otherwise establishing the right to receive benefits from any such retirement plan: PROVIDED, HOWEVER, In any case where the retirement system has in existence an agreement with another retirement system in connection with exchange of service credit or an agreement whereby members can retain service credit in more than one system, such an employee shall be allowed membership rights should the agreement so provide: AND PROVIDED FURTHER, That an employee shall be allowed membership if otherwise eligible while receiving survivor's benefits: AND PROVIDED FURTHER, That an employee shall not either before or after June 7, 1984, be excluded from membership or denied service credit pursuant to this subsection solely on account of: (a) Membership in the plan created under chapter 2.14 RCW; or (b) enrollment under the relief and compensation provisions or the pension provisions of the volunteer fire fighters' relief and pension fund under chapter 41.24 RCW;

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

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

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

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

(9) Persons rendering professional services to an employer on a fee, retainer, or contract basis or when the income from these services is less than fifty percent of the gross income received from the person's practice of a profession;

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

(11) Employees of a labor guild, association, or organization: PROVIDED, That elective officials and employees of a labor guild, association, or organization which qualifies as an employer within this chapter shall have the option of applying for membership;

(12) Plan I retirees employed in eligible positions on a temporary basis for a period not to exceed five months in a calendar year: PROVIDED, That if such employees are employed for more than five months in a calendar year in an eligible position they shall become members of the system prospectively;

(13) Persons employed by or appointed or elected as an official of a first class city that has its own retirement system: PROVIDED, That any member elected or appointed to an elective office on or after April 1, 1971, shall have the option of continuing as a member of this system in lieu of becoming a member of the city system. A member who elects to continue as a member of this system shall pay the appropriate member contributions and the city shall pay the employer contributions at the rates prescribed by this chapter. The city shall also transfer to this system all of such member's accumulated contributions together with such further amounts as necessary to equal all employee and employer contributions which would have been paid into this system on account of such service with the city and thereupon the member shall be granted credit for all such service. Any city that becomes an employer as defined in RCW 41.40.010(4) as the result of an individual's election under this subsection shall not be required to have all employees covered for retirement under the provisions of this chapter. Nothing in this subsection shall prohibit a city of the first class with its own retirement system from: (a) Transferring

all of its current employees to the retirement system established under this chapter, or (b) allowing newly hired employees the option of continuing coverage under the retirement system established by this chapter.

Notwithstanding any other provision of this chapter, persons transferring from employment with a first class city of over four hundred thousand population that has its own retirement system to employment with the state department of agriculture may elect to remain within the retirement system of such city and the state shall pay the employer contributions for such persons at like rates as prescribed for employers of other members of such system;

(14) Employees who (a) are not citizens of the United States, (b) do not reside in the United States, and (c) perform duties outside of the United States;

(15) Employees who (a) are not citizens of the United States, (b) are not covered by chapter 41.48 RCW, (c) are not excluded from membership under this chapter or chapter 41.04 RCW, (d) are residents of this state, and (e) make an irrevocable election to be excluded from membership, in writing, which is submitted to the director within thirty days after employment in an eligible position;

(16) Employees who are citizens of the United States and who reside and perform duties for an employer outside of the United States: PROVIDED, That unless otherwise excluded under this chapter or chapter 41.04 RCW, the employee may apply for membership (a) within thirty days after employment in an eligible position and membership service credit shall be granted from the first day of membership service, and (b) after this thirty-day period, but membership service credit shall be granted only from the date of application;

(17) The city manager or chief administrative officer of a city or town who serves at the pleasure of an appointing authority: PROVIDED, That such persons shall have the option of applying for membership within thirty days from date of their appointment to such positions. Persons serving in such positions as of April 4, 1986, shall continue to be members in the retirement system unless they notify the director in writing prior to December 31, 1986, of their desire to withdraw from membership in the retirement system. A member who withdraws from membership in the system under this section shall receive a refund of the member's accumulated contributions. [1993 c 319 § 1. Prior: 1990 c 274 § 10; 1990 c 192 § 4; 1988 c 109 § 25; 1987 c 379 § 1; 1986 c 317 § 5; 1984 c 184 § 13; 1984 c 121 § 1; 1982 1st ex.s. c 52 § 19; 1975 c 33 § 6; 1974 ex.s. c 195 § 2; 1973 1st ex.s. c 190 § 5; 1971 ex.s. c 271 § 4; 1969 c 128 § 5; 1967 c 127 § 3; 1965 c 155 § 2; 1963 c 225 § 2; 1963 c 210 § 1; 1957 c 231 § 2; 1955 c 277 § 2; 1953 c 200 § 5; 1951 c 50 § 2; 1949 c 240 § 7; 1947 c 274 § 13; Rem. Supp. 1949 § 11072-13. Formerly RCW 41.40.120.]

Findings—Construction—1990 c 274: See notes following RCW 41.32.010.

Effective date—1988 c 109: See note following RCW 2.10.030.

Legislative findings—Intent—Severability—1986 c 317: See notes following RCW 41.40.150.

Severability—1984 c 184: See note following RCW 41.50.150.

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

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

Severability—1974 ex.s. c 195: "If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 195 § 14.]

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

Severability—1971 ex.s. c 271: See note following RCW 41.32.260.

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

Election authorized to establish membership under RCW 41.40.023(3): RCW 41.54.050.

Pension benefits or annuity benefits for certain classifications of school district employees: RCW 28A.400.260.

41.40.093 Law enforcement officers—Optional transfer to LEOFF Plan II. (Effective January 1, 1994.)

(1) An employee who was a member on or before January 1, 1994, and, on January 1, 1994, is employed by a port district or an institution of higher education as a law enforcement officer as defined in RCW 41.26.030, has the following options:

(a) The employee may remain a member of the retirement system, notwithstanding the definition of law enforcement officer under RCW 41.26.030; or

(b) The member may make an irrevocable choice, filed in writing with the department no later than January 1, 1995, to transfer to the law enforcement officers' and fire fighters' retirement system plan II as defined in RCW 41.26.030. An employee transferring membership under this subsection (1)(b) shall be a dual member as provided in RCW 41.54.010.

(2)(a) If the department determines that transfers of service credit and accumulated contributions between the state's retirement systems are permitted by federal law without the employee or the retirement system fund incurring adverse income tax liability as a result of the transfer, an employee who transferred membership under subsection (1)(b) of this section may choose to transfer service credit as a law enforcement officer previously earned under the retirement system, to the law enforcement officers' and fire fighters' retirement system plan II, by making an irrevocable choice filed in writing with the department within one year of the department's announcement of the ability to make such a transfer.

(b) Any law enforcement officer choosing to transfer under this subsection shall have transferred from the retirement system to the law enforcement officers' and fire fighters' retirement system plan II: (i) All the employee's applicable accumulated contributions and employer contributions attributed to such employee; and (ii) all applicable months of service, as defined in RCW 41.26.030(14)(b), credited to the employee under this chapter, as though such service was rendered as a member of the law enforcement officers' and fire fighters' retirement system.

(c) For the applicable period of service, the employee shall pay the difference between the contributions such employee paid to the retirement system, and the contributions which would have been paid by the employee had the employee been a member of the law enforcement officers' and fire fighters' retirement system, plus interest as determined by the director.

(d) For the applicable period of service, the employer shall pay the difference between the employer contributions

paid to the retirement system, and the combined employer and state contributions which would have been payable to the law enforcement officers' and fire fighters' retirement system, plus interest as determined by the director. The amount of interest determined by the director to be paid by the employer shall be sufficient to ensure that the contribution level of current members of the law enforcement officers' and fire fighters' retirement system will not increase due to this transfer. For the purpose of this subsection (2)(d), the state contribution shall not include the contribution related to the amortization of the costs of the law enforcement officers' and fire fighters' retirement system plan I as required by chapter 41.45 RCW.

(e) An individual who transfers service credit and contributions under this subsection shall be permanently excluded from the retirement system for all service as a law enforcement officer. [1993 c 502 § 3.]

Effective date—1993 c 502: See note following RCW 41.26.030.

41.40.175 Service credit for paid leave of absence—Application to elected officials of labor organizations. (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 under the provisions of RCW 41.40.145 through 41.40.363.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The compensation earnable reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement. [1993 c 95 § 1.]

Retroactive application—1993 c 95: "This act applies on a retroactive basis to members for whom compensation and hours were reported under the circumstances described in sections 1 through 6 of this act. This act may also be applied on a retroactive basis to January 1, 1992, to members for whom compensation and hours would have been reported except for chapter 3, Laws of 1992, or explicit instructions from the department of retirement systems." [1993 c 95 § 9.]

Effective date—1993 c 95: "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 [April 21, 1993]." [1993 c 95 § 11.]

41.40.1983 Monthly benefit—Temporary increase—Conditions. (1) Effective July 1, 1993, through June 30, 1995, the monthly benefit of each plan I beneficiary under this chapter is increased three dollars per month per year of creditable service established by the member, reflecting any actuarial reduction made or survivor option taken, if the beneficiary:

(a) Is not receiving a minimum benefit under RCW 41.40.198 or cost-of-living adjustment under RCW 41.40.325; and

(b) Is at least age seventy as of July 1, 1993; and

(c) Was receiving benefits as of July 1, 1988.

(2) Any fraction of a year is counted in the computation of this adjustment. [1993 c 519 § 3.]

Part headings not law—Effective date—1993 c 519: See notes following RCW 41.32.4871.

41.40.262 Elected officials—Restoration of withdrawn contributions. Any active member or separated member who was not eligible to restore contributions under section 3, chapter 317, Laws of 1986, solely because he or she was an elected official, other than an elected official under Articles II or III of the Constitution of the state of Washington, shall be permitted to restore withdrawn contributions for periods of nonelected service no later than June 30, 1994, with interest as determined by the director. [1993 c 506 § 2.]

41.40.700 Death benefits. (1) Except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death, 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 such person or persons having an insurable interest in such member's life as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, 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 the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 41.40.630(1), 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 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 41.40.660 and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.40.630(2); if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated as herein provided making the assumption

that the ages of the spouse and member were equal at the time of the member's death; or

(b) The member's 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.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies after October 1, 1977, and is not survived by a spouse or an eligible child, then the accumulated contributions standing to the member's credit, 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:

(a) To a person or persons, having an insurable interest in the member's life, as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives. [1993 c 236 § 5; 1991 c 365 § 28; 1990 c 249 § 18; 1977 ex.s. c 295 § 11.]

Severability—1991 c 365: See note following RCW 41.50.500.

Findings—1990 c 249: See note following RCW 2.10.146.

Legislative direction and placement—Section headings—1977 ex.s. c 295: See notes following RCW 41.40.610.

41.40.710 Service credit for paid leave of absence, officers of labor organizations, unpaid leave of absence, military service. (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) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The compensation earnable reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement.

(3) Except as specified in subsection (4) 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.

(4) A member who leaves the employ of an employer to enter the armed forces of the United States shall be 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. [1993 c 95 § 2; 1992 c 119 § 3; 1991 c 35 § 100; 1977 ex.s. c 295 § 12.]

Retroactive application—Effective date—1993 c 95: See notes following RCW 41.40.175.

Retroactive application—1992 c 119: See note following RCW 41.26.520.

Intent—1991 c 35: See note following RCW 41.26.005.

Legislative direction and placement—Section headings—1977 ex.s. c 295: See notes following RCW 41.40.610.

Chapter 41.45

ACTUARIAL FUNDING OF STATE RETIREMENT SYSTEMS

Sections

41.45.030 State actuary to submit information on the experience and financial condition of each retirement system to the economic and revenue forecast council. (1) Beginning September 1, 1989, and every six years thereafter, the state actuary shall submit to the council information regarding the experience and financial condition of each state retirement system.

(2) The council shall review the information submitted by the state actuary and shall adopt the economic assumptions used by the state actuary in conducting valuation studies of the state retirement systems.

(3) The council may utilize information provided by the state actuary and such other information as it may request. [1993 c 519 § 17; 1989 c 273 § 3.]

Part headings not law—Effective date—1993 c 519: See notes following RCW 41.32.4871.

41.45.040 Adoption of economic assumptions and contribution rates. (1) The adoption of the economic assumptions and the contribution rates as provided in RCW 41.45.060 shall be by affirmative vote of at least five members of the council.

(2) The employer and state contribution rates adopted by the council shall be the level percentages of pay which are needed:

(a) To fully amortize the total costs of the public employees' retirement system plan I, the teachers' retirement system plan I, the law enforcement officers' and fire fighters' retirement system plan I, and the unfunded liability of the Washington state patrol retirement system not later than June 30, 2024; and

(b) To also continue to fully fund the public employees' retirement system plan II, the teachers' retirement system plan II, and the law enforcement officers' and fire fighters' retirement system plan II in accordance with the provisions of RCW 41.40.650, 41.32.775, and 41.26.450, respectively. [1993 c 519 § 18; 1989 c 273 § 4.]

Part headings not law—Effective date—1993 c 519: See notes following RCW 41.32.4871.

41.45.060 Basic state contribution rate beginning September 1, 1993. (1) For the period of September 1, 1993, through August 31, 1995, 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 determined in the 1991 valuations prepared by the office of the state actuary.

(2) Not later than September 30, 1994, and every two years thereafter:

(a) The council shall adopt the contributions to be used in the ensuing biennial period for the systems specified in subsection (1) of this section.

(b) The council shall immediately notify the directors of the office of financial management and department of retirement systems of the state and employer contribution rates adopted under (a) of this subsection.

(c) The director of the department of retirement systems shall collect those rates adopted by the council under this chapter. [1993 c 519 § 19; 1992 c 239 § 2; 1990 c 18 § 1; 1989 c 273 § 6.]

Part headings not law—Effective date—1993 c 519: See notes following RCW 41.32.4871.

Effective date—1992 c 239: "This act shall take effect September 1, 1992." [1992 c 239 § 6.]

Effective date—1990 c 18: "This act shall take effect September 1, 1991." [1990 c 18 § 3.]

41.45.0601 Basic state contribution rate September 1, 1992, through August 31, 1993. Beginning September 1, 1992, through August 31, 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. [1993 c 519 § 20; 1992 c 239 § 1.]

Part headings not law—Effective date—1993 c 519: See notes following RCW 41.32.4871.

Effective date—1992 c 239: See note following RCW 41.45.060.

Chapter 41.48
FEDERAL SOCIAL SECURITY FOR PUBLIC EMPLOYEES

Sections

41.48.140 Establishment of sick leave rules by personnel authorities. Nothing in RCW 41.48.120 or 41.48.130 shall affect the power of the Washington personnel resources board or any other state personnel authority to establish sick leave rules except as may be required under RCW 41.48.120 or 41.48.130: PROVIDED, That each personnel board and personnel authority shall establish the maximum number of working days an employee under its jurisdiction may be absent on account of sickness or accident disability without a medical certificate.

"Personnel authority" as used in this section, means a state agency, board, committee, or similar body having general authority to establish personnel rules. [1993 c 281 § 39; 1979 c 152 § 3.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Severability—1979 c 152: See note following RCW 41.48.120.

Chapter 41.50
DEPARTMENT OF RETIREMENT SYSTEMS

Sections

41.50.050 Powers, duties, and functions of director. The director shall:

(1) Have the authority to organize the department into not more than three divisions, each headed by an assistant director;

(2) Have free access to all files and records of various funds assigned to the department and inspect and audit the files and records as deemed necessary;

(3) Employ personnel to carry out the general administration of the department;

(4) Submit an annual written report of the activities of the department to the governor and the chairs of the appropriate legislative committees with one copy to the staff of each of the committees, including recommendations for statutory changes the director believes to be desirable;

(5) Adopt such rules and regulations as are necessary to carry out the powers, duties, and functions of the department pursuant to the provisions of chapter 34.05 RCW. [1993 c 61 § 1; 1987 c 505 § 24; 1981 c 3 § 33; 1977 ex.s. c 251 § 1; 1975-'76 2nd ex.s. c 105 § 7.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

41.50.067 Adopted employer rates—Notification to employers. The director shall inform all employers in writing as to the employer rates adopted by the economic and revenue forecast council upon the notification of the council as prescribed in RCW 41.45.060. [1993 c 519 § 21.]

Part headings not law—Effective date—1993 c 519: See notes following RCW 41.32.4871.

41.50.255 Payment of legal and medical expenses of retirement systems. The director is authorized to pay from the interest earnings of the trust funds of the public employees' retirement system, the teachers' retirement system, the Washington state patrol retirement system, the Washington judicial retirement system, the judges' retirement system, or the law enforcement officers' and fire fighters' retirement system lawful obligations of the appropriate system for legal expenses and medical expenses which expenses are primarily incurred for the purpose of protecting the appropriate trust fund or are incurred in compliance with statutes governing such funds.

The term "legal expense" includes, but is not limited to, legal services provided through the legal services revolving fund, fees for expert witnesses, travel expenses, fees for court reporters, cost of transcript preparation, and reproduction of documents.

The term "medical costs" includes, but is not limited to, expenses for the medical examination or reexamination of members or retirees, the costs of preparation of medical reports, and fees charged by medical professionals for attendance at discovery proceedings or hearings.

During the period from July 1, 1993, until June 30, 1995, the director may pay from the interest earnings of the trust funds specified in this section costs incurred in investigating fraud and collecting overpayments, including expenses incurred to review and investigate cases of possible fraud against the trust funds and collection agency fees and other costs incurred in recovering overpayments. [1993 1st sp.s. c 24 § 916; 1991 c 35 § 73; 1984 c 184 § 7. Formerly RCW 41.40.083.]

Severability—Effective dates—1993 1st sp.s. c 24: See notes following RCW 28A.165.070.

Intent—1991 c 35: See note following RCW 41.26.005.

Severability—1984 c 184: See note following RCW 41.50.150.

41.50.730 Retirement or termination agreement payments—Effect on pension benefits calculation. Any payment made by an employer to a member of any retirement system enumerated in RCW 41.50.030 based on either an agreement of the employee to terminate or retire; or notification to the employer of intent to retire; shall affect retirement as follows:

(1) If the agreement does not require the employee to perform additional service, the payment shall not be used in any way to calculate the pension benefit.

(2) If the agreement requires additional service and results in payment at the same or a lower rate than that paid for the same or similar service by other employees it may be included in the pension benefit calculation but shall be deemed excess compensation and is billable to the employer as provided in RCW 41.50.150.

(3) If the agreement requires additional service and results in payment at a rate higher than that paid for the same or similar service by other employees, that portion of the payment which equals the payment for the same or similar service shall be treated as described in subsection (2) of this section, and the balance of the payment shall be treated as described in subsection (1) of this section. [1993 c 270 § 1.]

41.50.740 Retirement or termination agreement payments—Opportunity to change payment options. Members of the teachers' retirement system who retired prior to January 1, 1993, from service with a community college district whose reported earnable compensation included payments made pursuant to an agreement to terminate or retire, or to provide notice of intent to retire, and whose retirement allowance has been reduced under RCW 41.50.150 or is reduced after July 25, 1993, under RCW 41.50.730, shall have an opportunity to change the retirement allowance payment option selected by the member under RCW 41.32.530. Any request for a change shall be made in writing to the department no later than October 31, 1993, and shall apply prospectively only. [1993 c 270 § 2.]

41.50.750 Retirement or termination agreement payments—Overpayments not required to be repaid. (1) Retirees whose reported earnable compensation included payments made pursuant to an agreement to terminate or retire, or to provide notice of intent to retire, shall not be required to repay to the trust funds any overpayments resulting from the employer misreporting, subject to the conditions provided in subsection (2) of this section. The retirees' allowances shall be prospectively adjusted to reflect the benefits to which the retirees are correctly entitled.

(2) Subsection (1) of this section shall apply only to members of the teachers' retirement system who retired prior to January 1, 1993, from service with a community college district.

(3) Any retirees under subsection (2) of this section who, since January 1, 1990, have had their retirement allowances reduced under RCW 41.50.130(1)(b) because of the inclusion of retirement agreement payments in calculating their allowances, shall have their allowances adjusted to reflect the benefits to which the retirees are correctly entitled, but without a reduction to recoup prior

overpayments. The retirees shall be reimbursed by the retirement system for the cumulative amount of the reduction in the retirement allowance that has occurred since January 1, 1990, to recoup prior overpayments.

(4) Any retirees covered by subsection (2) of this section who, after January 1, 1990, repaid a previous overpayment in a lump sum under RCW 41.50.130(1)(b) because of the inclusion of retirement agreement payments in calculating their allowances, shall be reimbursed by the retirement system for the amount of the lump sum repayment. [1993 c 270 § 3.]

41.50.804 Existing collective bargaining agreements not affected. Nothing contained in this chapter shall be construed to alter any existing collective bargaining agreement until any such agreement has expired or until any such bargaining unit has been modified by action of the Washington personnel resources board as provided by law. [1993 c 281 § 40; 1975-'76 2nd ex.s. c 105 § 17.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Chapter 41.54
PORTABILITY OF PUBLIC RETIREMENT BENEFITS

Sections

41.54.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Base salary" means salaries or wages earned by a member of a system during a payroll period for personal services and includes wages and salaries deferred under provisions of the United States internal revenue code, but shall exclude overtime payments, nonmoney maintenance compensation, and lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, any form of severance pay, any bonus for voluntary retirement, any other form of leave, or any similar lump sum payment.

(2) "Department" means the department of retirement systems.

(3) "Director" means the director of the department of retirement systems.

(4) "Dual member" means a person who (a) is or becomes a member of a system on or after July 1, 1988, (b) has been a member of one or more other systems, and (c) has never been retired for service from a retirement system and is not receiving a disability retirement or disability leave benefit from any retirement system listed in RCW 41.50.030 or subsection (6) of this section.

(5) "Service" means the same as it may be defined in each respective system. For the purposes of RCW 41.54.030, military service granted under RCW 41.40.170(3) or 43.43.260 may only be based on service accrued under chapter 41.40 or 43.43 RCW, respectively.

(6) "System" means the retirement systems established under chapters 41.32, 41.40, 41.44, and 43.43 RCW; plan II of the system established under chapter 41.26 RCW; and the city employee retirement systems for Seattle, Tacoma, and Spokane. The inclusion of an individual first class city system is subject to the procedure set forth in RCW 41.54.061. [1993 c 517 § 8; 1990 c 192 § 1; 1988 c 195 § 1; 1987 c 192 § 1.]

Purpose—1993 c 517: See note following RCW 41.26.420.

41.54.040 Payment of retirement allowance and postretirement adjustments—Death benefit. (1) The retirement allowances calculated under RCW 41.54.030 shall be paid separately by each respective current and prior system. Any deductions from such separate payments shall be according to the provisions of the respective systems.

(2) Postretirement adjustments, if any, shall be applied by the respective systems based on the payments made under subsection (1) of this section.

(3) If a dual member dies in service in any system, the surviving spouse shall receive the same benefit from each system that would have been received if the member were active in the system at the time of death based on service actually established in that system. However, this subsection does not make a surviving spouse eligible for the survivor benefits provided in RCW 43.43.270.

(4) The department shall adopt rules under chapter 34.05 RCW to ensure that where a dual member has service in a system established under chapter 41.32, 41.40, 41.44, or 43.43 RCW; service in plan II of the system established under chapter 41.26 RCW; and service under the city employee retirement system for Seattle, Tacoma, or Spokane, the additional cost incurred as a result of the dual member receiving a benefit under this chapter shall be borne by the retirement system incurring the additional cost. [1993 c 519 § 16; 1993 c 517 § 9; 1990 c 192 § 5; 1988 c 195 § 3; 1987 c 192 § 4.]

Reviser's note: This section was amended by 1993 c 517 § 9 and by 1993 c 519 § 16, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Part headings not law—Effective date—1993 c 519: See notes following RCW 41.32.4871.

Purpose—1993 c 517: See note following RCW 41.26.420.

41.54.061 Seattle, Spokane, Tacoma—Irrevocable election for coverage under chapter—Effective date. (1) The cities of Seattle, Spokane, and Tacoma shall each have the option of making an irrevocable election to have its employee retirement system included in the coverage of this chapter by adopting a resolution transmitting it to the director and the joint committee on pension policy prior to December 31, 1993.

The resolution shall indicate the city's desire to be covered by this chapter and its willingness to pay for the additional cost it may incur as a result of the benefits provided by this chapter.

(2) This chapter shall become effective on January 1, 1994, for each city which adopts a resolution pursuant to subsection (1) of this section. [1993 c 519 § 15; 1990 c 192 § 3.]

Part headings not law—Effective date—1993 c 519: See notes following RCW 41.32.4871.

Chapter 41.56
PUBLIC EMPLOYEES' COLLECTIVE BARGAINING

Sections

41.56.020 Application of chapter. 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. The Washington state supreme court may provide by rule that the Washington state bar association shall be considered a public employer of its employees. [1993 c 76 § 2; 1992 c 36 § 1; 1989 c 275 § 1; 1987 c 135 § 1; 1985 c 7 § 107; 1983 c 3 § 98; 1967 ex.s. c 108 § 2.]

Legislative declaration—1993 c 76: "The legislature is committed to providing collective bargaining for all employees. However, the legislature is also mindful of the separations of powers and responsibilities among the branches of government. Therefore, the legislature strongly encourages the state supreme court to adopt collective bargaining for the employees of the Washington state bar association." [1993 c 76 § 1.]

Severability—1987 c 135: "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." [1987 c 135 § 4.]

41.56.023 Application of chapter to employees of institutions of higher education. In addition to the entities listed in RCW 41.56.020, this chapter shall apply to institutions of higher education with respect to the employees included in a bargaining unit that has exercised the option specified in RCW 41.56.201. [1993 c 379 § 301.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

41.56.030 Definitions (as amended by 1993 c 379). 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 with a population of seventy thousand or more, or (b) fire fighters as that term is defined in RCW 41.26.030, as now or hereafter amended.

(8) "Institution of higher education" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges. [1993 c 379 § 302; 1992 c 36 § 2; 1991 c 363 § 119; 1989 c 275 § 2; 1987 c 135 § 2; 1984 c 150 § 1; 1975 1st ex.s. c 296 § 15; 1973 c 131 § 2; 1967 ex.s. c 108 § 3.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

41.56.030 Definitions (as amended by 1993 c 397). 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 with a population of seventy thousand or more((~~, or~~)); (b) fire fighters as that term is defined in RCW 41.26.030((~~, as now or hereafter amended~~)); or (c) correctional employees who are uniformed and nonuniformed, commissioned and noncommissioned security personnel employed in a jail as defined in RCW 70.48.020(5), by a county with a population of seventy thousand or more, and who are trained for and charged with the responsibility of controlling and maintaining custody of inmates in the jail and safeguarding inmates from other inmates. [1993 c 397 § 1; 1992 c 36 § 2; 1991 c 363 § 119; 1989 c 275 § 2; 1987 c 135 § 2; 1984 c 150 § 1; 1975 1st ex.s. c 296 § 15; 1973 c 131 § 2; 1967 ex.s. c 108 § 3.]

41.56.030 Definitions (as amended by 1993 c 398). 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)(a) Until July 1, 1995, "uniformed personnel" means ((~~(a)~~)): (i) 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 with a population of seventy thousand or more((~~, or (b)~~)); (ii) fire fighters as that term is defined in RCW 41.26.030((~~, as now or hereafter amended~~)); (iii) security forces established under RCW 43.52.520; (iv) employees of a port district in a county with a population of one million or more whose duties include crash fire rescue or other fire fighting duties; (v) employees of fire departments of public employers who dispatch exclusively either fire or emergency medical services, or both; or (vi) employees in the several classes of advanced life support technicians, as defined in RCW 18.71.200, who are employed by a public employer.

(b) Beginning on July 1, 1995, "uniformed personnel" means: (i) Law enforcement officers as defined in RCW 41.26.030 employed by the governing body of any city or town with a population of seven thousand five hundred or more and law enforcement officers employed by the governing body of any county with a population of thirty-five thousand or more; (ii) general authority Washington peace officers as defined in RCW 10.93.020 employed by a port district in a county with a population of one million or more; (iii) security forces established under RCW 43.52.520; (iv) fire fighters as that term is defined in RCW 41.26.030; (v) employees of a port district in a county with a population of one million or more whose duties include crash fire rescue or other fire fighting duties; (vi) employees of fire departments of public employers who dispatch exclusively either fire or emergency medical services, or both; or (vii) employees in the several classes of advanced life support technicians, as defined in RCW 18.71.200, who are employed by a public employer. [1993 c 398 § 1; 1992 c 36 § 2; 1991 c 363 § 119; 1989 c 275 § 2; 1987 c 135 § 2; 1984 c 150 § 1; 1975 1st ex.s. c 296 § 15; 1973 c 131 § 2; 1967 ex.s. c 108 § 3.]

Reviser's note: RCW 41.56.030 was amended three times during the 1993 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Effective dates—1993 c 398: "(1) Sections 3 and 5 of this act shall take effect July 1, 1995.

(2) Sections 1, 2, 4, and 6 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 [May 15, 1993]." [1993 c 398 § 7.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Severability—1987 c 135: See note following RCW 41.56.020.

Effective date—1984 c 150: "This act shall take effect on July 1, 1985." [1984 c 150 § 2.]

Effective date—1975 1st ex.s. c 296: See RCW 41.58.901.

Construction—Severability—1973 c 131: See RCW 41.56.905, 41.56.910.

Public employment relations commission: Chapter 41.58 RCW.

41.56.123 Collective bargaining agreements—Effect of termination—Application of section. (1) After the termination date of a collective bargaining agreement, all of the terms and conditions specified in the collective bargaining agreement shall remain in effect until the effective date of a subsequent agreement, not to exceed one year from the termination date stated in the agreement. Thereafter, the employer may unilaterally implement according to law.

(2) This section does not apply to provisions of a collective bargaining agreement which both parties agree to exclude from the provisions of subsection (1) of this section and to provisions within the collective bargaining agreement with separate and specific termination dates.

(3) This section shall not apply to the following:

(a) Bargaining units covered by RCW 41.56.430 et seq. for factfinding and interest arbitration;

(b) Collective bargaining agreements authorized by chapter 53.18 RCW; or

(c) Collective bargaining agreements authorized by chapter 54.04 RCW.

(4) This section shall not apply to collective bargaining agreements in effect or being bargained on July 23, 1989. [1993 c 398 § 4; 1989 c 46 § 1.]

Effective dates—1993 c 398: See note following RCW 41.56.030.

41.56.201 Employees of institutions of higher education—Option to have relationship and obligations governed by chapter. (1) At any time after July 1, 1993, an institution of higher education and the exclusive bargaining representative of a bargaining unit of employees classified under chapter *28B.16 or 41.06 RCW as appropriate may exercise their option to have their relationship and corresponding obligations governed entirely by the provisions of this chapter by complying with the following:

(a) The parties will file notice of the parties' intent to be so governed, subject to the mutual adoption of a collective bargaining agreement permitted by this section recognizing the notice of intent. The parties shall provide the notice to the higher education personnel board or its successor and the commission;

(b) During the negotiation of an initial contract between the parties under this chapter, the parties' scope of bargaining shall be governed by this chapter and any disputes arising out of the collective bargaining rights and obligations under this subsection shall be determined by the commission. If the commission finds that the parties are at impasse, the notice filed under (a) of this subsection shall be void and have no effect; and

(c) On the first day of the month following the month during which the institution of higher education and the exclusive bargaining representative provide notice to the higher education personnel board or its successor and the commission that they have executed an initial collective bargaining agreement recognizing the notice of intent filed under (a) of this subsection, chapter *28B.16 or 41.06 RCW as appropriate shall cease to apply to all employees in the bargaining unit covered by the agreement.

(2) All collective bargaining rights and obligations concerning relations between an institution of higher education and the exclusive bargaining representative of its employees who have agreed to exercise the option permitted by this section shall be determined under this chapter, subject to the following:

(a) The commission shall recognize, in its current form, the bargaining unit as certified by the higher education personnel board or its successor and the limitations on collective bargaining contained in RCW 41.56.100 shall not apply to that bargaining unit.

(b) If, on the date of filing the notice under subsection (1)(a) of this section, there is a union shop authorized for the bargaining unit under rules adopted by the higher education personnel board or its successor, the union shop requirement shall continue in effect for the bargaining unit and shall be deemed incorporated into the collective bargaining agreement applicable to the bargaining unit.

(c) Salary increases negotiated for the employees in the bargaining unit shall be subject to the following:

(i) Salary increases shall continue to be appropriated by the legislature. The exclusive bargaining representative shall meet before a legislative session with the governor or governor's designee and the representative of the institution of higher education concerning the total dollar amount for salary increases and health care contributions that will be contained in the appropriations proposed by the governor under RCW 43.88.060;

(ii) The collective bargaining agreements may provide for salary increases from local efficiency savings that are different from or that exceed the amount or percentage for salary increases provided by the legislature in the omnibus appropriations act for the institution of higher education or allocated to the board of trustees by the state board for community and technical colleges, but the base for salary increases provided by the legislature under (c)(i) of this subsection shall include only those amounts appropriated by the legislature, and the base shall not include any additional salary increases provided under this subsection (2)(c)(ii);

(iii) Any provisions of the collective bargaining agreements pertaining to salary increases provided under (c)(i) of this subsection shall be subject to modification by the legislature. If any provision of a salary increase provided under (c)(i) of this subsection is changed by subsequent modification of the appropriations act by the legislature, both parties shall immediately enter into collective bargaining for the sole purpose of arriving at a mutually agreed upon replacement for the modified provision.

(3) Nothing in this section may be construed to permit an institution of higher education to bargain collectively with an exclusive bargaining representative concerning any matter covered by: (a) Chapter 41.05 RCW, except for the related cost or dollar contributions or additional or supplemental benefits as permitted by chapter 492, Laws of 1993; or (b) chapter 41.32 or 41.40 RCW. [1993 c 379 § 304.]

***Reviser's note:** Chapter 28B.16 RCW was repealed by 1993 c 281, with the exception of RCW 28B.16.240, which was recodified as a new section in chapter 41.06 RCW. The powers, duties, and functions of the state higher education personnel board were transferred to the Washington personnel resources board.

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

41.56.460 Uniformed personnel—Interest arbitration panel—Basis for determination (as amended by 1993 c 397). In making its determination, the panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and as additional standards or guidelines to aid it in reaching a decision, it shall take into consideration the following factors:

(a) The constitutional and statutory authority of the employer;

(b) Stipulations of the parties;

(c)(i) For employees listed in RCW *41.56.030(7) (a) and (c) and **41.56.495, comparison of the wages, hours and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of like employers of similar size on the west coast of the United States;

(ii) For employees listed in RCW 41.56.030(7)(b), comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of public fire departments of similar size on the west coast of the United States. However, when an adequate number of comparable

employers exists within the state of Washington, other west coast employers shall not be considered;

(d) The average consumer prices for goods and services, commonly known as the cost of living;

(e) Changes in any of the foregoing circumstances during the pendency of the proceedings; and

(f) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment. [1993 c 397 § 2; 1988 c 110 § 1; 1987 c 521 § 2; 1983 c 287 § 4; 1979 ex.s. c 184 § 3; 1973 c 131 § 5.]

Reviser's note: *(1) RCW 41.56.030 was amended three times in 1993 without reference to each other. The subsections referred to here are found in the 1993 c 379 § 1 version.

**(2) RCW 41.56.495 was repealed by 1993 c 398 § 6.

41.56.460 Uniformed personnel—Interest arbitration panel—Basis for determination (as amended by 1993 c 398). In making its determination, the panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and as additional standards or guidelines to aid it in reaching a decision, it shall take into consideration the following factors:

(a) The constitutional and statutory authority of the employer;

(b) Stipulations of the parties;

(c)(i) For employees listed in *RCW 41.56.030(7)(a) ((~~and 41.56.495~~)) (i) and (iii), comparison of the wages, hours and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of like employers of similar size on the west coast of the United States;

(ii) For employees listed in *RCW 41.56.030(7)(((~~(b)~~))(a) (ii) and (iv) through (vi), comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of public fire departments of similar size on the west coast of the United States. However, when an adequate number of comparable employers exists within the state of Washington, other west coast employers shall not be considered;

(d) The average consumer prices for goods and services, commonly known as the cost of living;

(e) Changes in any of the foregoing circumstances during the pendency of the proceedings; and

(f) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment. [1993 c 398 § 2; 1988 c 110 § 1; 1987 c 521 § 2; 1983 c 287 § 4; 1979 ex.s. c 184 § 3; 1973 c 131 § 5.]

***Reviser's note:** RCW 41.56.030 was amended three times in 1993 without reference to each other. The subsections referred to here are found in the 1993 c 398 § 1 version.

Effective dates—1993 c 398: See note following RCW 41.56.030.

41.56.460 Uniformed personnel—Interest arbitration panel—Basis for determination (as amended by 1993 c 502). (Effective January 1, 1994.) (1) In making its determination, the panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and as additional standards or guidelines to aid it in reaching a decision, it shall take into consideration the following factors:

(a) The constitutional and statutory authority of the employer;

(b) Stipulations of the parties;

(c)(i) For employees listed in RCW 41.56.030(7)(a) and *41.56.495, comparison of the wages, hours and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of like employers of similar size on the west coast of the United States;

(ii) For employees listed in RCW 41.56.030(7)(b), comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of public fire departments of similar size on the west coast of the United States. However, when an adequate number of comparable employers exists within the state of Washington, other west coast employers shall not be considered;

(d) The average consumer prices for goods and services, commonly known as the cost of living;

(e) Changes in any of the foregoing circumstances during the pendency of the proceedings; and

(f) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment.

(2) Nothing in subsection (1)(c) of this section shall be construed to authorize the panel to require the employer to pay, directly or indirectly, the increased employee contributions resulting from chapter 502, Laws of 1993 as required under chapter 41.26 RCW. [1993 c 502 § 5; 1988 c 110 § 1; 1987 c 521 § 2; 1983 c 287 § 4; 1979 ex.s. c 184 § 3; 1973 c 131 § 5.]

***Reviser's note:** RCW 41.56.495 was repealed by 1993 c 398 § 6.

Effective date—1993 c 502: See note following RCW 41.26.030.

41.56.460 Uniformed personnel—Interest arbitration panel—Basis for determination (as amended by 1993 c 517). (1) In making its determination, the panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and as additional standards or guidelines to aid it in reaching a decision, it shall take into consideration the following factors:

(a) The constitutional and statutory authority of the employer;

(b) Stipulations of the parties;

(c)(i) For employees listed in RCW 41.56.030(7)(a) and *41.56.495, comparison of the wages, hours and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of like employers of similar size on the west coast of the United States;

(ii) For employees listed in RCW 41.56.030(7)(b), comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of public fire departments of similar size on the west coast of the United States. However, when an adequate number of comparable employers exists within the state of Washington, other west coast employers shall not be considered;

(d) The average consumer prices for goods and services, commonly known as the cost of living;

(e) Changes in any of the foregoing circumstances during the pendency of the proceedings; and

(f) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment.

(2) Nothing in subsection (1)(c) of this section shall be construed to authorize the panel to require the employer to pay, directly or indirectly, the increased employee contributions resulting from chapter 517, Laws of 1993, as required under chapter 41.26 RCW. [1993 c 517 § 10; 1988 c 110 § 1; 1987 c 521 § 2; 1983 c 287 § 4; 1979 ex.s. c 184 § 3; 1973 c 131 § 5.]

Reviser's note: (1) RCW 41.56.460 was amended four times and also repealed during the 1993 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

*(2) RCW 41.56.495 was repealed by 1993 c 398 § 6.

Purpose—1993 c 517: See note following RCW 41.26.420.

Severability—1983 c 287: See note following RCW 41.56.450.

Construction—Severability—1973 c 131: See RCW 41.56.905, 41.56.910.

41.56.460 Repealed. (Effective July 1, 1995.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Reviser's note: RCW 41.56.460 was amended four times during the 1993 legislative session, without cognizance of its repeal by 1993 c 398 § 5, effective July 1, 1995. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

41.56.465 Uniformed personnel—Interest arbitration panel—Determinations—Factors to be considered. (Effective July 1, 1995.) In making its determination, the panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and, as additional standards or guidelines to aid it in reaching a decision, it shall take into consideration the following factors:

(1) The constitutional and statutory authority of the employer;

(2) Stipulations of the parties;

(3)(a) For employees listed in *RCW 41.56.030(7)(b)(i) through (iii), comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of like employers of similar size on the west coast of the United States;

(b) For employees listed in *RCW 41.56.030(7)(b)(iv) through (vii), comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of public fire departments of similar size on the west coast of the United States. However, when an adequate number of comparable employers exists within the state of Washington, other west coast employers may not be considered;

(4) The average consumer prices for goods and services, commonly known as the cost of living;

(5) Changes in any of the circumstances under subsections (1) through (4) of this section during the pendency of the proceedings; and

(6) Such other factors, not confined to the factors under subsections (1) through (5) of this section, that are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment. For those employees listed in *RCW 41.56.030(7)(b)(i) who are employed by the governing body of a city or town with a population of less than fifteen thousand, or a county with a population of less than seventy thousand, consideration must also be given to regional differences in the cost of living. [1993 c 398 § 3.]

***Reviser's note:** RCW 41.56.030 was amended three times in 1993 without reference to each other. The subsections referred to here are found in the 1993 c 398 § 1 version.

Effective dates—1993 c 398: See note following RCW 41.56.030.

41.56.475 Uniformed personnel—Application of chapter to Washington state patrol—Mediation and arbitration. In addition to the classes of employees listed in RCW 41.56.030(7), the provisions of RCW 41.56.430 through 41.56.452 and 41.56.470, 41.56.480, and 41.56.490 also apply to Washington state patrol officers appointed under RCW 43.43.020 as provided in this section, subject to the following:

(1) The mediator shall not consider wages and wage-related matters.

(2) In making its determination, the arbitration panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and, as additional standards or guidelines to aid it in reaching a decision, shall take into consideration the following factors:

(a) The constitutional and statutory authority of the employer;

(b) Stipulations of the parties;

(c) Comparison of the hours and conditions of employment of personnel involved in the proceedings with the hours and conditions of employment of like personnel of like employers of similar size on the west coast of the United States;

(d) Changes in any of the foregoing circumstances during the pendency of the proceedings; and

(e) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of hours and conditions of employment. [1993 c 351 § 1; 1988 c 110 § 2; 1987 c 135 § 3.]

Severability—1987 c 135: See note following RCW 41.56.020.

41.56.492 Application of uniformed personnel collective bargaining provisions to employees of public passenger transportation systems—Conditions. In addition to the classes of employees listed in RCW 41.56.030(7), the provisions of RCW 41.56.430 through 41.56.452, 41.56.470, 41.56.480, and 41.56.490 shall also be applicable to the employees of a public passenger transportation system of a metropolitan municipal corporation, county transportation authority, public transportation benefit area, or city public passenger transportation system, subject to the following:

(1) Negotiations between the public employer and the bargaining representative may commence at any time agreed to by the parties. If no agreement has been reached ninety days after commencement of negotiations, either party may demand that the issues in disagreement be submitted to a mediator. The services of the mediator shall be provided by the commission without cost to the parties, but nothing in this section or RCW 41.56.440 shall be construed to prohibit the public employer and the bargaining representative from agreeing to substitute at their own expense some other mediator or mediation procedure; and

(2) If an agreement has not been reached following a reasonable period of negotiations and mediation, and the mediator finds that the parties remain at impasse, either party may demand that the issues in disagreement be submitted to an arbitration panel for a binding and final determination. In making its determination, the arbitration panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and as additional standards or guidelines to aid it in reaching a decisions [decision], shall take into consideration the following factors:

(a) The constitutional and statutory authority of the employer;

(b) Stipulations of the parties;

(c) Compensation package comparisons, economic indices, fiscal constraints, and similar factors determined by the arbitration panel to be pertinent to the case; and

(d) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment. [1993 c 473 § 1.]

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

Chapter 41.58
PUBLIC EMPLOYMENT LABOR RELATIONS

Sections

41.58.020 Powers and duties of commission. (1) It shall be the duty of the commission, in order to prevent or

minimize interruptions growing out of labor disputes, to assist employers and employees to settle such disputes through mediation and fact-finding.

(2) The commission, through the director, may proffer its services in any labor dispute arising under a collective bargaining statute administered by the commission, either upon its own motion or upon the request of one or more of the parties to the dispute, whenever in its judgment such dispute threatens to cause a substantial disruption to the public welfare.

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

(4) Final adjustment by a method agreed upon by the parties is declared to be the desirable method for settlement of grievance disputes arising over the application or interpretation of an existing collective bargaining agreement. The commission is directed to make its mediation and fact-finding services available in the settlement of such grievance disputes only as a last resort. [1993 c 379 § 303; 1975 1st ex.s. c 296 § 4.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

Effective date—1975 1st ex.s. c 296: See RCW 41.58.901.

Chapter 41.60
STATE EMPLOYEES' SUGGESTION AWARDS AND INCENTIVE PAY

Sections

41.60.010 Definitions. As used in this chapter:

(1) "Board" means the productivity board.

(2) "Employee suggestion program" means the program developed by the board under RCW 41.60.020.

(3) "Teamwork incentive program" means the program developed by the board under RCW 41.60.100 through 41.60.120.

(4) "State employees" means present employees in state agencies and institutions of higher education except for elected officials, directors of such agencies and institutions, and their confidential secretaries and administrative assistants and others specifically ruled ineligible by the rules of the productivity board. [1993 c 467 § 1; 1987 c 387 § 1; 1983 c 54 § 1; 1982 c 167 § 6; 1977 ex.s. c 169 § 103; 1969 ex.s. c 152 § 3; 1965 ex.s. c 142 § 1.]

Effective date—1993 c 467: "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, 1993." [1993 c 467 § 8.]

Severability—1982 c 167: See note following RCW 41.60.015.

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

41.60.015 Productivity board created—Members—Terms—Compensation. (1) There is hereby created the productivity board. The board shall administer the employee suggestion program and the teamwork incentive program under this chapter.

(2) The board shall be composed of:

(a) The secretary of state who shall act as chairperson;

(b) The director of personnel appointed under the provisions of RCW 41.06.130 or the director's designee;

(c) The director of financial management or the director's designee;

(d) The personnel director appointed under the provisions of *RCW 28B.16.060 or the director's designee;

(e) The director of general administration or the director's designee;

(f) Three persons with experience in administering incentives such as those used by industry, with the governor, lieutenant governor, and speaker of the house of representatives each appointing one person. The governor's appointee shall be a representative of an employee organization certified as an exclusive representative of at least one bargaining unit of classified employees, but no one organization may be represented for two consecutive terms;

(g) One person representing state agencies and institutions with employees subject to chapter 41.06 RCW, and one person representing those subject to *chapter 28B.16 RCW, both to be appointed by the governor; and

(h) In addition, the governor and board chairperson may jointly appoint persons to the board on an ad hoc basis. Ad hoc members shall serve in an advisory capacity and shall not have the right to vote.

Members under subsection (2) (f) and (g) of this section shall be appointed to serve three-year terms.

Members of the board appointed pursuant to subsection (2)(f) of this section may be compensated in accordance with RCW 43.03.240. Any board member who is not a state employee may be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060. [1993 c 467 § 2; 1987 c 387 § 2; 1985 c 114 § 1; 1984 c 287 § 72; 1983 c 54 § 2; 1982 c 167 § 1.]

***Reviser's note:** Chapter 28B.16 RCW was repealed by 1993 c 281, with the exception of RCW 28B.16.240, which was recodified as a new section in chapter 41.06 RCW. The powers, duties, and functions of the state higher education personnel board were transferred to the Washington personnel resources board.

Effective date—1993 c 467: See note following RCW 41.60.010.

Effective date—1985 c 114: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1985." [1985 c 114 § 8.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Severability—1982 c 167: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 167 § 18.]

41.60.020 Employee suggestion program—Rules for administration of chapter. (1) The board shall formulate, establish, and maintain an employee suggestion program to encourage and reward meritorious suggestions by state employees that will promote efficiency and economy in the performance of any function of state government: PROVIDED, That the program shall include provisions for the processing of suggestions having multi-agency impact and post-implementation auditing of suggestions for fiscal accountability.

(2) The board shall prepare, at least annually, a topical list of all the productivity awards granted and disseminate this information to all the state government agencies that may be able to adapt them to their procedures.

(3) The board shall adopt rules and regulations necessary or appropriate for the proper administration and for the accomplishment of the purposes of this chapter. [1993 c 467 § 3; 1982 c 167 § 7; 1975-'76 2nd ex.s. c 122 § 1; 1969 ex.s. c 152 § 4; 1965 ex.s. c 142 § 2.]

Effective date—1993 c 467: See note following RCW 41.60.010.

Severability—1982 c 167: See note following RCW 41.60.015.

41.60.100 Employee teamwork incentive program—Applications. With the exception of agencies of the legislative and judicial branches, any organizational unit composed of employees in any agency or group of agencies of state government with the ability to identify costs, revenues, or both may apply to the board to participate in the teamwork incentive program. The application shall have the approval of the heads of the agency or agencies within which the unit is located.

Applications shall be in the form specified by the board and contain such information as the board requires. This may include, but is not limited to, quantitative measures which establish a data base of program output or performance expectations, or both. This data base is used to evaluate savings in accordance with RCW 41.60.110(1).

The board shall evaluate the applications submitted. From those proposals which are considered to be reasonable and practical and which are found to include developed performance indicators which lend themselves to a judgment of success or failure, the board shall select the units to participate in the teamwork incentive program. [1993 c 467 § 4; 1989 c 56 § 2; 1987 c 387 § 5; 1985 c 114 § 4; 1982 c 167 § 2.]

Effective date—1993 c 467: See note following RCW 41.60.010.

Effective date—1989 c 56: See note following RCW 41.60.041.

Effective date—1985 c 114: See note following RCW 41.60.015.

Severability—1982 c 167: See note following RCW 41.60.015.

41.60.110 Employee teamwork incentive program—Evaluation of savings. (1) To qualify for a teamwork incentive program award for its employees, a unit selected shall demonstrate to the satisfaction of the board that it has operated during the period of participation at a lower cost or with an increase in revenue with no decrease in the level of services rendered.

(a) A unit completing its period of participation shall compare costs or revenues during that period of participation to (i) the expenditures or revenues for a comparable span of time immediately preceding the first period of participation, or (ii) an average derived from the unit's historical data, or (iii) engineered standards used in conjunction with an average derived from the unit's historical data, or (iv) anticipated revenue as based on statistical projections or historical data;

(b) A unit participating in the teamwork incentive program for two or more consecutive times may choose to compare its costs during the current period of participation with (i) its costs or revenues for the immediately preceding period, or (ii) an average of its costs or revenues for the preceding two or three comparable spans of time in the teamwork incentive program;

(c) For the purposes of (a) of this subsection, a unit's historical data shall be restricted to data generated during the period of three years or less immediately preceding the unit's first participation in the teamwork incentive program; and

(d) For the purposes of (b) of this subsection, a unit's costs or revenues for preceding periods of time may include the costs or revenues calculated under (a) (i), (ii), or (iii) of this subsection for the periods of time the unit participated in the teamwork incentive program.

(2) The board shall satisfy itself from documentation submitted by the organizational unit that the claimed cost of operation or level of higher revenue is real and not merely apparent and that it is not, in whole or in part, the result of:

(a) Chance;

(b) A lowering of the quality of the service rendered;

(c) Nonrecurrence of expenditures which were single outlay, or one-time expenditures, in the preceding comparable period of time;

(d) Stockpiling inventories in the immediately preceding period so as to reduce requirements in the eligible time period;

(e) Substitution of federal funds, other receipts, or nonstate funds for programs currently receiving state appropriations;

(f) Unreasonable postponement of payments of accounts payable until the period immediately following the eligible period of participation;

(g) Shifting of expenses to another unit of government; or

(h) Any other practice, event, or device which the board decides has caused a distortion which makes it falsely appear that a savings or increase in revenue gains or an increase in level of services has occurred.

(3) The board shall consider as legitimate efficiencies those reductions in expenditures or increases in revenue made possible by such items as the following:

(a) Reductions in overtime;

(b) Elimination of consultant fees;

(c) Less temporary help;

(d) Improved systems and procedures;

(e) Better deployment and utilization of personnel;

(f) Elimination of unnecessary travel;

(g) Elimination of unnecessary printing and mailing;

(h) Elimination of unnecessary payments for items such as advertising;

(i) Elimination of waste, duplication, and operations of doubtful value;

(j) Improved space utilization;

(k) Improved methods of collecting revenue or recovering money owed to the state; and

(l) Any other items determined by the board to represent cost savings or increased revenue. [1993 c 467 § 5; 1989 c 56 § 3; 1987 c 387 § 6; 1985 c 114 § 5; 1982 c 167 § 3.]

Effective date—1993 c 467: See note following RCW 41.60.010.

Effective date—1989 c 56: See note following RCW 41.60.041.

Effective date—1985 c 114: See note following RCW 41.60.015.

Severability—1982 c 167: See note following RCW 41.60.015.

41.60.120 Employee teamwork incentive program—Awards. At the conclusion of the eligible period, the board shall compare the expenditures or revenues for that period of each unit selected against the expenditures or revenues of that unit for the immediately preceding period or expenditures or revenues determined in accordance with RCW 41.60.110(1) (a) and (b) and, after making such adjustments as in the board's judgment are required to eliminate distortions, shall determine the amount, if any, that the unit has reduced the unit's cost of operations or increased its level of services or generated additional revenues to the state in the eligible period. Adjustments to eliminate distortions may include any legislative increases in employee compensation and inflationary increases in the cost of services, materials, and supplies. Adjustments to additional revenue may include changes in client populations and the effects of legal changes. If the board also determines that a unit qualifies for an award, the board shall award to the employees of that unit a sum up to twenty-five percent of the amount determined to be the savings or revenue increases to the state for the level of services rendered. The amount awarded shall be divided and distributed in accordance with board rules to the employees of the unit, except that employees who worked for that unit less than the full period during which the unit conducted a teamwork incentive program shall receive only a pro rata share based on the fraction of the period worked for that unit. No individual share of the unit award may exceed the maximum award established by rule adopted by the board. Funds for this teamwork incentive award shall be drawn from the agencies in which the unit is located or from the benefiting fund or account without appropriation when additional revenue is generated to the fund or account.

Awards may be paid to teams for process changes which generate new or additional money for the general fund or any other funds of the state. The director of the office of financial management shall distribute moneys appropriated for this purpose with the concurrence of the productivity board. Transfers shall be made from other funds of the state to the general fund in amounts equal to award payments made by the general fund, for innovations generating new or additional money for those other funds. [1993 c 467 § 6; 1989 c 56 § 4; 1987 c 387 § 7; 1985 c 114 § 6; 1982 c 167 § 4.]

Effective date—1993 c 467: See note following RCW 41.60.010.

Effective date—1989 c 56: See note following RCW 41.60.041.

Effective date—1985 c 114: See note following RCW 41.60.015.

Severability—1982 c 167: See note following RCW 41.60.015.

41.60.160 Persons ineligible for awards. No award may be made under this chapter to any elected state official or state agency director. [1993 c 467 § 7; 1987 c 387 § 8.]

Effective date—1993 c 467: See note following RCW 41.60.010.

Chapter 41.64
PERSONNEL APPEALS BOARD

Sections

41.64.090 Employee appeals—Jurisdiction.
41.64.900 Decodified.

41.64.090 Employee appeals—Jurisdiction. (1) The board shall have jurisdiction to decide appeals filed on or after July 1, 1981, of employees under the jurisdiction of the Washington personnel resources board pursuant to RCW 41.06.170, as now or hereafter amended.

(2) The board shall have jurisdiction to decide appeals filed on or after July 1, 1993, of employees of institutions of higher education and related boards under the jurisdiction of the Washington personnel resources board pursuant to RCW 41.06.170. An appeal under this subsection by an employee of an institution of higher education or a related board shall be held in the county in which the institution is located or the county in which the person was employed when the appeal was filed. [1993 c 281 § 41; 1981 c 311 § 10.]

Effective date—1993 c 281: See note following RCW 41.06.022.

41.64.900 Decodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Title 42
PUBLIC OFFICERS AND AGENCIES

Chapters

42.12 Vacancies.
42.16 Salaries and fees.
42.17 Disclosure—Campaign finances—Lobbying—Records.
42.23 Code of ethics for municipal officers—Contract interests.

Chapter 42.12
VACANCIES

Sections

42.12.010 Causes of vacancy. (Effective January 1, 1995.)

42.12.010 Causes of vacancy. (Effective January 1, 1995.) Every elective office shall become vacant on the happening of any of the following events:

(1) The death of the incumbent;

(2) His or her resignation. A vacancy caused by resignation shall be deemed to occur upon the effective date of the resignation;

(3) His or her removal;

(4) Except as provided in RCW 3.46.067 and 3.50.057, his or her ceasing to be a legally qualified elector of the district, county, city, town, or other municipal or quasi municipal corporation from which he or she shall have been elected or appointed;

(5) His or her conviction of a felony, or of any offense involving a violation of his or her official oath;

(6) His or her refusal or neglect to take his or her oath of office, or to give or renew his or her official bond, or to deposit such oath or bond within the time prescribed by law;

(7) The decision of a competent tribunal declaring void his or her election or appointment; or

(8) Whenever a judgment shall be obtained against that incumbent for breach of the condition of his or her official bond. [1993 c 317 § 9; 1981 c 180 § 4; Code 1881 § 3063; 1866 p 28 § 2; RRS § 9950.]

Severability—Effective date—1993 c 317: See notes following RCW 3.46.155.

Severability—1981 c 180: See note following RCW 42.12.040.

Chapter 42.16
SALARIES AND FEES

Sections

42.16.010 Salaries paid twice each month—Policies and procedures to assure full payment—Exceptions. (1) Except as provided otherwise in subsection (2) of this section, all state officers and employees shall be paid for services rendered from the first day of the month through the fifteenth day of the month and for services rendered from the sixteenth day of the month through the last calendar day of the month. Paydates for these two pay periods shall be established by the director of financial management through the administrative hearing process and the official paydates shall be established six months prior to the beginning of each subsequent calendar year. Under no circumstance shall the paydate be established more than ten days after the pay period in which the wages are earned except when the designated paydate falls on Sunday, in which case the paydate shall not be later than the following Monday. Payment shall be deemed to have been made by the established paydates if: (a) The salary warrant is available at the geographic work location at which the warrant is normally available to the employee; or (b) the salary has been electronically transferred into the employee's account at the employee's designated financial institution; or (c) the salary warrants are mailed at least two days before the established paydate for those employees engaged in work in remote or varying locations from the geographic location at which the payroll is prepared, provided that the employee has requested payment by mail.

The office of financial management shall develop the necessary policies and operating procedures to assure that all remuneration for services rendered including basic salary, shift differential, standby pay, overtime, penalty pay, salary due based on contractual agreements, and special pay provisions, as provided for by law, Washington personnel resources board rules, agency policy or rule, or contract, shall be available to the employee on the designated paydate. Overtime, penalty pay, and special pay provisions may be paid by the next following paydate if the postponement of payment is attributable to: The employee's not making a timely or accurate report of the facts which are the basis for the payment, or the employer's lack of reasonable opportunity to verify the claim.

Compensable benefits payable because of separation from state service shall be paid with the earnings for the final period worked unless the employee separating has not provided the agency with the proper notification of intent to terminate.

One-half of the employee's basic monthly salary shall be paid in each pay period. Employees paid on an hourly basis or employees who work less than a full pay period shall be paid for actual salary earned.

(2) Subsection (1) of this section shall not apply in instances where it would conflict with contractual rights or, with the approval of the office of financial management, to short-term, intermittent, noncareer state employees, to student employees of institutions of higher education, and to liquor control agency managers who are paid a percentage of monthly liquor sales. [1993 c 281 § 42; 1983 1st ex.s. c 28 § 1; 1979 c 151 § 68; 1969 c 59 § 1; 1967 ex.s. c 25 § 1; 1891 c 130 § 1; RRS § 10965.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Application—1983 1st ex.s. c 28: "This act applies to pay periods beginning January 1, 1984." [1983 1st ex.s. c 28 § 8.] For codification of 1983 1st ex.s. c 28, see Codification Tables, Volume 0.

Effective date—1967 ex.s. c 25: "This 1967 amendatory act shall take effect July 1, 1967: PROVIDED, That the budget director may by regulation postpone the operation of the act for any reasonable time, not extending beyond the 1967-1969 biennium, to facilitate an orderly transition in state payroll procedures." [1967 ex.s. c 25 § 9.] For codification of 1967 ex.s. c 25, see Codification Tables, Volume 0. "Budget director" redesignated "director of financial management"; see RCW 43.41.035 and 43.41.940.

Chapter 42.17
DISCLOSURE—CAMPAIGN FINANCES—LOBBYING—RECORDS

Sections

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

(1) "Benefit" means a commercial, proprietary, financial, economic, or monetary advantage, or the avoidance of a commercial, proprietary, financial, economic, or monetary disadvantage.

(2) "Gift" means a rendering of money, property, services, discount, loan forgiveness, payment of indebtedness, reimbursements from or payments by persons, other than the state of Washington or an agency or political subdivision thereof, for travel or anything else of value in excess of fifty dollars in return for which legal consideration of equal or greater value is not given and received but does not include:

(a) A contribution that is required to be reported under RCW 42.17.090 or *42.17.243;

(b) Informational material that is transferred for the purpose of informing the recipient about matters pertaining to official agency business, and that is not intended to financially benefit that recipient;

(c) A symbolic presentation that is not intended to financially benefit the recipient;

(d) An honorarium that is required to be reported under this chapter;

(e) Hosting in the form of entertainment, meals, or refreshments, the value of which does not exceed fifty dollars, furnished in connection with official appearances, official ceremonies, and occasions where official agency business is discussed;

(f) Gifts that are not used and that, within thirty days after receipt, are returned to the donor or delivered to a charitable organization without being claimed as a charitable contribution for tax purposes;

(g) Intrafamily gifts; or

(h) Gifts received in the normal course of private business or social interaction that are not related to public policy decisions or agency actions. [1993 c 2 § 30 (Initiative Measure No. 134, approved November 3, 1992).]

***Reviser's note:** RCW 42.17.243 was repealed by 1993 c 2 § 35 (Initiative Measure No. 134).

42.17.090 Contents of report. (1) Each report required under RCW 42.17.080 (1) and (2) shall disclose the following:

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

(b) The name and address of each person who has made one or more contributions during the period, together with the money value and date of such contributions and the aggregate value of all contributions received from each such person during the campaign or in the case of a continuing political committee, the current calendar year: PROVIDED, That pledges in the aggregate of less than one hundred dollars from any one person need not be reported: PROVIDED FURTHER, That the income which results from a fund-raising activity conducted in accordance with RCW 42.17.067 may be reported as one lump sum, with the exception of that portion of such income which was received from persons whose names and addresses are required to be included in the report required by RCW 42.17.067: PROVIDED FURTHER, That contributions of no more than twenty-five dollars in the aggregate from any one person during the election campaign may be reported as one lump sum so long as the campaign treasurer maintains a separate and private list of the name, address, and amount of each such contributor: PROVIDED FURTHER, That the money value of contributions of postage shall be the face value of such postage;

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

(d) All other contributions not otherwise listed or exempted;

(e) The name and address of each candidate or political committee to which any transfer of funds was made, together with the amounts and dates of such transfers;

(f) The name and address of each person to whom an expenditure was made in the aggregate amount of more than fifty dollars during the period covered by this report, and the amount, date, and purpose of each such expenditure. A candidate for state executive or state legislative office or the political committee of such a candidate shall report this information for an expenditure under one of the following categories, whichever is appropriate: (i) Expenditures for the election of the candidate; (ii) expenditures for nonreimbursed public office-related expenses; (iii) expenditures required to be reported under (e) of this subsection; or (iv) expenditures of surplus funds and other expenditures. The report of such a candidate or committee shall contain a separate total of expenditures for each category and a total sum of all expenditures. Other candidates and political committees need not report information regarding expenditures under the categories listed in (i) through (iv) of this subsection or under similar such categories unless required to do so by the commission by rule. The report of such an other candidate or committee shall also contain the total sum of all expenditures;

(g) The name and address of each person to whom any expenditure was made directly or indirectly to compensate the person for soliciting or procuring signatures on an

initiative or referendum petition, the amount of such compensation to each such person, and the total of the expenditures made for this purpose. Such expenditures shall be reported under this subsection (1)(g) whether the expenditures are or are not also required to be reported under (f) of this subsection;

(h) The name and address of any person and the amount owed for any debt, obligation, note, unpaid loan, or other liability in the amount of more than two hundred fifty dollars or in the amount of more than fifty dollars that has been outstanding for over thirty days;

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

(j) The disposition made in accordance with RCW 42.17.095 of any surplus funds;

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

(l) Funds received from a political committee not otherwise required to report under this chapter (a "nonreporting committee"). Such funds shall be forfeited to the state of Washington unless the nonreporting committee has filed or within ten days following such receipt files with the commission a statement disclosing: (i) Its name and address; (ii) the purposes of the nonreporting committee; (iii) the names, addresses, and titles of its officers or if it has no officers, the names, addresses, and titles of its responsible leaders; (iv) the name, office sought, and party affiliation of each candidate in the state of Washington whom the nonreporting committee is supporting, and, if such committee is supporting the entire ticket of any party, the name of the party; (v) the ballot proposition supported or opposed in the state of Washington, if any, and whether such committee is in favor of or opposed to such proposition; (vi) the name and address of each person residing in the state of Washington or corporation which has a place of business in the state of Washington who has made one or more contributions in the aggregate of more than twenty-five dollars to the nonreporting committee during the current calendar year, together with the money value and date of such contributions; (vii) the name and address of each person in the state of Washington to whom an expenditure was made by the nonreporting committee on behalf of a candidate or political committee in the aggregate amount of more than fifty dollars, the amount, date, and purpose of such expenditure, and the total sum of such expenditures; (viii) such other information as the commission may prescribe by rule, in keeping with the policies and purposes of this chapter. A nonreporting committee incurring an obligation to file additional reports in a calendar year may satisfy the obligation by filing with the commission a letter providing updating or amending information.

(2) The treasurer and the candidate shall certify the correctness of each report. [1993 c 256 § 6; 1989 c 280 § 9. Prior: 1986 c 228 § 1; 1986 c 12 § 2; 1983 c 96 § 1; 1982 c 147 § 7; 1977 ex.s. c 336 § 2; 1975-'76 2nd ex.s. c 112 § 3; 1975 1st ex.s. c 294 § 7; 1973 c 1 § 9 (Initiative Measure No. 276, approved November 7, 1972).]

Severability—Effective date—1993 c 256: See notes following RCW 29.79.500.

Effective date—1989 c 280: See note following RCW 42.17.020.

Severability—1977 ex.s. c 336: See note following RCW 42.17.040.

Appearance of fairness doctrine—Application to candidates for public office—Campaign contributions: RCW 42.36.040, 42.36.050.

42.17.095 Disposal of surplus funds. The surplus funds of a candidate, or of a political committee supporting or opposing a candidate, may only be disposed of in any one or more of the following ways:

(1) Return the surplus to a contributor in an amount not to exceed that contributor's original contribution;

(2) Transfer the surplus to the candidate's personal account as reimbursement for lost earnings incurred as a result of that candidate's election campaign. Such lost earnings shall be verifiable as unpaid salary or, when the candidate is not salaried, as an amount not to exceed income received by the candidate for services rendered during an appropriate, corresponding time period. All lost earnings incurred shall be documented and a record thereof shall be maintained by the candidate or the candidate's political committee. The committee shall include a copy of such record when its expenditure for such reimbursement is reported pursuant to RCW 42.17.090;

(3) Transfer the surplus to a political party or to a caucus of the state legislature;

(4) Donate the surplus to a charitable organization registered in accordance with chapter 19.09 RCW;

(5) Transmit the surplus to the state treasurer for deposit in the general fund; or

(6) Hold the surplus in the campaign depository or depositories designated in accordance with RCW 42.17.050 for possible use in a future election campaign for the same office last sought by the candidate and report any such disposition in accordance with RCW 42.17.090: PROVIDED, That if the candidate subsequently announces or publicly files for office, information as appropriate is reported to the commission in accordance with RCW 42.17.040 through 42.17.090. If a subsequent office is not sought the surplus held shall be disposed of in accordance with the requirements of this section.

(7) No candidate or authorized committee may transfer funds to any other candidate or other political committee. [1993 c 2 § 20 (Initiative Measure No. 134, approved November 3, 1992); 1982 c 147 § 8; 1977 ex.s. c 336 § 3.]

Severability—1977 ex.s. c 336: See note following RCW 42.17.040.

42.17.125 Personal use of contributions—When permitted. Contributions received and reported in accordance with RCW 42.17.060 through 42.17.090 may only be transferred to the personal account of a candidate, or of a treasurer or other individual or expended for such individual's personal use under the following circumstances:

(1) Reimbursement for or loans to cover lost earnings incurred as a result of campaigning or services performed for the committee. Such lost earnings shall be verifiable as unpaid salary, or when the individual is not salaried, as an amount not to exceed income received by the individual for services rendered during an appropriate, corresponding time period. All lost earnings incurred shall be documented and a record thereof shall be maintained by the individual or the individual's political committee. The committee shall include a copy of such record when its expenditure for such reimbursement is reported pursuant to RCW 42.17.090.

(2) Reimbursement for direct out-of-pocket election campaign and postelection campaign related expenses made by the individual. To receive reimbursement from the political committee, the individual shall provide the committee with written documentation as to the amount, date, and description of each expense, and the committee shall include a copy of such information when its expenditure for such reimbursement is reported pursuant to RCW 42.17.090.

(3) Repayment of loans made by the individual to political committees, which repayment shall be reported pursuant to RCW 42.17.090. However, contributions may not be used to reimburse a candidate for loans totaling more than three thousand dollars made by the candidate to the candidate's own authorized committee or campaign. [1993 c 2 § 21 (Initiative Measure No. 134, approved November 3, 1992); 1989 c 280 § 12; 1985 c 367 § 7; 1977 ex.s. c 336 § 6.]

Effective date—1989 c 280: See note following RCW 42.17.020.

Severability—1977 ex.s. c 336: See note following RCW 42.17.040.

42.17.128 Use of public funds for political purposes. Public funds, whether derived through taxes, fees, penalties, or any other sources, shall not be used to finance political campaigns for state or local office. [1993 c 2 § 24 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.132 Restrictions on mailings by incumbents. During the twelve-month period preceding the expiration of a state legislator's term in office, no incumbent to that office may mail to a constituent at public expense a letter, newsletter, brochure, or other piece of literature that is not in direct response to that constituent's request for a response or for information. However, one mailing mailed within thirty days after the start of a regular legislative session and one mailing mailed within sixty days after the end of a regular legislative session of identical newsletters to constituents are permitted. A violation of this section constitutes use of the facilities of a public office for the purpose of assisting a campaign under RCW 42.17.130.

The house of representatives and senate shall specifically limit expenditures per member for the total cost of mailings, including but not limited to production costs, printing costs, and postage. [1993 c 2 § 25 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.172 Notification to person named in report. When a listing or a report of contributions is made to the commission under RCW 42.17.170(2)(c), a copy of the listing or report must be given to the candidate, elected official, professional staff member of the legislature, or officer or employee of an agency, or a political committee supporting or opposing a ballot proposition named in the listing or report. [1993 c 2 § 32 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.180 Reports by employers of registered lobbyists, other persons. (1) Every employer of a lobbyist registered under this chapter during the preceding calendar year and every person other than an individual that made contributions aggregating to more than ten thousand dollars or independent expenditures aggregating to more than five hundred dollars during the preceding calendar year shall file with the commission on or before the last day of February of each year a statement disclosing for the preceding calendar year the following information:

(a) The name of each state elected official and the name of each candidate for state office who was elected to the office and any member of the immediate family of those persons to whom the person reporting has paid any compensation in the amount of five hundred dollars or more during the preceding calendar year for personal employment or professional services, including professional services rendered by a corporation, partnership, joint venture, association, union, or other entity in which the person holds any office, directorship, or any general partnership interest, or an ownership interest of ten percent or more, the value of the compensation in accordance with the reporting provisions set out in RCW 42.17.241(2), and the consideration given or performed in exchange for the compensation.

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

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

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

(e) The name and address of each registered lobbyist employed by the person reporting and the total expenditures made by such person for each such lobbyist for lobbying purposes.

(f) The names, offices sought, and party affiliations of candidates for state offices supported or opposed by independent expenditures of the person reporting and the amount of each such expenditure.

(g) The identifying proposition number and a brief description of any state-wide ballot proposition supported or opposed by expenditures not reported under (d) of this subsection and the amount of each such expenditure.

(h) Such other information as the commission prescribes by rule.

(2)(a) Except as provided in (b) of this subsection, an employer of a lobbyist registered under this chapter shall file a special report with the commission if the employer makes a contribution or contributions aggregating more than one hundred dollars in a calendar month to any one of the following: A candidate, elected official, officer or employee of an agency, or political committee. The report shall

identify the date and amount of each such contribution and the name of the candidate, elected official, agency officer or employee, or political committee receiving the contribution or to be benefited by the contribution. The report shall be filed on a form prescribed by the commission and shall be filed within fifteen days after the last day of the calendar month during which the contribution was made.

(b) The provisions of (a) of this subsection do not apply to a contribution which is made through a registered lobbyist and reportable under RCW 42.17.170. [1993 c 2 § 27 (Initiative Measure No. 134, approved November 3, 1992); 1990 c 139 § 4; 1987 c 423 § 2; 1984 c 34 § 6; 1975 1st ex.s. c 294 § 11; 1973 c 1 § 18 (Initiative Measure No. 276, approved November 7, 1972).]

Legislative intent—1990 c 139: See note following RCW 42.17.020.

42.17.240 Elected and appointed officials, candidates, and appointees—Reports of financial affairs and gifts. (1) Every elected official and every executive state officer shall after January 1st and before April 15th of each year file with the commission a statement of financial affairs for the preceding calendar year. However, any local elected official whose term of office expires immediately after December 31st shall file the statement required to be filed by this section for the year that ended on that December 31st. In addition to and in conjunction with the statement of financial affairs, every official and officer shall file a statement describing any gifts received during the preceding calendar year.

(2) Every candidate shall within two weeks of becoming a candidate file with the commission a statement of financial affairs for the preceding twelve months.

(3) Every person appointed to a vacancy in an elective office or executive state officer position shall within two weeks of being so appointed file with the commission a statement of financial affairs for the preceding twelve months.

(4) A statement of a candidate or appointee filed during the period from January 1st to April 15th shall cover the period from January 1st of the preceding calendar year to the time of candidacy or appointment if the filing of the statement would relieve the individual of a prior obligation to file a statement covering the entire preceding calendar year.

(5) No individual may be required to file more than once in any calendar year.

(6) Each statement of financial affairs filed under this section shall be sworn as to its truth and accuracy.

(7) For the purposes of this section, the term "executive state officer" includes those listed in RCW 42.17.2401.

(8) This section does not apply to incumbents or candidates for a federal office or the office of precinct committee officer. [1993 c 2 § 31 (Initiative Measure No. 134, approved November 3, 1992); 1989 c 158 § 1; 1987 c 295 § 19. Prior: 1984 c 125 § 14; 1984 c 34 § 1; 1983 c 161 § 27; 1982 c 10 § 9; prior: 1981 c 311 § 20; 1981 c 67 § 15; 1979 ex.s. c 265 § 3; 1979 c 151 § 73; prior: 1975-'76 2nd ex.s. c 112 § 7; 1975-'76 2nd ex.s. c 104 § 1 (Ref. Bill No. 36); 1975 1st ex.s. c 294 § 13; 1973 c 1 § 24 (Initiative Measure No. 276, approved November 7, 1972).]

Temporary exemption: "Persons identified as executive officers under RCW 42.17.2401(4), who were appointed to their positions before July 23, 1989, and who were not required to file a statement of financial affairs at the time of their appointment, are exempt from the requirements of RCW 42.17.240 until they are reappointed to such positions." [1989 c 158 § 4.]

Severability—Headings—Effective date—1984 c 125: See RCW 43.63A.901 through 43.63A.903.

Severability—Effective dates—1983 c 161: See RCW 43.180.903 and 43.180.904.

Severability—1982 c 10: See note following RCW 6.13.080.

Severability—1981 c 311: See RCW 41.64.910.

Effective dates—Severability—1981 c 67: See notes following RCW 34.12.010.

Cemetery district commissioners exempt from chapter: RCW 68.52.140, 68.52.220.

42.17.2401 "Executive state officer" defined. (Effective until July 1, 1994.) For the purposes of RCW 42.17.240, the term "executive state officer" includes:

(1) The chief administrative law judge, the director of agriculture, the administrator of the office of marine safety, the administrator of the Washington basic health plan, the director of the department of services for the blind, the director of the state system of community and technical colleges, the director of community development, the secretary of corrections, the director of ecology, the commissioner of employment security, the chairman of the energy facility site evaluation council, the director of the energy office, the secretary of the state finance committee, the director of financial management, the director of fisheries, the executive secretary of the forest practices appeals board, the director of the gambling commission, the director of general administration, the secretary of health, the administrator of the Washington state health care authority, the executive secretary of the health care facilities authority, the executive secretary of the higher education facilities authority, the executive secretary of the horse racing commission, the executive secretary of the human rights commission, the executive secretary of the indeterminate sentence review board, the director of the department of information services, the director of the interagency committee for outdoor recreation, the executive director of the state investment board, the director of labor and industries, the director of licensing, the director of the lottery commission, the director of the office of minority and women's business enterprises, the director of parks and recreation, the director of personnel, the executive director of the public disclosure commission, the director of retirement systems, the director of revenue, the secretary of social and health services, the chief of the Washington state patrol, the executive secretary of the board of tax appeals, the director of trade and economic development, the secretary of transportation, the secretary of the utilities and transportation commission, the director of veterans affairs, the director of wildlife, the president of each of the regional and state universities and the president of The Evergreen State College, each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Central Washington University board of trustees, board of trustees of each community college, each member of the state board for community and technical colleges,

state convention and trade center board of directors, committee for deferred compensation, Eastern Washington University board of trustees, Washington economic development finance authority, The Evergreen State College board of trustees, forest practices appeals board, forest practices board, gambling commission, Washington health care facilities authority, each member of the Washington health services commission, higher education coordinating board, higher education facilities authority, horse racing commission, state housing finance commission, human rights commission, indeterminate sentence review board, board of industrial insurance appeals, information services board, interagency committee for outdoor recreation, state investment board, liquor control board, lottery commission, marine oversight board, oil and gas conservation committee, Pacific Northwest electric power and conservation planning council, parks and recreation commission, personnel appeals board, board of pilotage commissioners, pollution control hearings board, public disclosure commission, public pension commission, shorelines hearing board, public employees' benefits board, board of tax appeals, transportation commission, University of Washington board of regents, utilities and transportation commission, Washington state maritime commission, Washington personnel resources board, Washington public power supply system executive board, Washington State University board of regents, Western Washington University board of trustees, and wildlife commission. [1993 c 492 § 488; 1993 c 281 § 43; 1991 c 200 § 404; 1991 c 3 § 293. Prior: 1989 1st ex.s. c 9 § 812; 1989 c 279 § 22; 1989 c 158 § 2; 1988 c 36 § 13; 1987 c 504 § 14; 1985 c 6 § 8; 1984 c 34 § 2.]

Reviser's note: This section was amended by 1993 c 281 § 43 and by 1993 c 492 § 488, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). This section was also amended by 1993 1st sp.s. c 2 § 18, effective July 1, 1994, and all three amendments are incorporated in the following version. For rule of construction, see RCW 1.12.025(1).

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Effective date—1993 c 281: See note following RCW 41.06.022.

Effective dates—Severability—1991 c 200: See RCW 90.56.901 and 90.56.904.

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Report—Severability—1989 c 279: See RCW 43.163.900 and 43.163.901.

Alphabetization—1989 c 158 § 2: "When section 2 of this act is codified, the code reviser shall arrange the names of the agencies in each subsection in alphabetical order." [1989 c 158 § 3.] The names of the agencies in the above section have been arranged according to the first distinctive word of each agency's name.

Severability—Effective date—1987 c 504: See RCW 43.105.901 and 43.105.902.

42.17.2401 "Executive state officer" defined. (Effective July 1, 1994.) For the purposes of RCW 42.17.240, the term "executive state officer" includes:

(1) The chief administrative law judge, the director of agriculture, the administrator of the office of marine safety, the administrator of the Washington basic health plan, the director of the department of services for the blind, the director of the state system of community and technical colleges, the director of community development, the secretary of corrections, the director of ecology, the commissioner of employment security, the chairman of the energy facility site evaluation council, the director of the energy office, the secretary of the state finance committee, the director of financial management, the director of fish and wildlife, the executive secretary of the forest practices appeals board, the director of the gambling commission, the director of general administration, the secretary of health, the administrator of the Washington state health care authority, the executive secretary of the health care facilities authority, the executive secretary of the higher education facilities authority, the executive secretary of the horse racing commission, the executive secretary of the human rights commission, the executive secretary of the indeterminate sentence review board, the director of the department of information services, the director of the interagency committee for outdoor recreation, the executive director of the state investment board, the director of labor and industries, the director of licensing, the director of the lottery commission, the director of the office of minority and women's business enterprises, the director of parks and recreation, the director of personnel, the executive director of the public disclosure commission, the director of retirement systems, the director of revenue, the secretary of social and health services, the chief of the Washington state patrol, the executive secretary of the board of tax appeals, the director of trade and economic development, the secretary of transportation, the secretary of the utilities and transportation commission, the director of veterans affairs, the president of each of the regional and state universities and the president of The Evergreen State College, each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Central Washington University board of trustees, board of trustees of each community college, each member of the state board for community and technical colleges, state convention and trade center board of directors, committee for deferred compensation, Eastern Washington University board of trustees, Washington economic development finance authority, The Evergreen State College board of trustees, forest practices appeals board, forest practices board, gambling commission, Washington health care facilities authority, each member of the Washington health services commission, higher education coordinating board, higher education facilities authority, horse racing commission, state housing finance commission, human rights commission, indeterminate sentence review board, board of industrial insurance appeals, information services board, interagency committee for outdoor recreation, state investment board, liquor control board, lottery commission, marine oversight board, oil and gas conservation committee, Pacific Northwest electric power and conservation planning council, parks and recreation commission, personnel appeals board, board of pilotage commissioners, pollution control hearings board, public disclosure commission, public pension commission, shorelines hearing board, public employees' benefits board, board of tax appeals, transportation commission,

University of Washington board of regents, utilities and transportation commission, Washington state maritime commission, Washington personnel resources board, Washington public power supply system executive board, Washington State University board of regents, Western Washington University board of trustees, and fish and wildlife commission. [1993 1st sp.s. c 2 § 18; 1993 c 492 § 488; 1993 c 281 § 43; 1991 c 200 § 404; 1991 c 3 § 293. Prior: 1989 1st ex.s. c 9 § 812; 1989 c 279 § 22; 1989 c 158 § 2; 1988 c 36 § 13; 1987 c 504 § 14; 1985 c 6 § 8; 1984 c 34 § 2.]

Reviser's note: This section was amended by 1993 c 281 § 43, 1993 c 492 § 488, and by 1993 1st sp.s. c 2 § 18, effective July 1, 1994, each without reference to the other. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—1993 1st sp.s. c 2 §§ 1-6, 8-59, and 61-79: See RCW 43.300.900.

Severability—1993 1st sp.s. c 2: See RCW 43.300.901.

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Effective date—1993 c 281: See note following RCW 41.06.022.

Effective dates—Severability—1991 c 200: See RCW 90.56.901 and 90.56.904.

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Report—Severability—1989 c 279: See RCW 43.163.900 and 43.163.901.

Alphabetization—1989 c 158 § 2: "When section 2 of this act is codified, the code reviser shall arrange the names of the agencies in each subsection in alphabetical order." [1989 c 158 § 3.] The names of the agencies in the above section have been arranged according to the first distinctive word of each agency's name.

Severability—Effective date—1987 c 504: See RCW 43.105.901 and 43.105.902.

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

Reviser's note: RCW 42.17.243 was repealed by 1993 c 2 § 35 (Initiative Measure No. 134), without cognizance of its amendment by 1991 sp.s. c 18 § 4. It has been decodified for publication purposes pursuant to RCW 1.12.025.

42.17.310 Certain personal and other records exempt. (Effective until July 1, 1994.) (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 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 (i) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (ii) 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, 43.160, 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)(i) The federal social security number of individuals governed under chapter 18.130 RCW maintained in the files of the department of health, except this exemption does not apply to requests made directly to the department from federal, state, and local agencies of government, and national and state licensing, credentialing, investigatory, disciplinary, and examination organizations; (ii) the current residential address and current residential telephone number of a health care provider governed under chapter 18.130 RCW maintained in the files of the department, if the provider requests that this information be withheld from public inspection and copying, and provides to the department an accurate alternate or business address and business telephone number. On or after January 1, 1995, the current residential address and residential telephone number of a health care provider governed under RCW 18.130.140 maintained in the files of the department shall automatically be withheld from public inspection and copying if the provider has provided the department with an accurate alternative or business address and telephone number.

(x) Information obtained by the board of pharmacy as provided in RCW 69.45.090.

(y) 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.

(z) 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.

(aa) 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.

(bb) Financial and valuable trade information under RCW 51.36.120.

(cc) 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.

(dd) 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.

(ee) Business related information protected from public inspection and copying under RCW 15.86.110.

(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. [1993 c 360 § 2; 1993 c 320 § 9. Prior: 1992 c 139 § 5; 1992 c 71 § 12; 1991 c 301 § 13; 1991 c 87 § 13; 1991 c 23 § 10; 1991 c 1 § 1; 1990 2nd ex.s. c 1 § 1103; 1990 c 256 § 1; prior: 1989 1st ex.s. c 9 § 407; 1989 c 352 § 7; 1989 c 279 § 23; 1989 c 238 § 1; 1989 c 205 § 20; 1989 c 189 § 3; 1989 c 11 § 12; prior: 1987 c 411 § 10; 1987 c 404 § 1; 1987 c 370 § 16; 1987 c 337 § 1; 1987 c 107 § 2; prior: 1986 c 299 § 25; 1986 c 276 § 7; 1985 c 414 § 8; 1984 c 143 § 21; 1983 c 133 § 10; 1982 c 64 § 1; 1977 ex.s. c 314 § 13; 1975-'76 2nd ex.s. c 82 § 5; 1975 1st ex.s. c 294 § 17; 1973 c 1 § 31 (Initiative Measure No. 276, approved November 7, 1972).]

Reviser's note: (1) This section was amended by 1993 c 320 § 9 and by 1993 c 360 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). This section was also amended by 1993 c 280 § 35, effective July 1, 1994, and all three amendments are incorporated in the following version. For rule of construction, see RCW 1.12.025(1).

*(2) RCW 81.34.070 was repealed by 1991 c 49 § 1.

Effective date—1993 c 360: See note following RCW 18.130.085.

Finding—1991 c 301: See note following RCW 10.99.020.

Effective date—1991 c 87: See note following RCW 18.64.350.

Effective dates—1991 c 23: See RCW 40.24.900.

Effective dates—1990 2nd ex.s. c 1: See note following RCW 84.52.010.

Severability—1990 2nd ex.s. c 1: See note following RCW 82.14.300.

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Report—Severability—1989 c 279: See RCW 43.163.900 and 43.163.901.

Severability—1989 c 11: See note following RCW 9A.56.220.

Severability—1987 c 411: See RCW 69.45.900.

Severability—Effective date—1986 c 299: See RCW 28C.10.900 and 28C.10.902.

Severability—1986 c 276: See RCW 53.31.901.

Basic health plan records: RCW 70.47.150.

Exemptions from public inspection
- *accounting records of special inquiry judge: RCW 10.29.090.*
- *bill drafting service of code reviser's office: RCW 1.08.027, 44.68.060.*
- *certificate submitted by physically or mentally disabled person seeking a driver's license: RCW 46.20.041.*
- *commercial fertilizers, sales reports: RCW 15.54.362.*
- *criminal records: Chapter 10.97 RCW.*
- *examination reports of the supervisor of banking and supervisor of savings and loan associations: RCW 30.04.075, 32.04.220, 33.04.110.*
- *joint legislative service center, information: RCW 44.68.060.*
- *medical disciplinary board, reports required to be filed with: RCW 18.72.265.*
- *organized crime*
  - *advisory board files: RCW 10.29.030.*
  - *investigative information: RCW 43.43.856.*
- *salary and fringe benefit survey information: RCW 41.06.160.*

42.17.310 Certain personal and other records exempt. (Effective July 1, 1994.) (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 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 (i) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (ii) 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 chapters 43.163, 43.160, 43.330, 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, employ-

ment 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)(i) The federal social security number of individuals governed under chapter 18.130 RCW maintained in the files of the department of health, except this exemption does not apply to requests made directly to the department from federal, state, and local agencies of government, and national and state licensing, credentialing, investigatory, disciplinary, and examination organizations; (ii) the current residential address and current residential telephone number of a health care provider governed under chapter 18.130 RCW maintained in the files of the department, if the provider requests that this information be withheld from public inspection and copying, and provides to the department an accurate alternate or business address and business telephone number. On or after January 1, 1995, the current residential address and residential telephone number of a health care provider governed under RCW 18.130.140 maintained in the files of the department shall automatically be withheld from public inspection and copying if the provider has provided the department with an accurate alternative or business address and telephone number.

(x) Information obtained by the board of pharmacy as provided in RCW 69.45.090.

(y) 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.

(z) 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.

(aa) 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.

(bb) Financial and valuable trade information under RCW 51.36.120.

(cc) 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.

(dd) 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.

(ee) Business related information protected from public inspection and copying under RCW 15.86.110.

(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. [1993 c 360 § 2; 1993 c 320 § 9; 1993 c 280 § 35. Prior: 1992 c 139 § 5; 1992 c 71 § 12; 1991 c 301 § 13; 1991 c 87 § 13; 1991 c 23 § 10; 1991 c 1 § 1; 1990 2nd ex.s. c 1 § 1103; 1990 c 256 § 1; prior: 1989 1st ex.s. c 9 § 407; 1989 c 352 § 7; 1989 c 279 § 23; 1989 c 238 § 1; 1989 c 205 § 20; 1989 c 189 § 3; 1989 c 11 § 12; prior: 1987 c 411 § 10; 1987 c 404 § 1; 1987 c 370 § 16; 1987 c 337 § 1; 1987 c 107 § 2; prior: 1986 c 299 § 25; 1986 c 276 § 7; 1985 c 414 § 8; 1984 c 143 § 21; 1983 c 133 § 10; 1982 c 64 § 1; 1977 ex.s. c 314 § 13; 1975-'76 2nd ex.s. c 82 § 5; 1975 1st ex.s. c 294 § 17; 1973 c 1 § 31 (Initiative Measure No. 276, approved November 7, 1972).]

Reviser's note: (1) This section was amended by 1993 c 280 § 35, effective July 1, 1994, 1993 c 320 § 9, and by 1993 c 360 § 2, each without reference to the other. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

*(2) RCW 81.34.070 was repealed by 1991 c 49 § 1.

Effective date—1993 c 360: See note following RCW 18.130.085.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Finding—1991 c 301: See note following RCW 10.99.020.

Effective date—1991 c 87: See note following RCW 18.64.350.

Effective dates—1991 c 23: See RCW 40.24.900.

Effective dates—1990 2nd ex.s. c 1: See note following RCW 84.52.010.

Severability—1990 2nd ex.s. c 1: See note following RCW 82.14.300.

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Report—Severability—1989 c 279: See RCW 43.163.900 and 43.163.901.

Severability—1989 c 11: See note following RCW 9A.56.220.

Severability—1987 c 411: See RCW 69.45.900.

Severability—Effective date—1986 c 299: See RCW 28C.10.900 and 28C.10.902.

Severability—1986 c 276: See RCW 53.31.901.

Basic health plan records: RCW 70.47.150.

Exemptions from public inspection

accounting records of special inquiry judge: RCW 10.29.090.

bill drafting service of code reviser's office: RCW 1.08.027, 44.68.060.

certificate submitted by physically or mentally disabled person seeking a driver's license: RCW 46.20.041.

commercial fertilizers, sales reports: RCW 15.54.362.

criminal records: Chapter 10.97 RCW.

examination reports of the supervisor of banking and supervisor of savings and loan associations: RCW 30.04.075, 32.04.220, 33.04.110.

joint legislative service center, information: RCW 44.68.060.

medical disciplinary board, reports required to be filed with: RCW 18.72.265.

organized crime
advisory board files: RCW 10.29.030.
investigative information: RCW 43.43.856.
salary and fringe benefit survey information: RCW 41.06.160.

42.17.319 Certain records of investment opportunities office exempt. (Effective July 1, 1994.) Notwithstanding the provisions of RCW 42.17.260 through 42.17.340, no financial or proprietary information supplied by investors or entrepreneurs under chapter 43.330 RCW shall be made available to the public. [1993 c 280 § 36; 1989 c 312 § 7.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability—1989 c 312: See note following RCW 43.31.403.

42.17.365 Audits and investigations. The commission shall conduct a sufficient number of audits and field investigations so as to provide a statistically valid finding regarding the degree of compliance with the provisions of this chapter by all required filers. [1993 c 2 § 29 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.390 Civil remedies and sanctions. One or more of the following civil remedies and sanctions may be imposed by court order in addition to any other remedies provided by law:

(1) If the court finds that the violation of any provision of this chapter by any candidate or political committee probably affected the outcome of any election, the result of said election may be held void and a special election held within sixty days of such finding. Any action to void an election shall be commenced within one year of the date of the election in question. It is intended that this remedy be imposed freely in all appropriate cases to protect the right of the electorate to an informed and knowledgeable vote.

(2) If any lobbyist or sponsor of any grass roots lobbying campaign violates any of the provisions of this chapter, his registration may be revoked or suspended and he may be enjoined from receiving compensation or making expenditures for lobbying: PROVIDED, HOWEVER, That imposition of such sanction shall not excuse said lobbyist from filing statements and reports required by this chapter.

(3) Any person who violates any of the provisions of this chapter may be subject to a civil penalty of not more than ten thousand dollars for each such violation. However, a person or entity who violates RCW 42.17.640 may be subject to a civil penalty of ten thousand dollars or three times the amount of the contribution illegally made or accepted, whichever is greater.

(4) Any person who fails to file a properly completed statement or report within the time required by this chapter may be subject to a civil penalty of ten dollars per day for each day each such delinquency continues.

(5) Any person who fails to report a contribution or expenditure may be subject to a civil penalty equivalent to the amount he failed to report.

(6) The court may enjoin any person to prevent the doing of any act herein prohibited, or to compel the performance of any act required herein. [1993 c 2 § 28 (Initiative Measure No. 134, approved November 3, 1992); 1973 c 1 § 39 (Initiative Measure No. 276, approved November 7, 1972).]

42.17.510 Identification of sponsor—Exemptions. (1) All written political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name and address. All radio and television political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name. The use of an assumed name shall be unlawful. The party with which a candidate files shall be clearly identified in political advertising for partisan office.

(2) In addition to the materials required by subsection (1) of this section, all political advertising undertaken as an independent expenditure by a person or entity other than a party organization must include the following statement on the communication "NOTICE TO VOTERS (Required by law): This advertisement is not authorized or approved by any candidate. It is paid for by (name, address, city, state)." If the advertisement is undertaken by a nonindividual, then the following notation must also be included: "Top Five Contributors," followed by a listing of the names of the five persons or entities making the largest contributions reportable under this chapter during the twelve-month period before the date of the advertisement.

(3) The statements and listings of contributors required by subsections (1) and (2) of this section shall:

(a) Appear on each page or fold of the written communication in at least ten-point type, or in type at least ten percent of the largest size type used in a written communication directed at more than one voter, such as a billboard or poster, whichever is larger;

(b) Not be subject to the half-tone or screening process;

(c) Be in a printed or drawn box set apart from any other printed matter; and

(d) Be clearly spoken on any broadcast advertisement.

(4) Political yard signs are exempt from the requirement of subsections (1) and (2) of this section that the name and address of the sponsor of political advertising be listed on the advertising. In addition, the public disclosure commission shall, by rule, exempt from the identification requirements of subsections (1) and (2) of this section forms of political advertising such as campaign buttons, balloons, pens, pencils, sky-writing, inscriptions, and other forms of advertising where identification is impractical.

(5) For the purposes of this section, "yard sign" means any outdoor sign with dimensions no greater than eight feet by four feet. [1993 c 2 § 22 (Initiative Measure No. 134, approved November 3, 1992); 1984 c 216 § 1.]

Advertising rates for political candidates: RCW 65.16.095.

42.17.550 Independent expenditure disclosure. A person or entity other than a party organization making an independent expenditure by mailing one thousand or more identical or nearly identical cumulative pieces of political advertising in a single calendar year shall, within two working days after the date of the mailing, file a statement disclosing the number of pieces in the mailing and an example of the mailed political advertising with the election officer of the county or residence for the candidate supported or opposed by the independent campaign expenditure or, in the case of an expenditure made in support of or in opposition to a ballot proposition, the county of residence for the

person making the expenditure. [1993 c 2 § 23 (Initiative Measure No. 134, approved November 3, 1992).]

CAMPAIGN CONTRIBUTION LIMITATIONS

42.17.610 Findings. The people of the state of Washington find and declare that:

(1) The financial strength of certain individuals or organizations should not permit them to exercise a disproportionate or controlling influence on the election of candidates.

(2) Rapidly increasing political campaign costs have led many candidates to raise larger percentages of money from special interests with a specific financial stake in matters before state government. This has caused the public perception that decisions of elected officials are being improperly influenced by monetary contributions.

(3) Candidates are raising less money in small contributions from individuals and more money from special interests. This has created the public perception that individuals have an insignificant role to play in the political process. [1993 c 2 § 1 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.620 Intent. By limiting campaign contributions, the people intend to:

(1) Ensure that individuals and interest groups have fair and equal opportunity to influence elective and governmental processes;

(2) Reduce the influence of large organizational contributors; and

(3) Restore public trust in governmental institutions and the electoral process. [1993 c 2 § 2 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.630 Definitions. The definitions of RCW 42.17.020 apply to RCW 42.17.640 through 42.17.790 except as modified by this section. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 42.17.640 through 42.17.790.

(1) "Authorized committee" means the political committee authorized by a candidate, or by the state official against whom recall charges have been filed, to accept contributions or make expenditures on behalf of the candidate or state official.

(2) "Bona fide political party" means:

(a) An organization that has filed a valid certificate of nomination with the secretary of state under chapter 29.24 RCW; or

(b) The governing body of the state organization of a major political party, as defined in RCW 29.01.090, which is the body authorized by the charter or bylaws of the party to exercise authority on behalf of the state party; or

(c) The county central committee or legislative district committee of a major political party.

(3) "Candidate" means an individual seeking nomination for election or seeking election to a state office. An individual is deemed to be seeking nomination for election or seeking election when the individual first:

(a) Announces publicly or files for the office;

(b) Purchases commercial advertising space or broadcast time to promote his or her candidacy;

(c) Receives contributions or makes expenditures for facilities with intent to promote his or her candidacy for the office; or

(d) Gives his or her consent to another person to take on behalf of the individual any of the actions in (b) or (c) of this subsection.

(4) "Caucus of the state legislature" means the caucus of members of a major political party in the state house of representatives or in the state senate.

(5)(a) "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.

(b) Subject to further definition by the commission, "contribution" does not include the following:

(i) Interest on money deposited in a political committee's account;

(ii) Ordinary home hospitality;

(iii) A contribution received by a candidate or political committee that is returned to the contributor within five business days of the date on which it is received by the candidate or political committee;

(iv) An expenditure or contribution earmarked for voter registration, for absentee ballot information, for precinct caucuses, for get-out-the-vote campaigns, for precinct judges or inspectors, for sample ballots, or for ballot counting, all without promotion of or political advertising for individual candidates;

(v) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is of primary interest to the general public, that is in a news medium controlled by a person whose primary business is that news medium, and that is not controlled by a candidate or political committee;

(vi) An expenditure by a political committee for its own internal organization or fund raising without direct association with individual candidates;

(vii) An internal political communication primarily limited to the contributors to a political party organization or political action committee, or the officers, management staff, and stockholders of a corporation or similar enterprise, or the members of a labor organization or other membership organization;

(viii) 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 section, means services or labor for which the individual is not compensated by any person and that are performed outside the individual's normal working hours; or

(ix) Legal or accounting services rendered to or on behalf of:

(A) A political party or caucus of the state legislature if the person paying for the services is the regular employer of the person rendering such services; or

(B) A candidate or an authorized committee if the person paying for the services is the regular employer of the individual rendering the services and if the services are solely for the purpose of ensuring compliance with state election or public disclosure laws.

(c) Contributions other than money or its equivalent are deemed to have a monetary value equivalent to the fair market value of the contribution.

(d) Sums paid for tickets to fund-raising events such as dinners and parties are contributions, except for the actual cost of the consumables furnished at the event.

(e) An expenditure made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a political committee, or their agents, is considered to be a contribution to such candidate or political committee.

(f) The financing by a person of the dissemination, distribution, or republication, in whole or in part, of broadcast, written, graphic, or other form of political advertising prepared by a candidate, a political committee, or its authorized agent, is considered to be a contribution to the candidate or political committee.

(6) "Election" means a primary or a general or special election in which a candidate is on the ballot.

(7) "Election cycle" means the period beginning on the first day of December after the date of the last previous general election for the office that the candidate seeks and ending on November 30th after the next election for the office. In the case of a special election to fill a vacancy in an office, "election cycle" means the period beginning on the day the vacancy occurs and ending on November 30th after the special election.

(8) "General election" means the election that results in the election of a person to a state office. It does not include a primary.

(9) "Immediate family" means a candidates's spouse, and any child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the candidate and the spouse of any such person and any child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the candidate's spouse and the spouse of any such person.

(10) "Independent expenditure" means an "expenditure" as defined in RCW 42.17.020 that has each of the following elements:

(a) It is made in support of or in opposition to a candidate for office by a person who is not (i) a candidate for that office, (ii) an authorized committee of that candidate for that office, (iii) a person who has received the candidate's encouragement or approval to make the expenditure, if the expenditure pays in whole or in part for any political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office, or (iv) a person with whom the candidate has collaborated for the purpose of making the expenditure, if the expenditure pays in whole or in part for any political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;

(b) The expenditure pays in whole or in part for any political advertising that either specifically names the candidate supported or opposed, or clearly and beyond any doubt identifies the candidate without using the candidate's name; and

(c) The expenditure, alone or in conjunction with another expenditure or other expenditures of the same person in support of or opposition to that candidate, has a value of five hundred dollars or more. A series of expenditures, each of which is under five hundred dollars, constitutes one independent expenditure if their cumulative value is five hundred dollars or more.

(11)(a) "Intermediary" means an individual who transmits a contribution to a candidate or committee from another person unless the contribution is from the individual's employer, immediate family, or an association to which the individual belongs.

(b) A treasurer or a candidate is not an intermediary for purpose of the committee that the treasurer or candidate serves.

(c) A professional fund raiser is not an intermediary if the fund raiser is compensated for fund-raising services at the usual and customary rate.

(d) A volunteer hosting a fund-raising event at the individual's home is not an intermediary for purposes of that event.

(12) "Person" includes:

(a) An individual;

(b) A partnership, limited partnership, public or private corporation, or joint venture;

(c) A nonprofit corporation, organization, or association, including but not limited to, a national, state, or local labor union or collective bargaining organization and a national, state, or local trade or professional association;

(d) A federal, state, or local governmental entity or agency, however constituted;

(e) A candidate, committee, political committee, bona fide political party, or executive committee thereof; and

(f) Any other organization or group of persons, however organized.

(13) "Primary" means the procedure for nominating a candidate to state office under chapter 29.18 or 29.21 RCW or any other primary for an election which uses, in large measure, the procedures established in chapter 29.18 or 29.21 RCW.

(14) "Recall campaign" means the period of time beginning on the date of the filing of recall charges under RCW 29.82.015 and ending thirty days after the recall election.

(15) "State legislative office" means the office of a member of the state house of representatives and the office of a member of the state senate.

(16) "State office" means state legislative office or the office of governor, lieutenant governor, secretary of state, attorney general, commissioner of public lands, insurance commissioner, superintendent of public instruction, state auditor, or state treasurer.

(17) "State official" means a person who holds a state office. [1993 c 2 § 3 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.640 Limits specified. (1) No person, other than a bona fide political party or a caucus of the state legislature, may make contributions to a candidate for a state legislative office that in the aggregate exceed five hundred dollars or to a candidate for a state office other than a state legislative office that in the aggregate exceed one thousand dollars for each election in which the candidate is on the ballot or appears as a write-in candidate. Contributions made with respect to a primary may not be made after the date of the

primary. Contributions made with respect to a general election may not be made after the final day of the applicable election cycle.

(2) No person, other than a bona fide political party or a caucus of the state legislature, may make contributions to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the state official, during a recall campaign that in the aggregate exceed five hundred dollars if for a state legislative office or one thousand dollars if for a state office other than a state legislative office.

(3)(a) Notwithstanding subsection (1) of this section, no bona fide political party or caucus of the state legislature may make contributions to a candidate during an election cycle that in the aggregate exceed (i) fifty cents multiplied by the number of eligible registered voters in the jurisdiction from which the candidate is elected if the contributor is a caucus of the state legislature or the governing body of a state organization, or (ii) twenty-five cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No candidate may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed twenty-five cents times the number of registered voters in the jurisdiction from which the candidate is elected.

(4)(a) Notwithstanding subsection (2) of this section, no bona fide political party or caucus of the state legislature may make contributions to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the state official, during a recall campaign that in the aggregate exceed (i) fifty cents multiplied by the number of eligible registered voters in the jurisdiction entitled to recall the state official if the contributor is a caucus of the state legislature of [or] the governing body of a state organization, or (ii) twenty-five cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No state official against whom recall charges have been filed, no authorized committee of the official, and no political committee having the expectation of making expenditures in support of the recall of a state official may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed twenty-five cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected.

(5) Notwithstanding subsections (1) through (4) of this section, no person other than an individual, bona fide political party, or caucus of the state legislature may make contributions reportable under this chapter to a caucus of the state legislature that in the aggregate exceed five hundred dollars in a calendar year or to a bona fide political party that in the aggregate exceed two thousand five hundred dollars in a calendar year. This subsection does not apply to loans made in the ordinary course of business.

(6) For the purposes of RCW 42.17.640 through 42.17.790, a contribution to the authorized political committee of a candidate, or of a state official against whom recall charges have been filed, is considered to be a contribution to the candidate or state official.

(7) A contribution received within the twelve-month period after a recall election concerning a state office is considered to be a contribution during that recall campaign if the contribution is used to pay a debt or obligation incurred to influence the outcome of that recall campaign.

(8) The contributions allowed by subsection (2) of this section are in addition to those allowed by subsection (1) of this section, and the contributions allowed by subsection (4) of this section are in addition to those allowed by subsection (3) of this section.

(9) RCW 42.17.640 through 42.17.790 apply to a special election conducted to fill a vacancy in a state office. However, the contributions made to a candidate or received by a candidate for a primary or special election conducted to fill such a vacancy shall not be counted toward any of the limitations that apply to the candidate or to contributions made to the candidate for any other primary or election.

(10) Notwithstanding the other subsections of this section, no corporation or business entity not doing business in Washington state, no labor union with fewer than ten members who reside in Washington state, and no political committee that has not received contributions of ten dollars or more from at least ten persons registered to vote in Washington state during the preceding one hundred eighty days may make contributions reportable under this chapter to a candidate, to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the official. This subsection does not apply to loans made in the ordinary course of business.

(11) Notwithstanding the other subsections of this section, no county central committee or legislative district committee may make contributions reportable under this chapter to a candidate, state official against whom recall charges have been filed, or political committee having the expectation of making expenditures in support of the recall of a state official if the county central committee or legislative district committee is outside of the jurisdiction entitled to elect the candidate or recall the state official.

(12) No person may accept contributions that exceed the contribution limitations provided in this section. [1993 c 2 § 4 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.650 Attribution and aggregation of family contributions. (1) Contributions by a husband and wife are considered separate contributions.

(2) Contributions by unemancipated children under eighteen years of age are considered contributions by their parents and are attributed proportionately to each parent. Fifty percent of the contributions are attributed to each parent or, in the case of a single custodial parent, the total

amount is attributed to the parent. [1993 c 2 § 5 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.660 Attribution of contributions by controlled entities. For purposes of this chapter:

(1) A contribution by a political committee with funds that have all been contributed by one person who exercises exclusive control over the distribution of the funds of the political committee is a contribution by the controlling person.

(2) Two or more entities are treated as a single entity if one of the two or more entities is a subsidiary, branch, or department of a corporation or a local unit, branch, or affiliate of a trade association, labor union, or collective bargaining association. All contributions made by a person or political committee whose contribution or expenditure activity is financed, maintained, or controlled by a trade association, labor union, collective bargaining organization, or the local unit of a trade association, labor union, or collective bargaining organization are considered made by the same person or entity. [1993 c 2 § 6 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.670 Attribution of contributions generally—"Earmarking." All contributions made by a person or entity, either directly or indirectly, to a candidate, to a state official against whom recall charges have been filed, or to a political committee, are considered to be contributions from that person or entity to the candidate, state official, or political committee, as are contributions that are in any way earmarked or otherwise directed through an intermediary or conduit to the candidate, state official, or political committee. For the purposes of this section, "earmarked" means a designation, instruction, or encumbrance, whether direct or indirect, expressed or implied, or oral or written, that is intended to result in or does result in all or any part of a contribution being made to a certain candidate or state official. If a conduit or intermediary exercises any direction or control over the choice of the recipient candidate or state official, the contribution is considered to be by both the original contributor and the conduit or intermediary. [1993 c 2 § 7 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.680 Limitations on employers or labor organizations. (1) No employer or labor organization may increase the salary of an officer or employee, or give an emolument to an officer, employee, or other person or entity, with the intention that the increase in salary, or the emolument, or a part of it, be contributed or spent to support or oppose a candidate, state official against whom recall charges have been filed, political party, or political committee.

(2) No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (a) the failure to contribute to, (b) the failure in any way to support or oppose, or (c) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee.

(3) No employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries may withhold or divert a portion of an employee's wages or salaries for contributions to political committees or for use as political contributions except upon the written request of the employee. The request must be made on a form prescribed by the commission informing the employee of the prohibition against employer and labor organization discrimination described in subsection (2) of this section. The request is valid for no more than twelve months from the date it is made by the employee.

(4) Each person or entity who withholds contributions under subsection (3) of this section shall maintain open for public inspection for a period of no less than three years, during normal business hours, documents and books of accounts that shall include a copy of each employee's request, the amounts and dates funds were actually withheld, and the amounts and dates funds were transferred to a political committee. Copies of such information shall be delivered to the commission upon request. [1993 c 2 § 8 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.690 Changing monetary limits. At the beginning of each even-numbered calendar year, the commission shall increase or decrease all dollar amounts in this chapter based on changes in economic conditions as reflected in the inflationary index used by the commission under RCW 42.17.370. The new dollar amounts established by the commission under this section shall be rounded off by the commission to amounts as judged most convenient for public understanding and so as to be within ten percent of the target amount equal to the base amount provided in this chapter multiplied by the increase in the inflationary index since December 3, 1992. [1993 c 2 § 9 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.700 Contributions before December 3, 1992. Contributions made and received before December 3, 1992, are considered to be contributions under RCW 42.17.640 through 42.17.790. Monetary contributions that exceed the contribution limitations and that have not been spent by the recipient of the contribution by December 3, 1992, must be disposed of in accordance with RCW 42.17.095. [1993 c 2 § 10 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.710 Time limit for state official to solicit or accept contributions. During the period beginning on the thirtieth day before the date a regular legislative session convenes and continuing thirty days past the date of final adjournment, and during the period beginning on the date a special legislative session convenes and continuing through the date that session adjourns, no state official or a person employed by or acting on behalf of a state official or state legislator may solicit or accept contributions to a public office fund, to a candidate or authorized committee, or to retire a campaign debt. [1993 c 2 § 11 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.720 Restriction on loans. (1) A loan is considered to be a contribution from the maker and the guarantor of the loan and is subject to the contribution limitations of this chapter.

(2) A loan to a candidate or the candidate committee must be by written agreement.

(3) The proceeds of a loan made to a candidate:

(a) By a commercial lending institution;

(b) Made in the regular course of business;

(c) On the same terms ordinarily available to members of the public; and

(d) That is secured or guaranteed,

are not subject to the contribution limits of this chapter. [1993 c 2 § 12 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.730 Contributions on behalf of another. (1) A person, other than an individual, may not be an intermediary or an agent for a contribution.

(2) An individual may not make a contribution on behalf of another person or entity, or while acting as the intermediary or agent of another person or entity, without disclosing to the recipient of the contribution both his or her full name, street address, occupation, name of employer, if any, or place of business if self-employed, and the same information for each contributor for whom the individual serves as intermediary or agent. [1993 c 2 § 13 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.740 Certain contributions required to be by written instrument. (1) An individual may not make a contribution of more than fifty dollars, other than an in-kind contribution, except by a written instrument containing the name of the donor and the name of the payee.

(2) A committee may not make a contribution, other than in-kind, except by a written instrument containing the name of the donor and the name of the payee. [1993 c 2 § 14 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.750 Solicitation of contributions by government employees. (1) No state official or state official's agent may knowingly solicit, directly or indirectly, a contribution from an employee in the state official's agency.

(2) No state official or state employee may provide an advantage or disadvantage to an employee or applicant for employment in the classified civil service concerning the applicant's or employee's:

(a) Employment;

(b) Conditions of employment; or

(c) Application for employment,

based on the employee's or applicant's contribution or promise to contribute or failure to make a contribution or contribute to a political party or committee. [1993 c 2 § 15 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.760 Agency shop fees as contributions. A labor organization may not use agency shop fees paid by an individual who is not a member of the organization to make contributions or expenditures to influence an election or to operate a political committee, unless affirmatively authorized by the individual. [1993 c 2 § 16 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.770 Solicitation for endorsement fees. A person or entity may not solicit from a candidate, committee, political party, or other person or entity money or other property as a condition or consideration for an endorsement, article, or other communication in the news media promoting or opposing a candidate, committee, or political party. [1993 c 2 § 17 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.780 Reimbursement for contributions. A person or entity may not, directly or indirectly, reimburse another person or entity for a contribution to a candidate, committee, or political party. [1993 c 2 § 18 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.790 Prohibition on use of contributions for a different office. (1) Except as provided in subsection (2) of this section, a candidate committee may not use or permit the use of contributions solicited for or received by the candidate committee to further the candidacy of the individual for an office other than the office designated on the statement of organization. A contribution solicited for or received on behalf of the candidate is considered solicited or received for the candidacy for which the individual is then a candidate if the contribution is solicited or received before the general elections for which the candidate is a nominee or is unopposed.

(2) With the written approval of the contributor, a candidate committee may use or permit the use of contributions solicited for or received by the candidate committee from that contributor to further the candidacy of the individual for an office other than the office designated on the statement of organization. [1993 c 2 § 19 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.950 Captions. Section captions and part headings used in this act do not constitute any part of the law. [1993 c 2 § 34 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.955 Short title—1993 c 2. This act may be known and cited as the Fair Campaign Practices Act. [1993 c 2 § 36 (Initiative Measure No. 134, approved November 3, 1992).]

Chapter 42.23

CODE OF ETHICS FOR MUNICIPAL OFFICERS—CONTRACT INTERESTS

Sections

42.23.030 Interest in contracts prohibited—Exceptions. No municipal officer shall be beneficially interested, directly or indirectly, in any contract which may be made by, through or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his or her office, or accept, directly or indirectly, any compensation, gratuity or reward in connection with

such contract from any other person beneficially interested therein. This section shall not apply in the following cases:

(1) The furnishing of electrical, water or other utility services by a municipality engaged in the business of furnishing such services, at the same rates and on the same terms as are available to the public generally;

(2) The designation of public depositaries for municipal funds;

(3) The publication of legal notices required by law to be published by any municipality, upon competitive bidding or at rates not higher than prescribed by law for members of the general public;

(4) The designation of a school director as clerk or as both clerk and purchasing agent of a school district;

(5) The employment of any person by a municipality, other than a county with a population of one hundred twenty-five thousand or more, a city of the first or second class, an irrigation district encompassing in excess of fifty thousand acres, or a first class school district, for unskilled day labor at wages not exceeding one hundred dollars in any calendar month;

(6) The letting of any other contract (except a sale or lease as seller or lessor) by a municipality, other than a county with a population of one hundred twenty-five thousand or more, a city of the first or second class, an irrigation district encompassing in excess of fifty thousand acres, or a first class school district: PROVIDED, That the total volume of business represented by such contract or contracts in which a particular officer is interested, singly or in the aggregate, as measured by the dollar amount of the municipality's liability thereunder, shall not exceed seven hundred fifty dollars in any calendar month: PROVIDED FURTHER, That in the case of a particular officer of a third class city or town, or a noncharter optional code city, or a member of any county fair board in a county which has not established a county purchasing department pursuant to RCW 36.32.240, the total volume of such contract or contracts authorized in this subsection may exceed seven hundred fifty dollars in any calendar month but shall not exceed nine thousand dollars in any calendar year: PROVIDED FURTHER, That there shall be public disclosure by having an available list of such purchases or contracts, and if the supplier or contractor is an official of the municipality, he or she shall not vote on the authorization;

(7) The leasing by a port district as lessor of port district property to a municipal officer or to a contracting party in which a municipal officer may be beneficially interested, if in addition to all other legal requirements, a board of three disinterested appraisers, who shall be appointed from members of the American institute of real estate appraisers by the presiding judge of the superior court in the county where the property is situated, shall find and the court finds that all terms and conditions of such lease are fair to the port district and are in the public interest;

(8) The letting of any contract for the driving of a school bus in a second class school district: PROVIDED, That the terms of such contract shall be commensurate with the pay plan or collective bargaining agreement operating in the district;

(9) The letting of any contract to the spouse of an officer of a second class school district in which less than two hundred full time equivalent students are enrolled at the start of the school year as defined in RCW 28A.150.040, when such contract is solely for employment as a certificated or classified employee of the school district, or the letting of any contract to the spouse of an officer of a school district, when such contract is solely for employment as a substitute teacher for the school district: PROVIDED, That the terms of such contract shall be commensurate with the pay plan or collective bargaining agreement applicable to all district employees and the board of directors has found, consistent with the written policy under RCW 28A.330.240, that there is a shortage of substitute teachers in the school district. [1993 c 308 § 1; 1991 c 363 § 120; 1990 c 33 § 573; 1989 c 263 § 1; 1983 1st ex.s. c 44 § 1. Prior: 1980 c 39 § 1; 1979 ex.s. c 4 § 1; 1971 ex.s. c 242 § 1; 1961 c 268 § 4.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Severability—1989 c 263: "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." [1989 c 263 § 3.]

Severability—1980 c 39: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 39 § 3.]

Title 43
STATE GOVERNMENT—EXECUTIVE

Chapters

Chapter 43.01
STATE OFFICERS—GENERAL PROVISIONS

Sections

43.01.015 Governor, lieutenant governor—Terms limited. (1) No person is eligible to appear on the ballot or file a declaration of candidacy for governor who, by the end of the then current term of office will have served, or but for resignation would have served, as governor during eight of the previous fourteen years.

(2) No person is eligible to appear on the ballot or file a declaration of candidacy for lieutenant governor who, by the end of the then current term of office will have served, or but for resignation would have served, as lieutenant governor during eight of the previous fourteen years. [1993 c 1 § 2 (Initiative Measure No. 573, approved November 3, 1992).]

Preamble—1993 c 1 (Initiative Measure No. 573): "The people of the state of Washington find that:

(1) The people will best be served by citizen legislators who are subject to a reasonable degree of rotation in office;

(2) Entrenched incumbents have become indifferent to the conditions and concerns of the people;

(3) Entrenched incumbents have an inordinate advantage in elections because of their control of campaign finance laws and gerrymandering of electoral districts;

(4) Entrenched incumbency has discouraged qualified citizens from seeking public office;

(5) Entrenched incumbents have become preoccupied with their own reelection and devote more effort to campaigning than to making legislative decisions for the benefit of the people;

(6) Entrenched incumbents have become closely aligned with special interest groups who provide contributions and support for their reelection campaigns, give entrenched incumbents special favors, and lobby office holders for special interest legislation to the detriment of the people of this state, and may create corruption or the appearance of corruption of the legislative system;

(7) The people of Washington have a compelling interest in preventing the self-perpetuating monopoly of elective office by a dynastic ruling class.

The people of the state of Washington therefore adopt this act to limit ballot access of candidates for state and federal elections." [1993 c 1 § 1 (Initiative Measure No. 573, approved November 3, 1992).] For codification of "this act" [1993 c 1], see Codification Tables, this volume.

Severability—1993 c 1 (Initiative Measure No. 573): "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." [1993 c 1 § 10 (Initiative Measure No. 573, approved November 3, 1992).]

43.01.170 Hiring of early retirees by state agencies prohibited—Expiration of section. In order to ensure that the state derives the expected benefits from the early retirement provisions of chapter 234, Laws of 1992, chapter 86, Laws of 1993, and chapter 519, Laws of 1993, no state agency may hire persons who retire from service under the provisions of chapter 234, Laws of 1992, and chapter 86, Laws of 1993, or chapter 519, Laws of 1993, as temporary or project employees, as defined by the Washington personnel resources board for employees covered under chapter 41.06 RCW, and by the employer for persons not covered under *chapter 28B.16 RCW who are employed by institutions of higher education or community or technical colleges. 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. [1993 c 519 § 13; 1993 c 281 § 44; 1993 c 86 § 7; 1992 c 234 § 11.]

Reviser's note: (1) This section was amended by 1993 c 86 § 7, 1993 c 281 § 44, and by 1993 c 519 § 13, each without reference to the other. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

*(2) Chapter 28B.16 RCW was repealed by 1993 c 281 § 68. The powers, duties, and functions of the higher education personnel board are transferred to the Washington personnel resources board.

Part headings not law—Effective date—1993 c 519: See notes following RCW 41.32.4871.

Effective date—1993 c 281: See note following RCW 41.06.022.

Effective date—1993 c 86: "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 [April 21, 1993]." [1993 c 86 § 9.]

43.01.220 Commute trip reduction—Parking revenue—Definitions. The definitions in this section apply throughout this chapter.

(1) "Guaranteed ride home" means an assured ride home for commuters participating in a commute trip reduction program who are not able to use their normal commute mode because of personal emergencies.

(2) "Pledged" means parking revenue designated through any means, including moneys received from the natural resource building, which is used for the debt service payment of bonds issued for parking facilities. [1993 c 394 § 2.]

Finding—Purpose—1993 c 394: "The legislature finds that reducing the number of commute trips to work is an effective way of reducing automobile-related air pollution, traffic congestion, and energy use. The legislature intends that state agencies shall assume a leadership role in implementing programs to reduce vehicle miles traveled and single-occupant vehicle commuting, under RCW 70.94.521 through 70.94.551.

The legislature has established and directed an interagency task force to consider mechanisms for funding state agency commute trip reduction programs; and to consider and recommend policies for employee incentives for commuting by other than single-occupant vehicles, and policies for the use of state-owned vehicles.

It is the purpose of this act to provide state agencies with the authority to provide employee incentives, including subsidies for use of high occupancy vehicles to meet commute trip reduction goals, and to remove existing statutory barriers for state agencies to use public funds, including parking revenue, to operate, maintain, lease, or construct parking facilities at state-owned and leased facilities, to reduce parking subsidies, and to support commute trip reduction programs." [1993 c 394 § 1.]

43.01.225 Commute trip reduction—Parking revenue—State capitol vehicle parking account. There is hereby established an account in the state treasury to be known as the "state capitol vehicle parking account." All parking rental income collected from rental of parking space at state-owned or leased property shall be deposited in the "state capitol vehicle parking account." Revenue deposited in the "state capitol vehicle parking account" shall be first applied to pledged purposes. Unpledged parking revenues deposited in the "state capitol vehicle parking account" may be used to:

(1) Pay costs incurred in the operation, maintenance, regulation, and enforcement of vehicle parking and parking facilities on state-owned or leased properties;

(2) Support the lease costs and/or capital investment costs of vehicle parking and parking facilities at agency-owned and leased facilities off the capitol campus; and

(3) Support commute trip reduction programs under RCW 70.94.521 through 70.94.551.

Distribution of funds from the "state capitol vehicle parking account" are subject to appropriation by the legislature and will be made by the office of financial management after considering recommendations from the director of general administration and the interagency task force for commute trip reduction, under RCW 70.94.551. [1993 c 394 § 5.]

Finding—Purpose—1993 c 394: See note following RCW 43.01.220.

43.01.230 Commute trip reduction—Use of public funds. State agencies may, subject to appropriation and under the internal revenue code rules, use public funds to financially assist agency-approved incentives for alternative commute modes, including but not limited to carpools, vanpools, purchase of transit and ferry passes, and guaranteed ride home programs, if the financial assistance is an element of the agency's commute trip reduction program as required under RCW 70.94.521 through 70.94.551. This section does not permit any payment for the use of state-owned vehicles for commuter ride sharing. [1993 c 394 § 6.]

Finding—Purpose—1993 c 394: See note following RCW 43.01.220.

43.01.235 Higher education institutions—Exemption. All state higher education institutions are exempt from RCW 43.01.225. [1993 c 394 § 7.]

Finding—Purpose—1993 c 394: See note following RCW 43.01.220.

Chapter 43.03
SALARIES AND EXPENSES

Sections

43.03.011 Salaries of state elected officials of the executive branch. Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 43.03.010 and 43.03.310, the annual salaries of the state elected officials of the executive branch shall be as follows:

(1) Effective September 3, 1992:

(a) Governor . . . . . $ 121,000

(b) Lieutenant governor . . . . . $ 62,700
(c) Secretary of state . . . . . $ 64,300
(d) Treasurer . . . . . $ 79,500
(e) Auditor . . . . . $ 84,100
(f) Attorney general . . . . . $ 92,000
(g) Superintendent of public instruction . . $ 86,600
(h) Commissioner of public lands . . . . . $ 86,600
(i) Insurance commissioner . . . . . $ 77,200

(2) Effective September 1, 1993:
(a) Governor . . . . . $ 121,000
(b) Lieutenant governor . . . . . $ 62,700
(c) Secretary of state . . . . . $ 64,300
(d) Treasurer . . . . . $ 79,500
(e) Auditor . . . . . $ 84,100
(f) Attorney general . . . . . $ 92,000
(g) Superintendent of public instruction . . $ 86,600
(h) Commissioner of public lands . . . . . $ 86,600
(i) Insurance commissioner . . . . . $ 77,200

(3) The lieutenant governor shall receive the fixed amount of his salary plus 1/260th of the difference between his salary and that of the governor for each day that the lieutenant governor is called upon to perform the duties of the governor by reason of the absence from the state, removal, resignation, death, or disability of the governor. [1993 1st sp.s. c 26 § 1; 1991 sp.s. c 1 § 1; 1989 2nd ex.s. c 4 § 1; 1987 1st ex.s. c 1 § 1, part.]

43.03.012 Salaries of judges. Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 2.04.092, 2.06.062, 2.08.092, 3.58.010, and 43.03.310, the annual salaries of the judges of the state shall be as follows:

(1) Effective September 3, 1992:
(a) Justices of the supreme court . . . . . $ 107,200
(b) Judges of the court of appeals . . . . . $ 101,900
(c) Judges of the superior court . . . . . $ 96,600
(d) Full-time judges of the district court . . $ 91,900

(2) Effective September 1, 1993:
(a) Justices of the supreme court . . . . . $ 107,200
(b) Judges of the court of appeals . . . . . $ 101,900
(c) Judges of the superior court . . . . . $ 96,600
(d) Full-time judges of the district court . . $ 91,900

(3) The salary for a part-time district court judge shall be the proportion of full-time work for which the position is authorized, multiplied by the salary for a full-time district court judge. [1993 1st sp.s. c 26 § 2; 1991 sp.s. c 1 § 2; 1989 2nd ex.s. c 4 § 2; 1987 1st ex.s. c 1 § 1, part.]

43.03.013 Salaries of members of the legislature. Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 43.03.010 and 43.03.310, the annual salary of members of the legislature shall be:

(1) Effective September 3, 1992:
(a) Legislator . . . . . $ 25,900
(b) Speaker of the house . . . . . $ 33,900
(c) Senate majority leader . . . . . $ 29,900
(d) Senate minority leader . . . . . $ 29,900
(e) House minority leader . . . . . $ 29,900

(2) Effective September 1, 1993:
(a) Legislator . . . . . $ 25,900
(b) Speaker of the house . . . . . $ 33,900
(c) Senate majority leader . . . . . $ 29,900
(d) Senate minority leader . . . . . $ 29,900
(e) House minority leader . . . . . $ 29,900

[1993 1st sp.s. c 26 § 3; 1991 sp.s. c 1 § 3; 1989 2nd ex.s. c 4 § 3; 1987 1st ex.s. c 1 § 1, part.]

43.03.028 State committee on agency officials' salaries—Members—Duties—Reports. (1) There is hereby created a state committee on agency officials' salaries to consist of seven members, or their designees, as follows: The president of the University of Puget Sound; the chairperson of the council of presidents of the state's four-year institutions of higher education; the chairperson of the Washington personnel resources board; the president of the Association of Washington Business; the president of the Pacific Northwest Personnel Managers' Association; the president of the Washington State Bar Association; and the president of the Washington State Labor Council. If any of the titles or positions mentioned in this subsection are changed or abolished, any person occupying an equivalent or like position shall be qualified for appointment by the governor to membership upon the committee.

(2) The committee shall study the duties and salaries of the directors of the several departments and the members of the several boards and commissions of state government, who are subject to appointment by the governor or whose salaries are fixed by the governor, and of the chief executive officers of the following agencies of state government:

The arts commission; the human rights commission; the board of accountancy; the board of pharmacy; the eastern Washington historical society; the Washington state historical society; the interagency committee for outdoor recreation; the criminal justice training commission; the department of personnel; the state finance committee; the state library; the traffic safety commission; the horse racing commission; the advisory council on vocational education; the public disclosure commission; the state conservation commission; the commission on Hispanic affairs; the commission on Asian-American affairs; the state board for volunteer fire fighters; the transportation improvement board; the public employment relations commission; the forest practices appeals board; and the energy facilities site evaluation council.

The committee shall report to the governor or the chairperson of the appropriate salary fixing authority at least once in each fiscal biennium on such date as the governor may designate, but not later than seventy-five days prior to the convening of each regular session of the legislature during an odd-numbered year, its recommendations for the salaries to be fixed for each position.

(3) Committee members shall be reimbursed by the department of personnel for travel expenses under RCW 43.03.050 and 43.03.060. [1993 c 281 § 45; 1993 c 101 § 14; 1991 c 3 § 294; 1988 c 167 § 9. Prior: 1987 c 504 § 15; 1987 c 249 § 7; 1986 c 155 § 9; 1982 c 163 § 21; 1980 c 87 § 20; prior: 1977 ex.s. c 127 § 1; 1977 c 75 § 36; 1970 ex.s. c 43 § 2; 1967 c 19 § 1; 1965 c 8 § 43.03.028; prior: 1961 c 307 § 1; 1955 c 340 § 1.]

Reviser's note: This section was amended by 1993 c 101 § 14 and by 1993 c 281 § 45, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—1993 c 281: See note following RCW 41.06.022.

Findings—1993 c 101: See note following RCW 27.34.010.

Severability—Effective date—1993 c 101: See RCW 27.34.915 and 27.34.916.

Savings—Severability—1988 c 167: See notes following RCW 47.26.121.

Severability—Effective date—1987 c 504: See RCW 43.105.901 and 43.105.902.

Contingent effective date—Severability—1986 c 155: See notes following RCW 43.03.300.

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

Severability—1970 ex.s. c 43: See note following RCW 43.03.027.

43.03.040 Salaries of certain directors and chief executive officers. The directors of the several departments and members of the several boards and commissions, whose salaries are fixed by the governor and the chief executive officers of the agencies named in RCW 43.03.028(2) as now or hereafter amended shall each severally receive such salaries, payable in monthly installments, as shall be fixed by the governor or the appropriate salary fixing authority, in an amount not to exceed the recommendations of the committee on agency officials' salaries. Beginning July 1, 1993, through June 30, 1995, the salary paid to such directors and members of boards and commissions shall not exceed the amount paid as of April 1, 1993. [1993 1st sp.s. c 24 § 914; 1986 c 155 § 12; 1977 ex.s. c 127 § 2; 1970 ex.s. c 43 § 3; 1965 c 8 § 43.03.040. Prior: 1961 c 307 § 2; 1955 c 340 § 2; 1949 c 111 § 1; 1937 c 224 § 1; Rem. Supp. 1949 § 10776-1.]

Severability—Effective dates—1993 1st sp.s. c 24: See notes following RCW 28A.165.070.

Contingent effective date—Severability—1986 c 155: See notes following RCW 43.03.300.

Severability—1970 ex.s. c 43: See note following RCW 43.03.027.

43.03.130 Travel expenses of prospective employees. Any state office, commission, department or institution may agree to pay the travel expenses of a prospective employee as an inducement for such applicant to travel to a designated place to be interviewed by and for the convenience of such agency: PROVIDED, That if such employment is to be in the classified service, such offer may be made only on the express authorization of the state department of personnel, or other corresponding personnel agency as provided by chapter 41.06 RCW, to applicants reporting for a merit system examination or to applicants from an eligible register reporting for a pre-employment interview. Travel expenses authorized for prospective employees called for interviews shall be payable at rates in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. When an applicant is called to be interviewed by or on behalf of more than one agency, the authorized travel expenses may be paid directly by the authorizing personnel department or agency, subject to reimbursement from the interviewing agencies on a pro rata basis.

In the case of both classified and exempt positions, such travel expenses will be paid only for applicants being considered for the positions of director, deputy director, assistant director, or supervisor of state departments, boards or commissions; or equivalent or higher positions; or engineers, or other personnel having both executive and professional status. In the case of four-year institutions of higher education, such travel expenses will be paid only for applicants being considered for academic positions above the rank of instructor or professional or administrative employees in supervisory positions. In the case of community and technical colleges, such travel expenses may be paid for applicants being considered for full-time faculty positions or administrative employees in supervisory positions. [1993 c 93 § 1; 1975-'76 2nd ex.s. c 34 § 96; 1967 ex.s. c 16 § 3.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

43.03.305 Washington citizens' commission on salaries for elected officials—Generally. There is created a commission to be known as the Washington citizens' commission on salaries for elected officials, to consist of fifteen members appointed by the governor as provided in this section.

(1) Eight of the fifteen commission members shall be selected by lot by the secretary of state from among those registered voters eligible to vote at the general election held in November, 1986, and thereafter from among those registered voters eligible to vote at the time of the selection. One member shall be selected from each congressional district. The secretary shall establish policies and procedures for conducting the selection by lot. The policies and procedures shall include, but not be limited to, those for notifying persons selected and for providing a new selection from a congressional district if a person selected from the district declines appointment to the commission.

(2) The remaining seven of the fifteen commission members, all residents of this state, shall be selected jointly by the speaker of the house of representatives and the president of the senate. The persons selected under this subsection shall have had experience in the field of personnel management. Of these seven members, one shall be selected from each of the following five sectors in this state: Private institutions of higher education; business; professional personnel management; legal profession; and organized labor. Of the two remaining members, one shall be a person recommended to the speaker and the president by the chair of the Washington personnel resources board and one shall be a person recommended by majority vote of the presidents of the state's four-year institutions of higher education.

(3) The secretary of state shall forward the names of persons selected under subsection (1) of this section and the speaker of the house of representatives and president of the senate shall forward the names of persons selected under subsection (2) of this section to the governor who shall appoint these persons to the commission. Except as provided in subsection (6) of this section, the names of persons selected for appointment to the commission shall be forwarded to the governor not later than February 15, 1987, and not later than the fifteenth day of February every four years thereafter.

(4) Members shall hold office for terms of four years, and no person may be appointed to more than two such terms. No member of the commission may be removed by the governor during his or her term of office unless for cause of incapacity, incompetence, neglect of duty, or malfeasance in office or for a disqualifying change of residence.

(5) No state official, public employee, or lobbyist, or immediate family member of the official, employee, or lobbyist, subject to the registration requirements of chapter 42.17 RCW is eligible for membership on the commission.

As used in this subsection the phrase "immediate family" means the parents, spouse, siblings, children, or dependent relative of the official, employee, or lobbyist whether or not living in the household of the official, employee, or lobbyist.

(6) Upon a vacancy in any position on the commission, a successor shall be selected and appointed to fill the unexpired term. The selection and appointment shall be concluded within thirty days of the date the position becomes vacant and shall be conducted in the same manner as originally provided. [1993 c 281 § 46; 1986 c 155 § 2.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Contingent effective date—Severability—1986 c 155: See notes following RCW 43.03.300.

Chapter 43.06
GOVERNOR

Sections

43.06.010 General powers and duties. In addition to those prescribed by the Constitution, the governor may exercise the powers and perform the duties prescribed in this and the following sections:

(1) The governor shall supervise the conduct of all executive and ministerial offices;

(2) The governor shall see that all offices are filled, and the duties thereof performed, or in default thereof, apply such remedy as the law allows; and if the remedy is imperfect, acquaint the legislature therewith at its next session;

(3) The governor shall make the appointments and supply the vacancies mentioned in this title;

(4) The governor is the sole official organ of communication between the government of this state and the government of any other state or territory, or of the United States;

(5) Whenever any suit or legal proceeding is pending against this state, or which may affect the title of this state to any property, or which may result in any claim against the state, the governor may direct the attorney general to appear on behalf of the state, and report the same to the governor, or to any grand jury designated by the governor, or to the legislature when next in session;

(6) The governor may require the attorney general or any prosecuting attorney to inquire into the affairs or management of any corporation existing under the laws of this state, or doing business in this state, and report the same to the governor, or to any grand jury designated by the governor, or to the legislature when next in session;

(7) The governor may require the attorney general to aid any prosecuting attorney in the discharge of his duties;

(8) The governor may offer rewards, not exceeding one thousand dollars in each case, payable out of the state treasury, for information leading to the apprehension of any person convicted of a felony who has escaped from a state correctional institution or for information leading to the arrest of any person who has committed or is charged with the commission of a felony;

(9) The governor shall perform such duties respecting fugitives from justice as are prescribed by law;

(10) The governor shall issue and transmit election proclamations as prescribed by law;

(11) The governor may require any officer or board to make, upon demand, special reports to the governor, in writing;

(12) The governor may, after finding that a public disorder, disaster, energy emergency, or riot exists within this state or any part thereof which affects life, health, property, or the public peace, proclaim a state of emergency in the area affected, and the powers granted the governor during a state of emergency shall be effective only within the area described in the proclamation;

(13) The governor 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;

(14) On all compacts forwarded to the governor pursuant to RCW 9.46.360(6), 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. [1993 c 142 § 5; 1992 c 172 § 1; 1991 c 257 § 22; 1982 c 153 § 1; 1979 ex.s. c 53 § 4; 1977 ex.s. c 289 § 15; 1975-'76 2nd ex.s. c 108 § 25; 1969 ex.s. c 186 § 8; 1965 c 8 § 43.06.010. Prior: 1890 p 627 § 1; RRS § 10982.]

Severability—1992 c 172: "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." [1992 c 172 § 4.]

Severability—Effective date—1982 c 153: See notes following RCW 17.24.210.

Severability—1979 ex.s. c 53: See RCW 10.85.900.

Severability—1977 ex.s. c 289: See RCW 43.131.901.

Severability—Effective date—1975-'76 2nd ex.s. c 108: See notes following RCW 43.21F.010.

Rewards by county legislative authorities: Chapter 10.85 RCW.

43.06.115 Militarily impacted area—Declaration by governor. (1) The governor may, by executive order, after consultation with or notification of the executive-legislative committee on economic development created by *chapter . . . (Senate Bill No. 5300), Laws of 1993, declare a community to be a "military impacted area." A "military impacted area" means a community or communities, as identified in the executive order, that experience serious social and economic hardships because of a change in defense spending by the federal government in that community or communities.

(2) If the governor executes an order under subsection (1) of this section, the governor shall establish a response team to coordinate state efforts to assist the military impacted community. The response team may include, but not be limited to, one member from each of the following agencies: (a) The department of community development; (b) the department of trade and economic development; (c) the department of social and health services; (d) the employment security department; (e) the state board for community and technical colleges; (f) the higher education coordinating board; (g) the department of transportation; and (h) the Washington energy office. The governor may appoint a response team coordinator. The governor shall seek to actively involve the impacted community or communities in planning and implementing a response to the crisis. The governor may seek input or assistance from the community diversification advisory committee, and the governor may establish task forces in the community or communities to assist in the coordination and delivery of services to the local community. The state and community response shall consider economic development, human service, and training needs of the community or communities impacted.

(3) The governor shall report at the beginning of the next legislative session to the legislature and the executive-legislative committee on economic development created by *chapter . . . (Senate Bill No. 5300), Laws of 1993, as to the designation of a military impacted area. The report shall include recommendations regarding whether a military impacted area should become eligible for (a) funding provided by the community economic revitalization board, public facilities construction loan revolving account, Washington state development loan fund, basic health plan, the public works assistance account, department of trade and economic development, employment security department, and department of transportation; (b) training for dislocated defense workers; or (c) services for dislocated defense workers. [1993 c 421 § 2.]

***Reviser's note:** Senate Bill No. 5300 was vetoed by the governor.

Finding—Intent—1993 c 421: "The legislature finds that military base expansions, closures, and defense procurement contract cancellations may have extreme economic impacts on communities and firms. The legislature began to address this concern in 1990 by establishing the community diversification program in the department of community development. While this program has helped military dependent communities begin the long road to diversification, base expansions or closures or major procurement contract reductions in the near future will find these communities unable to respond adequately, endangering the health, safety, and welfare of the community. The legislature intends to target emergency state assistance to military dependent communities significantly impacted by defense spending. The emergency state assistance and the long-term strategy should be driven by the impacted community and consistent with the state plan for diversification required under RCW 43.63A.450(4)." [1993 c 421 § 1.]

43.06.410 State internship program—Governor's duties. There is established within the office of the governor the Washington state internship program to assist students and state employees in gaining valuable experience and knowledge in various areas of state government. In administering the program, the governor shall:

(1) Consult with the secretary of state, the director of personnel, the commissioner of the employment security department, and representatives of labor;

(2) Encourage and assist agencies in developing intern positions;

(3) Develop and coordinate a selection process for placing individuals in intern positions. This selection process shall give due regard to the responsibilities of the state to provide equal employment opportunities;

(4) Develop and coordinate a training component of the internship program which balances the need for training and exposure to new ideas with the intern's and agency's need for on-the-job work experience;

(5) Work with institutions of higher education in developing the program, soliciting qualified applicants, and selecting participants; and

(6) Develop guidelines for compensation of the participants. [1993 c 281 § 47; 1985 c 442 § 1.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Construction—1985 c 442: "Nothing in this act shall be construed to limit the authority of state agencies to continue or establish other internship programs or positions." [1985 c 442 § 10.]

Severability—1985 c 442: "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." [1985 c 442 § 11.]

43.06.425 Interns—Effect of employment experience—Rights of reversion—Fringe benefits—Sick and vacation leave. The Washington personnel resources board shall adopt rules to provide that:

(1) Successful completion of an internship under RCW 43.06.420 shall be considered as employment experience at the level at which the intern was placed;

(2) Persons leaving classified or exempt positions in state government in order to take an internship under RCW 43.06.420: (a) Have the right of reversion to the previous position at any time during the internship or upon completion of the internship; and (b) shall continue to receive all fringe benefits as if they had never left their classified or exempt positions;

(3) Participants in the undergraduate internship program who were not public employees prior to accepting a position in the program receive sick leave allowances commensurate with other state employees;

(4) Participants in the executive fellows program who were not public employees prior to accepting a position in the program receive sick and vacation leave allowances commensurate with other state employees. [1993 c 281 § 48; 1985 c 442 § 4.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Construction—Severability—1985 c 442: See notes following RCW 43.06.410.

State internship program—Positions exempt from chapter 41.06 RCW: RCW 41.06.088.

43.06.430 Interns—Eligibility for career executive program. The Washington personnel resources board shall adopt rules to provide that persons successfully completing an internship under the executive fellows program created under RCW 43.06.420 are eligible for positions in the career executive program under *RCW 41.06.430. [1993 c 281 § 49; 1985 c 442 § 5.]

***Reviser's note:** RCW 41.06.430 was repealed by 1993 c 281 § 69, effective July 1, 1993.

Effective date—1993 c 281: See note following RCW 41.06.022.

Construction—Severability—1985 c 442: See notes following RCW 43.06.410.

Chapter 43.07
SECRETARY OF STATE

Sections

Charitable trusts: Chapter 11.110 RCW.

Jury source list—Master jury list—Creation—Adoption of rules for implementation of methodology and standards by agencies: RCW 2.36.054 and 2.36.0571.

43.07.120 Fees. (1) The secretary of state shall establish by rule and collect the fees in this subsection:

(a) For a copy of any law, resolution, record, or other document or paper on file in the secretary's office;

(b) For any certificate under seal;

(c) For filing and recording trademark;

(d) For each deed or patent of land issued by the governor;

(e) For recording miscellaneous records, papers, or other documents.

(2) The secretary of state may adopt rules under chapter 34.05 RCW establishing reasonable fees for the following services rendered under Title 23B RCW, chapter 18.100, 23.86, 23.90, 24.03, 24.06, 24.12, 24.20, 24.24, 24.28, 24.36, or 25.10 RCW:

(a) Any service rendered in-person at the secretary of state's office;

(b) Any expedited service;

(c) The electronic or facsimile transmittal of information from corporation records or copies of documents;

(d) The providing of information by micrographic or other reduced-format compilation;

(e) The handling of checks, drafts, or credit or debit cards upon adoption of rules authorizing their use for which sufficient funds are not on deposit; and

(f) Special search charges.

(3) To facilitate the collection of fees, the secretary of state may establish accounts for deposits by persons who may frequently be assessed such fees to pay the fees as they are assessed. The secretary of state may make whatever arrangements with those persons as may be necessary to carry out this section.

(4) The secretary of state may adopt rules for the use of credit or debit cards for payment of fees.

(5) No member of the legislature, state officer, justice of the supreme court, judge of the court of appeals, or judge of the superior court shall be charged for any search relative to matters pertaining to the duties of his or her office; nor may such official be charged for a certified copy of any law or resolution passed by the legislature relative to his or her official duties, if such law has not been published as a state law. [1993 c 269 § 15; 1991 c 72 § 53; 1989 c 307 § 39; 1982 c 35 § 187; 1971 c 81 § 107; 1965 c 8 § 43.07.120. Prior: 1959 c 263 § 5; 1907 c 56 § 1; 1903 c 151 § 1; 1893 c 130 § 1; RRS § 10993.]

Effective date—1993 c 269: See note following RCW 23.86.070.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

43.07.125 Fees—Charitable trusts—Charitable solicitations. The secretary of state may adopt rules under chapter 34.05 RCW establishing reasonable fees for the following services rendered under chapter 11.110 or 19.09 RCW:

(1) Any service rendered in-person at the secretary of state's office;

(2) Any expedited service;

(3) The electronic transmittal of documents;

(4) The providing of information by microfiche or other reduced-format compilation;

(5) The handling of checks or drafts for which sufficient funds are not on deposit;

(6) The resubmission of documents previously submitted to the secretary of state where the documents have been returned to the submitter to make such documents conform to the requirements of the applicable statute;

(7) The handling of telephone requests for information; and

(8) Special search charges. [1993 c 471 § 24; 1993 c 269 § 14.]

Severability—Effective date—1993 c 471: See RCW 19.09.914 and 19.09.915.

Effective date—1993 c 269: See note following RCW 23.86.070.

43.07.350 Citizens' exchange program. The secretary of state, in consultation with the department of trade, the department of agriculture, economic development consultants, the consular corps, and other international trade organizations, shall develop a Washington state citizens' exchange program that will initiate and promote:

(1) Citizen exchanges between Washington state agricultural, technical, and educational groups and organizations with their counterparts in targeted foreign countries.

(2) Expanded educational and training exchanges between Washington state individuals and organizations with similar groups in targeted foreign countries.

(3) Programs to extend Washington state expertise to targeted foreign countries to help promote better health and technical assistance in agriculture, water resources, hydroelectric power, forestry management, education, and other areas.

(4) Efforts where a special emphasis is placed on utilizing Washington state's rich human resources who are retired from public and private life and have the time to assist in this program.

(5) People-to-people programs that may result in increased tourism, business relationships, and trade from targeted foreign nations to the Pacific Northwest. [1993 c 113 § 1.]

Chapter 43.08
STATE TREASURER

Sections

43.08.015 Cash management duties. Within the policies and procedures established pursuant to RCW 43.41.110(13) and 43.88.160(1), the state treasurer shall take such actions as are necessary to ensure the effective cash management of public funds. This cash management shall include the authority to represent the state in all contractual relationships with financial institutions. The state treasurer may delegate cash management responsibilities to the affected agencies with the concurrence of the office of financial management. [1993 c 500 § 3.]

Finding—Severability—Effective date—1993 c 500: See notes following RCW 43.41.180.

43.08.061 Warrants—Public printer to print—Retention of redeemed warrants. The public printer shall print all state treasury warrants for distribution as directed by the state treasurer. All warrants redeemed by the state treasurer shall be retained for a period of one year, following their redemption, after which they may be destroyed without regard to the requirements imposed for their destruction by chapter 40.14 RCW. [1993 c 38 § 1; 1981 c 10 § 1; 1975 c 48 § 2.]

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

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

43.08.250 Public safety and education account—Use. 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, 1995, the legislature may appropriate moneys from the public safety and education account for purposes of appellate indigent defense, the criminal litigation unit of the attorney general's office, sexual assault treatment, operations of the office of administrator for the courts, and Washington state patrol criminal justice activities. [1993 1st sp.s. c 24 § 917; 1992 c 54 § 3. Prior: 1991 sp.s. c 16 § 919; 1991 sp.s. c 13 § 25; 1985 c 57 § 27; 1984 c 258 § 338.]

Severability—Effective dates—1993 1st sp.s. c 24: See notes following RCW 28A.165.070.

Effective date—1992 c 54: See note following RCW 36.18.020.

Severability—Effective date—1991 sp.s. c 16: See notes following RCW 9.46.100.

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

Intent—1984 c 258: See note following RCW 3.46.120.

Public safety and education assessment: RCW 3.62.090.

Chapter 43.09
STATE AUDITOR

43.09.230 Division of municipal corporations—Annual reports—Comparative statistics. The state auditor shall require from every taxing district and other political subdivisions financial reports covering the full period of each fiscal year, in accordance with the forms and methods prescribed by the state auditor, which shall be uniform for all accounts of the same class.

Such reports shall be prepared, certified, and filed with the division within one hundred fifty days after the close of each fiscal year.

The reports shall contain accurate statements, in summarized form, of all collections made, or receipts received, by the officers from all sources; all accounts due the public treasury, but not collected; and all expenditures for every purpose, and by what authority authorized; and also: (1) A statement of all costs of ownership and operation, and of all income, of each and every public service industry owned and operated by a municipality; (2) a statement of the entire public debt of every taxing district, to which power has been delegated by the state to create a public debt, showing the purpose for which each item of the debt was created, and the provisions made for the payment thereof; (3) a classified statement of all receipts and expenditures by any public institution; and (4) a statement of all expenditures for labor relations consultants, with the identification of each consultant, compensation, and the terms and conditions of each agreement or arrangement; together with such other information as may be required by the state auditor.

The reports shall be certified as to their correctness by the state auditor, the state auditor's deputies, or other person legally authorized to make such certificate.

Their substance shall be published in an annual volume of comparative statistics at the expense of the state as a public document. [1993 c 18 § 2; 1989 c 168 § 1; 1977 c 75 § 41; 1965 c 8 § 43.09.230. Prior: 1909 c 76 § 5; RRS § 9955.]

Finding—Purpose—1993 c 18: "The legislature finds and declares that the use of outside consultants is an increasing element in public sector labor relations. The public has a right to be kept informed about the role of outside consultants in public sector labor relations. The purpose of this act is to help ensure that public information is available." [1993 c 18 § 1.]

43.09.270 Division of municipal corporations—Expense of division. The expense of maintaining and operating the division of municipal corporations and those expenses directly related to the prescribing of accounting systems, training, maintenance of working capital including reserves for late and uncollectable accounts and necessary

adjustments to billings, and field audit supervision, shall be considered as expenses of auditing public accounts within the meaning of RCW 43.09.280 and 43.09.282, and shall be prorated for that purpose equally among all entities directly affected by such service. [1993 c 315 § 1; 1991 sp.s. c 16 § 920; 1982 c 206 § 1; 1965 c 8 § 43.09.270. Prior: 1963 c 209 § 4; 1911 c 30 § 1; 1909 c 76 § 10; RRS § 9960.]

Effective date—1993 c 315: "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, 1993." [1993 c 315 § 2.]

Severability—Effective date—1991 sp.s. c 16: See notes following RCW 9.46.100.

43.09.420 Audit of revolving, local, and other funds and accounts. As part of the routine audits of state agencies, the state auditor shall audit all revolving funds, local funds, and other state funds and state accounts that are not managed by or in the care of the state treasurer and that are under the control of state agencies, including but not limited to state departments, boards, and commissions. In conducting the audits of these funds and accounts, the auditor shall examine revenues and expenditures or assets and liabilities, accounting methods and procedures, and recordkeeping practices. In addition to including the results of these examinations as part of the routine audits of the agencies, the auditor shall report to the legislature on the status of all such funds and accounts that have been examined during the preceding biennium and any recommendations for their improved financial management. Such a report shall be filed with the legislature within five months of the end of each biennium regarding the funds and accounts audited during the biennium. The first such report shall be filed by December 1, 1993, regarding any such funds and accounts audited during the 1991-93 biennium. [1993 c 216 § 1.]

Chapter 43.17
ADMINISTRATIVE DEPARTMENTS AND AGENCIES—GENERAL PROVISIONS

Sections

43.17.010 Departments created. (Effective October 1, 1993, until July 1, 1994.) There shall be departments of the state government which shall be known as (1) the department of social and health services, (2) the department of ecology, (3) the department of labor and industries, (4) the department of agriculture, (5) the department of fisheries, (6) the department of wildlife, (7) the department of transportation, (8) the department of licensing, (9) the department of general administration, (10) the department of trade and economic development, (11) the department of veterans affairs, (12) the department of revenue, (13) the department of retirement systems, (14) the department of corrections, (15) the department of community development, (16) the department of health, and (17) the department of financial institutions, which shall be charged with the execution, enforcement, and administration of such laws, and invested with such powers and required to perform such duties, as the legislature may provide. [1993 c 472 § 17; 1989 1st ex.s. c 9 § 810; 1987 c 506 § 2; 1985 c 466 § 47; 1984 c 125 § 12; 1981 c 136 § 61; 1979 c 10 § 1. Prior: 1977 ex.s. c 334 § 5; 1977 ex.s. c 151 § 20; 1977 c 7 § 1; prior: 1975-'76 2nd ex.s. c 115 § 19; 1975-'76 2nd ex.s. c 105 § 24; 1971 c 11 § 1; prior: 1970 ex.s. c 62 § 28; 1970 ex.s. c 18 § 50; 1969 c 32 § 1; prior: 1967 ex.s. c 26 § 12; 1967 c 242 § 12; 1965 c 156 § 20; 1965 c 8 § 43.17.010; prior: 1957 c 215 § 19; 1955 c 285 § 2; 1953 c 174 § 1; prior: (i) 1937 c 111 § 1, part; RRS § 10760-2, part. (ii) 1935 c 176 § 1; 1933 c 3 § 1; 1929 c 115 § 1; 1921 c 7 § 2; RRS § 10760. (iii) 1945 c 267 § 1, part; Rem. Supp. 1945 § 10459-1, part. (iv) 1947 c 114 § 5; Rem. Supp. 1947 § 10786-10c.]

Effective date—Implementation—1993 c 472: See RCW 43.320.900 and 43.320.901.

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.005.

Severability—Headings—Effective date—1984 c 125: See RCW 43.63A.901 through 43.63A.903.

Effective date—1981 c 136: See RCW 72.09.900.

Effective date—1977 ex.s. c 334: See note following RCW 46.01.011.

Federal requirements—Severability—1977 ex.s. c 151: See RCW 47.98.070 and 47.98.080.

Severability—1975-'76 2nd ex.s. c 105: See note following RCW 41.04.270.

Effective date—Severability—1970 ex.s. c 18: See notes following RCW 43.20A.010.

Department of
agriculture: Chapter 43.23 RCW.
corrections: Chapter 72.09 RCW.
ecology: Chapter 43.21A RCW.
employment security: Chapter 50.08 RCW.
financial institutions: Chapter 43.320 RCW.
fisheries: Chapter 75.08 RCW.
general administration: Chapter 43.19 RCW.
health: Chapter 43.70 RCW.
information services: Chapter 43.105 RCW.
labor and industries: Chapter 43.22 RCW.
licensing: Chapters 43.24, 46.01 RCW.
natural resources: Chapter 43.30 RCW.
retirement systems: Chapter 41.50 RCW.
revenue: Chapter 82.01 RCW.
services for the blind: Chapter 74.18 RCW.
social and health services: Chapter 43.20A RCW.
transportation: Chapter 47.01 RCW.
veterans affairs: Chapter 43.60A RCW.
wildlife: Chapter 77.04 RCW.

43.17.010 Departments created. (Effective July 1, 1994.) There shall be departments of the state government

which shall be known as (1) the department of social and health services, (2) the department of ecology, (3) the department of labor and industries, (4) the department of agriculture, (5) the department of fish and wildlife, (6) the department of transportation, (7) the department of licensing, (8) the department of general administration, (9) the department of community, trade, and economic development, (10) the department of veterans affairs, (11) the department of revenue, (12) the department of retirement systems, (13) the department of corrections, and (14) the department of health, and (15) the department of financial institutions, which shall be charged with the execution, enforcement, and administration of such laws, and invested with such powers and required to perform such duties, as the legislature may provide. [1993 1st sp.s. c 2 § 16; 1993 c 472 § 17; 1993 c 280 § 18; 1989 1st ex.s. c 9 § 810; 1987 c 506 § 2; 1985 c 466 § 47; 1984 c 125 § 12; 1981 c 136 § 61; 1979 c 10 § 1. Prior: 1977 ex.s. c 334 § 5; 1977 ex.s. c 151 § 20; 1977 c 7 § 1; prior: 1975-'76 2nd ex.s. c 115 § 19; 1975-'76 2nd ex.s. c 105 § 24; 1971 c 11 § 1; prior: 1970 ex.s. c 62 § 28; 1970 ex.s. c 18 § 50; 1969 c 32 § 1; prior: 1967 ex.s. c 26 § 12; 1967 c 242 § 12; 1965 c 156 § 20; 1965 c 8 § 43.17.010; prior: 1957 c 215 § 19; 1955 c 285 § 2; 1953 c 174 § 1; prior: (i) 1937 c 111 § 1, part; RRS § 10760-2, part. (ii) 1935 c 176 § 1; 1933 c 3 § 1; 1929 c 115 § 1; 1921 c 7 § 2; RRS § 10760. (iii) 1945 c 267 § 1, part; Rem. Supp. 1945 § 10459-1, part. (iv) 1947 c 114 § 5; Rem. Supp. 1947 § 10786-10c.]

Reviser's note: This section was amended by 1993 c 280 § 18, 1993 c 472 § 17, and by 1993 1st sp.s. c 2 § 16, each without reference to the other. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—1993 1st sp.s. c 2 §§ 1-6, 8-59, and 61-79: See RCW 43.300.900.

Severability—1993 1st sp.s. c 2: See RCW 43.300.901.

Effective date—Implementation—1993 c 472: See RCW 43.320.900 and 43.320.901.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.005.

Severability—Headings—Effective date—1984 c 125: See RCW 43.63A.901 through 43.63A.903.

Effective date—1981 c 136: See RCW 72.09.900.

Effective date—1977 ex.s. c 334: See note following RCW 46.01.011.

Federal requirements—Severability—1977 ex.s. c 151: See RCW 47.98.070 and 47.98.080.

Severability—1975-'76 2nd ex.s. c 105: See note following RCW 41.04.270.

Effective date—Severability—1970 ex.s. c 18: See notes following RCW 43.20A.010.

Department of
agriculture: Chapter 43.23 RCW.
community, trade, and economic development: Chapter 43.330 RCW.
corrections: Chapter 72.09 RCW.
ecology: Chapter 43.21A RCW.
employment security: Chapter 50.08 RCW.
financial institutions: Chapter 43.320 RCW.
fish and wildlife: Chapters 43.300, 75.08, and 77.04 RCW.
general administration: Chapter 43.19 RCW.
health: Chapter 43.70 RCW.
information services: Chapter 43.105 RCW.
labor and industries: Chapter 43.22 RCW.
licensing: Chapters 43.24, 46.01 RCW.
natural resources: Chapter 43.30 RCW.
retirement systems: Chapter 41.50 RCW.
revenue: Chapter 82.01 RCW.
services for the blind: Chapter 74.18 RCW.
social and health services: Chapter 43.20A RCW.
transportation: Chapter 47.01 RCW.
veterans affairs: Chapter 43.60A RCW.

43.17.020 Chief executive officers—Appointment. (Effective October 1, 1993, until July 1, 1994.) There shall be a chief executive officer of each department to be known as: (1) The secretary of social and health services, (2) the director of ecology, (3) the director of labor and industries, (4) the director of agriculture, (5) the director of fisheries, (6) the director of wildlife, (7) the secretary of transportation, (8) the director of licensing, (9) the director of general administration, (10) the director of trade and economic development, (11) the director of veterans affairs, (12) the director of revenue, (13) the director of retirement systems, (14) the secretary of corrections, (15) the director of community development, (16) the secretary of health, and (17) the director of financial institutions.

Such officers, except the secretary of transportation, shall be appointed by the governor, with the consent of the senate, and hold office at the pleasure of the governor. The director of wildlife, however, shall be appointed according to the provisions of RCW 77.04.080. If a vacancy occurs while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate. A temporary director of wildlife shall not serve more than one year. The secretary of transportation shall be appointed by the transportation commission as prescribed by RCW 47.01.041. [1993 c 472 § 18; 1989 1st ex.s. c 9 § 811; 1987 c 506 § 3; 1985 c 466 § 48; 1984 c 125 § 13; 1981 c 136 § 62; 1979 c 10 § 2. Prior: 1977 ex.s. c 334 § 6; 1977 ex.s. c 151 § 21; 1977 c 7 § 2; prior: 1975-'76 2nd ex.s. c 115 § 20; 1975-'76 2nd ex.s. c 105 § 25; 1971 c 11 § 2; prior: 1970 ex.s. c 62 § 29; 1970 ex.s. c 18 § 51; 1969 c 32 § 2; prior: 1967 ex.s. c 26 § 13; 1967 c 242 § 13; 1965 c 156 § 21; 1965 c 8 § 43.17.020; prior: 1957 c 215 § 20; 1955 c 285 § 3; 1953 c 174 § 2; prior: (i) 1935 c 176 § 2; 1933 c 3 § 2; 1929 c 115 § 2; 1921 c 7 § 3; RRS § 10761. (ii) 1937 c 111 § 1, part; RRS § 10760. (iii) 1945 c 267 § 1, part; Rem. Supp. 1945 § 10459-1, part.]

Effective date—Implementation—1993 c 472: See RCW 43.320.900 and 43.320.901.

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.005.

Severability—Headings—Effective date—1984 c 125: See RCW 43.63A.901 through 43.63A.903.

Effective date—1981 c 136: See RCW 72.09.900.

Effective date—1977 ex.s. c 334: See note following RCW 46.01.011.

Federal requirements—Severability—1977 ex.s. c 151: See RCW 47.98.070 and 47.98.080.

Severability—1975-'76 2nd ex.s. c 105: See note following RCW 41.04.270.

Effective date—Severability—1970 ex.s. c 18: See notes following RCW 43.20A.010.

Secretary of transportation appointed by transportation commission: RCW 47.01.041.

43.17.020 Chief executive officers—Appointment. (Effective July 1, 1994.) There shall be a chief executive officer of each department to be known as: (1) The secretary of social and health services, (2) the director of ecology, (3) the director of labor and industries, (4) the director of agriculture, (5) the director of fish and wildlife, (6) the secretary of transportation, (7) the director of licensing, (8) the director of general administration, (9) the director of community, trade, and economic development, (10) the director of veterans affairs, (11) the director of revenue, (12) the director of retirement systems, (13) the secretary of corrections, and (14) the secretary of health, and (15) the director of financial institutions.

Such officers, except the secretary of transportation, shall be appointed by the governor, with the consent of the senate, and hold office at the pleasure of the governor. The secretary of transportation shall be appointed by the transportation commission as prescribed by RCW 47.01.041. [1993 1st sp.s. c 2 § 17; 1993 c 472 § 18; 1993 c 280 § 19; 1989 1st ex.s. c 9 § 811; 1987 c 506 § 3; 1985 c 466 § 48; 1984 c 125 § 13; 1981 c 136 § 62; 1979 c 10 § 2. Prior: 1977 ex.s. c 334 § 6; 1977 ex.s. c 151 § 21; 1977 c 7 § 2; prior: 1975-'76 2nd ex.s. c 115 § 20; 1975-'76 2nd ex.s. c 105 § 25; 1971 c 11 § 2; prior: 1970 ex.s. c 62 § 29; 1970 ex.s. c 18 § 51; 1969 c 32 § 2; prior: 1967 ex.s. c 26 § 13; 1967 c 242 § 13; 1965 c 156 § 21; 1965 c 8 § 43.17.020; prior: 1957 c 215 § 20; 1955 c 285 § 3; 1953 c 174 § 2; prior: (i) 1935 c 176 § 2; 1933 c 3 § 2; 1929 c 115 § 2; 1921 c 7 § 3; RRS § 10761. (ii) 1937 c 111 § 1, part; RRS § 10760. (iii) 1945 c 267 § 1, part; Rem. Supp. 1945 § 10459-1, part.]

Reviser's note: This section was amended by 1993 c 280 § 19, 1993 c 472 § 18, and by 1993 1st sp.s. c 2 § 17, each without reference to the other. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—1993 1st sp.s. c 2 §§ 1-6, 8-59, and 61-79: See RCW 43.300.900.

Severability—1993 1st sp.s. c 2: See RCW 43.300.901.

Effective date—Implementation—1993 c 472: See RCW 43.320.900 and 43.320.901.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.005.

Severability—Headings—Effective date—1984 c 125: See RCW 43.63A.901 through 43.63A.903.

Effective date—1981 c 136: See RCW 72.09.900.

Effective date—1977 ex.s. c 334: See note following RCW 46.01.011.

Federal requirements—Severability—1977 ex.s. c 151: See RCW 47.98.070 and 47.98.080.

Severability—1975-'76 2nd ex.s. c 105: See note following RCW 41.04.270.

Effective date—Severability—1970 ex.s. c 18: See notes following RCW 43.20A.010.

Secretary of transportation appointed by transportation commission: RCW 47.01.041.

43.17.065 Expeditious exercise of power to issue permits, licenses, certifications, contracts, and grants—Cooperation. (Effective July 1, 1994.) (1) Where power is vested in a department to issue permits, licenses, certifications, contracts, grants, or otherwise authorize action on the part of individuals, businesses, local governments, or public or private organizations, such power shall be exercised in an expeditious manner. All departments with such power shall cooperate with officials of the business assistance center of the department of community, trade, and economic development, and any other state officials, when such officials request timely action on the part of the issuing department.

(2) After August 1, 1991, any agency to which subsection (1) of this section applies shall, with regard to any permits or other actions that are necessary for economic development in timber impact areas, as defined in RCW 43.31.601, respond to any completed application within forty-five days of its receipt; any response, at a minimum, shall include:

(a) The specific steps that the applicant needs to take in order to have the application approved; and

(b) The assistance that will be made available to the applicant by the agency to expedite the application process.

(3) The agency timber task force established in RCW 43.31.621 shall oversee implementation of this section.

(4) Each agency shall define what constitutes a completed application and make this definition available to applicants. [1993 c 280 § 37; 1991 c 314 § 28; 1990 1st ex.s. c 17 § 77.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Findings—1991 c 314: See note following RCW 43.31.601.

Intent—1990 1st ex.s. c 17: See note following RCW 43.210.010.

Severability—Part, section headings not law—1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

43.17.320 Interagency disputes—Alternative dispute resolution—Definitions. For purposes of RCW 43.17.320 through 43.17.340, "state agency" means:

(1) Any agency for which the executive officer is listed in RCW 42.17.2401(1); and

(2) The office of the secretary of state; the office of the state treasurer; the office of the state auditor; the department of natural resources; the office of the insurance commissioner; and the office of the superintendent of public instruction. [1993 c 279 § 2.]

Intent—1993 c 279: "It is the intent of the legislature to reduce the number of time-consuming and costly lawsuits between state agencies by establishing alternative dispute resolution processes available to any agency." [1993 c 279 § 1.]

43.17.330 Interagency disputes—Alternative dispute resolution—Methods. Whenever a dispute arises between state agencies, agencies shall employ every effort to resolve the dispute themselves without resorting to litigation. These efforts shall involve alternative dispute resolution methods. If a dispute cannot be resolved by the agencies involved, any

one of the disputing agencies may request the governor to assist in the resolution of the dispute. The governor shall employ whatever dispute resolution methods that the governor deems appropriate in resolving the dispute. Such methods may include, but are not limited to, the appointment by the governor of a mediator, acceptable to the disputing agencies, to assist in the resolution of the dispute. The governor may also request assistance from the attorney general to advise the mediator and the disputing agencies. [1993 c 279 § 3.]

Intent—1993 c 279: See note following RCW 43.17.320.

43.17.340 Interagency disputes—Alternative dispute resolution—Exception. RCW 43.17.320 and 43.17.330 shall not apply to any state agency that is a party to a lawsuit, which: (1) Impleads another state agency into the lawsuit when necessary for the administration of justice; or (2) files a notice of appeal, petitions for review, or makes other filings subject to time limits, in order to preserve legal rights and remedies. [1993 c 279 § 4.]

Intent—1993 c 279: See note following RCW 43.17.320.

Chapter 43.19
DEPARTMENT OF GENERAL ADMINISTRATION

Sections

Inventory of state-owned property: RCW 27.34.310, 43.82.150, 43.20A.035, 79.01.006, 43.41.150, 43.63A.510, 43.19.19201, 43.20A.037, 47.12.064, and 72.09.055.

43.19.010 Divisions of department—Authority and salary of director. (Effective October 1, 1993.) The department of general administration shall be organized into divisions, which shall include (1) the division of capitol buildings, (2) the division of purchasing, (3) the division of engineering and architecture, and (4) the division of motor vehicle transportation service.

The director of general administration shall have charge and general supervision of the department. He or she may appoint and deputize such clerical and other assistants as may be necessary for the general administration of the department. The director of general administration shall receive a salary in an amount fixed by the governor. [1993 c 472 § 19; 1988 c 25 § 10; 1975 1st ex.s. c 167 § 1; 1965 c 8 § 43.19.010. Prior: 1959 c 301 § 1; 1955 c 285 § 4; 1955 c 195 § 6; 1935 c 176 § 11; prior: 1909 c 38 §§ 1-7; 1907 c 166 §§ 3-5; 1901 c 119 §§ 1-9; RRS § 10786-10.]

Effective date—Implementation—1993 c 472: See RCW 43.320.900 and 43.320.901.

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

43.19.020 Recodified as RCW 43.320.060. (Effective October 1, 1993.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.19.030 Recodified as RCW 43.320.070. (Effective October 1, 1993.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.19.040 Repealed. (Effective October 1, 1993.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.19.050 Recodified as RCW 43.320.080. (Effective October 1, 1993.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.19.080 Recodified as RCW 43.320.090. (Effective October 1, 1993.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.19.090 Recodified as RCW 43.320.100. (Effective October 1, 1993.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.19.095 Recodified as RCW 43.320.110. (Effective October 1, 1993.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.19.100 Repealed. (Effective October 1, 1993.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.19.110 Repealed. (Effective October 1, 1993.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.19.112 Recodified as RCW 43.320.120. (Effective October 1, 1993.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.19.190 State purchasing and material control director—Powers and duties. The director of general administration, through the state purchasing and material control director, shall:

(1) Establish and staff such administrative organizational units within the division of purchasing as may be necessary for effective administration of the provisions of RCW 43.19.190 through 43.19.1939;

(2) Purchase all material, supplies, services, and equipment needed for the support, maintenance, and use of all state institutions, colleges, community colleges, technical colleges, college districts, and universities, the offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of state government, and the offices of all appointive officers of the state: PROVIDED, That the provisions of RCW 43.19.190 through 43.19.1937 do not apply in any manner to the operation of the state legislature except as requested by the legislature: PROVIDED, That any agency may purchase material, supplies, services, and equipment for which the agency has notified the purchasing and material control director that it is more cost-effective for the agency to make the purchase directly from the vendor: PROVIDED, That primary authority for the purchase of specialized equipment, instructional, and research material for their own use shall rest with the colleges, community colleges, and universities: PROVIDED FURTHER, That universities operating hospitals and 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, may make purchases for hospital operation by participating in contracts for materials, supplies, and equipment entered into by nonprofit cooperative hospital group purchasing organizations: PROVIDED FURTHER, That primary authority for the purchase of materials, supplies, and equipment for resale to other than public agencies shall rest with the state agency concerned: PROVIDED FURTHER, That authority to purchase services as included herein does not apply to personal services as defined in chapter 39.29 RCW, unless such organization specifically requests assistance from the division of purchasing in obtaining personal services and resources are available within the division to provide such assistance: PROVIDED FURTHER, That the authority for the purchase of insurance and bonds shall rest with the risk manager under RCW 43.19.1935: PROVIDED FURTHER, That, except for the authority of the risk manager to purchase insurance and bonds, the director is not required to provide purchasing services for institutions of higher education that choose to exercise independent purchasing authority under RCW 28B.10.029;

(3) Provide the required staff assistance for the state supply management advisory board through the division of purchasing;

(4) Have authority to delegate to state agencies authorization to purchase or sell, which authorization shall specify restrictions as to dollar amount or to specific types of material, equipment, services, and supplies: PROVIDED, That acceptance of the purchasing authorization by a state agency does not relieve such agency from conformance with other sections of RCW 43.19.190 through 43.19.1939, or from policies established by the director after consultation with the state supply management advisory board: PROVIDED FURTHER, That delegation of such authorization to a state agency, including an educational institution to which this section applies, to purchase or sell material, equipment, services, and supplies shall not be granted, or otherwise continued under a previous authorization, if such agency is not in substantial compliance with overall state purchasing and material control policies as established herein;

(5) Contract for the testing of material, supplies, and equipment with public and private agencies as necessary and advisable to protect the interests of the state;

(6) Prescribe the manner of inspecting all deliveries of supplies, materials, and equipment purchased through the division;

(7) Prescribe the manner in which supplies, materials, and equipment purchased through the division shall be delivered, stored, and distributed;

(8) Provide for the maintenance of a catalogue library, manufacturers' and wholesalers' lists, and current market information;

(9) Provide for a commodity classification system and may, in addition, provide for the adoption of standard specifications after receiving the recommendation of the supply management advisory board;

(10) Provide for the maintenance of inventory records of supplies, materials, and other property;

(11) Prepare rules and regulations governing the relationship and procedures between the division of purchasing and state agencies and vendors;

(12) Publish procedures and guidelines for compliance by all state agencies, including those educational institutions to which this section applies, which implement overall state purchasing and material control policies;

(13) Conduct periodic visits to state agencies, including those educational institutions to which this section applies, to determine if statutory provisions and supporting purchasing and material control policies are being fully implemented, and based upon such visits, take corrective action to achieve compliance with established purchasing and material control policies under existing statutes when required. [1993 1st sp.s. c 10 § 2; 1993 c 379 § 102; 1991 c 238 § 135. Prior: 1987 c 414 § 10; 1987 c 70 § 1; 1980 c 103 § 1; 1979 c 88 § 1; 1977 ex.s. c 270 § 4; 1975-'76 2nd ex.s. c 21 § 2; 1971 c 81 § 110; 1969 c 32 § 3; prior: 1967 ex.s. c 104 § 2; 1967 ex.s. c 8 § 51; 1965 c 8 § 43.19.190; prior: 1959 c 178 § 1; 1957 c 187 § 1; 1955 c 285 § 12; prior: (i) 1935 c 176 § 21; RRS § 10786-20. (ii) 1921 c 7 § 42; RRS § 10800. (iii) 1955 c 285 § 12; 1921 c 7 § 37, part; RRS § 10795, part.]

Reviser's note: This section was amended by 1993 c 379 § 102 and by 1993 1st sp.s. c 10 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Purpose—1993 1st sp.s. c 10: "The legislature recognizes the need for state agencies to maximize the buying power of increasingly scarce resources for the purchase of goods and services. The legislature seeks to

provide state agencies with the ability to purchase goods and services at the lowest cost." [1993 1st sp.s. c 10 § 1.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

Effective dates—Severability—1991 c 238: See RCW 28B.50.917 and 28B.50.918.

Severability—1987 c 414: See RCW 39.29.900.

Severability—1980 c 103: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 103 § 3.]

Construction—1977 ex.s. c 270: See RCW 43.19.19364.

Severability—1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

Federal surplus property: Chapter 39.32 RCW.

Purchase of blind made products and services: Chapter 19.06 RCW.

43.19.1905 State-wide policy for purchasing and material control—Establishment—Functions covered. The director of general administration, after consultation with the supply management advisory board shall establish overall state policy for compliance by all state agencies, including educational institutions, regarding the following purchasing and material control functions:

(1) Development of a state commodity coding system, including common stock numbers for items maintained in stores for reissue;

(2) Determination where consolidations, closures, or additions of stores operated by state agencies and educational institutions should be initiated;

(3) Institution of standard criteria for determination of when and where an item in the state supply system should be stocked;

(4) Establishment of stock levels to be maintained in state stores, and formulation of standards for replenishment of stock;

(5) Formulation of an overall distribution and redistribution system for stock items which establishes sources of supply support for all agencies, including interagency supply support;

(6) Determination of what function data processing equipment, including remote terminals, shall perform in state-wide purchasing and material control for improvement of service and promotion of economy;

(7) Standardization of records and forms used state-wide for supply system activities involving purchasing, receiving, inspecting, storing, requisitioning, and issuing functions under the provisions of RCW 43.19.510, including a standard notification form for state agencies to report cost-effective direct purchases, which shall at least identify the price of the goods as available through the division of purchasing, the price of the goods as available from the alternative source, the total savings, and the signature of the notifying agency's director or the director's designee;

(8) Screening of supplies, material, and equipment excess to the requirements of one agency for overall state need before sale as surplus;

(9) Establishment of warehouse operation and storage standards to achieve uniform, effective, and economical stores operations;

(10) Establishment of time limit standards for the issuing of material in store and for processing requisitions requiring purchase;

(11) Formulation of criteria for determining when centralized rather than decentralized purchasing shall be used to obtain maximum benefit of volume buying of identical or similar items, including procurement from federal supply sources;

(12) Development of criteria for use of leased, rather than state owned, warehouse space based on relative cost and accessibility;

(13) Institution of standard criteria for purchase and placement of state furnished materials, carpeting, furniture, fixtures, and nonfixed equipment, in newly constructed or renovated state buildings;

(14) Determination of how transportation costs incurred by the state for materials, supplies, services, and equipment can be reduced by improved freight and traffic coordination and control;

(15) Establishment of a formal certification program for state employees who are authorized to perform purchasing functions as agents for the state under the provisions of chapter 43.19 RCW;

(16) Development of performance measures for the reduction of total overall expense for material, supplies, equipment, and services used each biennium by the state;

(17) Establishment of a standard system for all state organizations to record and report dollar savings and cost avoidance which are attributable to the establishment and implementation of improved purchasing and material control procedures;

(18) Development of procedures for mutual and voluntary cooperation between state agencies, including educational institutions, and political subdivisions for exchange of purchasing and material control services;

(19) Resolution of all other purchasing and material matters referred to him by a member of the advisory board which require the establishment of overall state-wide policy for effective and economical supply management;

(20) Development of guidelines and criteria for the purchase of vehicles, alternate vehicle fuels and systems, equipment, and materials that reduce overall energy-related costs and energy use by the state, including the requirement that new passenger vehicles purchased by the state meet the minimum standards for passenger automobile fuel economy established by the United States secretary of transportation pursuant to the energy policy and conservation act (15 U.S.C. Sec. 2002). [1993 1st sp.s. c 10 § 3; 1987 c 504 § 16; 1980 c 172 § 7; 1975-'76 2nd ex.s. c 21 § 5.]

Notification forms—1993 1st sp.s. c 10: "The department of general administration shall forward copies of notification forms required under RCW 43.19.1905(7) to the office of financial management. By September 1, 1994, the department of general administration shall report to the house of representatives fiscal committees and senate ways and means committee on the volume and type of purchases made and the aggregate savings identified by state agencies making purchases as authorized by this act for fiscal year 1994." [1993 1st sp.s. c 10 § 4.]

Purpose—1993 1st sp.s. c 10: See note following RCW 43.19.190.

Severability—Effective date—1987 c 504: See RCW 43.105.901 and 43.105.902.

Severability—1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

Energy conservation—Legislative finding—Declaration—Purpose: RCW 43.19.668 and 43.19.669.

43.19.1906 Competitive bids—Sealed bids, exceptions. 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. 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 or under RCW 28B.10.029. 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 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;

(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 nonprofit cooperative hospital group purchasing organizations;

(7) Purchases by institutions of higher education not exceeding fifteen thousand dollars: 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; and

(8) Beginning on July 1, 1995, and on July 1 of each succeeding odd-numbered year, the dollar limits specified in this section shall be adjusted as follows: The office of financial management shall calculate such limits by adjusting the previous biennium's limits 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. [1993 c 379 § 103; 1992 c 85 § 1. Prior: 1987 c 81 § 1; 1987 c 70 § 2; 1985 c 342 § 1; 1984 c 102 § 3; 1983 c 141 § 1; 1980 c 103 § 2; 1979 ex.s. c 14 § 1; 1977 ex.s. c 270 § 5; 1975-'76 2nd ex.s. c 21 § 8; 1965 c 8 § 43.19.1906; prior: 1959 c 178 § 4.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

Findings—1984 c 102: See note following RCW 43.19.200.

Severability—1980 c 103: See note following RCW 43.19.190.

Construction—1977 ex.s. c 270: See RCW 43.19.19364.

Severability—1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

43.19.19201 Affordable housing—Inventory of suitable property. (1) The department of general administration shall identify and catalog real property that is no longer required for department purposes and is suitable for the development of affordable housing for very low-income, low-income, and moderate-income households as defined in RCW 43.63A.510. The inventory shall include the location, approximate size, and current zoning classification of the property. The department of general administration shall provide a copy of the inventory to the department of

community development by November 1, 1993, and every November 1 thereafter.

(2) By November 1 of each year, beginning in 1994, the department of general administration shall purge the inventory of real property of sites that are no longer available for the development of affordable housing. The department shall include an updated listing of real property that has become available since the last update. As used in this section, "real property" means buildings, land, or buildings and land. [1993 c 461 § 7.]

Finding—1993 c 461: See note following RCW 43.63A.510.

43.19.534 Purchase of articles or products from inmate work programs—Replacement of goods and services obtained from outside the state—Rules. State agencies, the legislature, and departments shall purchase for their use all goods and services required by the legislature, agencies, or departments that are produced or provided in whole or in part from class II inmate work programs operated by the department of corrections through state contract. These goods and services shall not be purchased from any other source unless, upon application by the department or agency: (1) The department of general administration finds that the articles or products do not meet the reasonable requirements of the agency or department, (2) are not of equal or better quality, or (3) the price of the product or service is higher than that produced by the private sector. However, the criteria contained in (1), (2), and (3) of this section for purchasing goods and services from sources other than correctional industries do not apply to goods and services produced by correctional industries that primarily replace goods manufactured or services obtained from outside the state. The department of corrections and department of general administration shall adopt administrative rules that implement this section. [1993 1st sp.s. c 20 § 1; 1986 c 94 § 2.]

Severability—1993 1st sp.s. c 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." [1993 1st sp.s. c 20 § 9.]

43.19.668 Energy conservation—Legislative finding—Declaration. The legislature finds and declares that the buildings, facilities, equipment, and vehicles owned or leased by state government consume significant amounts of energy and that energy conservation actions to provide for efficient energy use in these buildings, facilities, equipment, and vehicles will reduce the costs of state government. In order for the operations of state government to provide the citizens of this state an example of energy use efficiency, the legislature further finds and declares that state government should undertake an aggressive program designed to reduce energy use in state buildings, facilities, equipment, and vehicles within a reasonable period of time. The use of appropriate tree plantings for energy conservation is encouraged as part of this program. [1993 c 204 § 6; 1980 c 172 § 1.]

Findings—1993 c 204: See note following RCW 35.92.390.

43.19.682 Energy conservation to be included in landscape objectives. The director of the department of general administration shall seek to further energy conservation objectives among other landscape objectives in planting and maintaining trees upon grounds administered by the department. [1993 c 204 § 9.]

Findings—1993 c 204: See note following RCW 35.92.390.

43.19.710 Consolidated mail service—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this section and RCW 43.19.715.

(1) "Consolidated mail service" means incoming, outgoing, and internal mail processing.

(2) "Department" means the department of general administration.

(3) "Director" means the director of the department of general administration.

(4) "Agency" means:

(a) The office of the governor; and

(b) Any office, department, board, commission, or other separate unit or division, however designated, of the state government, together with all personnel thereof: Upon which the statutes confer powers and impose duties in connection with operations of either a governmental or proprietary nature; and that has as its chief executive officer a person or combination of persons such as a commission, board, or council, by law empowered to operate it, responsible either to: (i) No other public officer or (ii) the governor.

(5) "Incoming mail" means mail, packages, or similar items received by an agency, through the United States postal service, private carrier services, or other courier services.

(6) "Outgoing mail" means mail, packages, or similar items processed for agencies to be sent through the United States postal service, private carrier services, or other courier services.

(7) "Internal mail" means interagency mail, packages, or similar items that are delivered or to be delivered to a state agency, the legislature, the supreme court, or the court of appeals, and their officers and employees. [1993 c 219 § 2.]

Intent—1993 c 219: "It is the intent of the legislature to consolidate mail functions for state government in a manner that will provide timely, effective, efficient, and less-costly mail service for state government." [1993 c 219 § 1.]

Effective date—1993 c 219: "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, 1993." [1993 c 219 § 6.]

43.19.715 Consolidated mail service—Area served. The director shall establish a consolidated mail service to handle all incoming, outgoing, and internal mail in the 98504 zip code area or successor zip code areas for agencies in the Olympia, Tumwater, and Lacey area. The director may include additional geographic areas within the consolidated mail service, based upon his or her determination. The department shall also provide mail services to legislative and judicial agencies in the Olympia, Tumwater, and Lacey area upon request.

The director may bill state agencies and other entities periodically for mail services rendered. [1993 c 219 § 3.]

Intent—Effective date—1993 c 219: See notes following RCW 43.19.710.

43.19.720 Consolidated mail service—Review needs of state agencies. The department, in cooperation with the office of financial management, shall review current and prospective needs of state agencies for any equipment to process mail throughout state government. If after such consultation, the department should find that the economy, efficiency, or effectiveness of state government would be improved by such a transfer or other disposition, then the property shall be transferred or otherwise disposed.

After making such finding, the department shall direct the transfer of existing state property, facilities, and equipment pertaining to the consolidated mail service or United States postal service. Any dispute concerning the benefits in state governmental economy, efficiency, and effectiveness shall be resolved by the office of financial management. [1993 c 219 § 5.]

Intent—Effective date—1993 c 219: See notes following RCW 43.19.710.

Chapter 43.20
STATE BOARD OF HEALTH

Sections

43.20.030 State board of health—Members—Chairman—Staff support—Executive director, confidential secretary—Compensation and travel expenses of members. (Effective July 1, 1995.) The state board of health shall be composed of ten members. These shall be the secretary or the secretary's designee and nine other persons to be appointed by the governor, including four persons experienced in matters of health and sanitation, two elected county officials who are members of a local health board, a local health officer, and two persons representing the consumers of health care. Before appointing the county official, the governor shall consider any recommendations submitted by the Washington state association of counties. Before appointing the local health officer, the governor shall consider any recommendations submitted by the Washington state association of local public health officials. Before appointing one of the two consumer representatives, the governor shall consider any recommendations submitted by the state council on aging. The chairman shall be selected by the governor from among the nine appointed members. The department shall provide necessary technical staff support to the board. The board may employ an executive director and a confidential secretary, each of whom shall be exempt from the provisions of the state civil service law, chapter 41.06 RCW.

Members of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for their travel expenses in accordance with RCW 43.03.050 and 43.03.060. [1993 c 492 § 255. Prior: 1984 c 287 § 75; 1984 c 243 § 2; prior: 1970 ex.s. c 18 § 11; 1965 c 8 § 43.20.030; prior: 1921 c 7 § 56, part; RRS § 10814, part.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Effective date—Severability—1970 ex.s. c 18: See notes following RCW 43.20A.010.

43.20.050 Powers and duties of state board of health—State public health report—Delegation of authority—Enforcement of rules. (1) The state board of health shall provide a forum for the development of public health policy in Washington state. It is authorized to recommend to the secretary means for obtaining appropriate citizen and professional involvement in all public 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 public health issues.

(b) Every two years, in coordination with the development of the state biennial budget, the state board shall prepare the state public health report that outlines the health priorities of the ensuing biennium. The report shall:

(i) Consider the citizen input gathered at the 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 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 January 1 of each even-numbered year for adoption by the governor. The governor, no later than March 1 of that year, shall approve, modify, or disapprove the state public health report.

(c) In fulfilling its responsibilities under this subsection, the state board may create ad hoc committees or other such committees of limited duration as necessary.

(2) In order to protect public health, the state board of health shall:

(a) Adopt rules necessary to assure safe and reliable public drinking water and to protect the public health. Such rules 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;

(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 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 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 for the imposition and use of isolation and quarantine;

(e) Adopt rules for the prevention and control of infectious and noninfectious diseases, including food and vector borne illness, and rules 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 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. [1993 c 492 § 489; 1992 c 34 § 4. Prior: 1989 1st ex.s. c 9 § 210; 1989 c 207 § 1; 1985 c 213 § 1; 1979 c 141 § 49; 1967 ex.s. c 102 § 9; 1965 c 8 § 43.20.050; prior: (i) 1901 c 116 § 1; 1891 c 98 § 2; RRS § 6001. (ii) 1921 c 7 § 58; RRS § 10816.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Severability—1992 c 34: See note following RCW 69.07.170.

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Savings—1985 c 213: "This act shall not be construed as affecting any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule, regulation, or order adopted under those sections, nor as affecting any proceeding instituted under those sections." [1985 c 213 § 31.]

Effective date—1985 c 213: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1985." [1985 c 213 § 33.]

Severability—1967 ex.s. c 102: See note following RCW 43.70.130.

Rules and regulations—Visual and auditory screening of pupils: RCW 28A.210.020.

43.20.230 Water resource planning—Procedures, criteria, technical assistance. Consistent with the water resource planning process of the department of ecology, the department of health shall:

(1) Develop procedures and guidelines relating to water use efficiency, as defined in *section 4(3), chapter 348, Laws of 1989, to be included in the development and approval of cost-efficient water system plans required under RCW 43.20.050;

(2) Develop criteria, with input from technical experts, with the objective of encouraging the cost-effective reuse of greywater and other water recycling practices, consistent with protection of public health and water quality;

(3) Provide advice and technical assistance upon request in the development of water use efficiency plans; and

(4) Provide advice and technical assistance on request for development of model conservation rate structures for public water systems. Subsections (1), (2), and (3) of this section are subject to the availability of funding. [1993 1st sp.s. c 4 § 9; 1989 c 348 § 12.]

***Reviser's note:** 1989 c 348 § 4 was vetoed.

Findings—Grazing lands—1993 1st sp.s. c 4: See note following RCW 75.28.760.

Severability—1989 c 348: See note following RCW 90.54.020.

Rights not impaired—1989 c 348: See RCW 90.54.920.

43.20.235 Water conservation—Water delivery rate structures—Report. Water purveyors required to develop a water system plan pursuant to RCW 43.20.230 shall evaluate the feasibility of adopting and implementing water delivery rate structures that encourage water conservation. This information shall be included in water system plans submitted to the department of health for approval after July 1, 1993. The department shall evaluate the following:

(1) Rate structures currently used by public water systems in Washington; and

(2) Economic and institutional constraints to implementing conservation rate structures.

The department shall provide its findings to the appropriate committees of the legislature no later than December 31, 1995. [1993 1st sp.s. c 4 § 10.]

Findings—Grazing lands—1993 1st sp.s. c 4: See note following RCW 75.28.760.

Chapter 43.20A
DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Sections

43.20A.037 Affordable housing—Inventory of suitable housing. (1) The department shall identify and catalog real property that is no longer required for department purposes and is suitable for the development of affordable housing for very low-income, and moderate-income households as defined in RCW 43.63A.510. The inventory shall include the location, approximate size, and current zoning classification of the property. The department shall provide a copy of the inventory to the department of community development by November 1, 1993, and every November 1 thereafter.

(2) By November 1 of each year, beginning in 1994, the department shall purge the inventory of real property of sites that are no longer available for the development of affordable housing. The department shall include an updated listing of real property that has become available since the last update. As used in this section, "real property" means buildings, land, or buildings and land. [1993 c 461 § 8.]

Finding—1993 c 461: See note following RCW 43.63A.510.

43.20A.710 State employment in the supervision, provision, care, or treatment of children or individuals with mental illness or developmental disabilities—Investigation of conviction records or pending charges. The secretary shall investigate the conviction records, pending charges or disciplinary board final decisions of: (1) Persons being considered for state employment in positions directly responsible for the supervision, care, or treatment of children or individuals with mental illness or developmental disabilities; and (2) individual providers who are paid by the state for in-home services and hired by individuals with physical disabilities, developmental disabilities, mental illness, or mental impairment. The investigation may include an examination of state and national criminal identification data and the child abuse and neglect register established under chapter 26.44 RCW. The secretary shall provide the results of the state background check on individual providers to the individuals with physical disabilities, developmental disabilities, mental illness, or mental impairment who hired them and to their legal guardians, if any. The secretary shall use the information solely for the purpose of determining the character, suitability, and competence of these applicants except that in the case of individuals with physical disabilities, developmental disabilities, mental illness, or mental impairment who employ individual providers, the determination of character, suitability, and competence of applicants shall be made by the individual with a physical disability, developmental disability, mental illness, or mental impairment. Criminal justice agencies shall provide the secretary such information as they may have and that the secretary may require for such purpose. If necessary, persons may be employed on a conditional basis pending completion of the background investigation. [1993 c 210 § 1; 1989 c 334 § 13; 1986 c 269 § 1.]

Prospective application—1993 c 210: "This act applies prospectively except individuals who currently employ individual providers paid by the state may be given the option to request a state background check during reassessment for services." [1993 c 210 § 2.]

Children or vulnerable adults: RCW 43.43.830 through 43.43.842.

State employment in the supervision, care, or treatment of children or developmentally disabled persons—Rules on background investigation: RCW 41.06.475.

State hospitals: RCW 72.23.035.

43.20A.725 Telecommunications devices for the hearing and speech impaired—Program for provision of devices—Generally—TRS excise tax—Report. (1) The department shall maintain a program whereby TTs, signal devices, and amplifying accessories capable of serving the needs of the hearing and speech impaired shall be provided under the standards established in subsection (11) of this section 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 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 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 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 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 TTs, signal devices, and amplifying accessories from recipients who have been provided with the equipment without cost and

who are moving from this state or who for other reasons are no longer using them.

(4) Pursuant to recommendations of the 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 on or before 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 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 TRS program advisory committee, the budget 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. The budget proposed by the office, together with documentation and supporting materials, shall be submitted to the office of financial management for review and approval. The approved budget 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 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 TRS excise tax shall not exceed nineteen 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 TRS excise tax shall be separately identified on each ratepayer's bill with the following statement: "Funds federal ADA requirement." All proceeds from the TRS excise tax shall be put into a fund to be administered by the office through the department.

(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.

(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 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 TRS program from within the department, by telecommunications companies, and by a private, nonprofit corporation, and means to limit demand for system usage.

(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.

(11)(a) The department shall provide TTs, signal devices, and amplifying accessories to a person eligible under subsection (1) of this section at no charge in addition to the basic exchange rate if:

(i) The person is eligible for participation in the Washington telephone assistance program under RCW 80.36.470;

(ii) The person's annual family income is equal to or less than one hundred sixty-five percent of the federal poverty level; or

(iii) The person is a child eighteen years of age or younger with a family income less than or equal to two hundred percent of the federal poverty level.

(b) A person eligible under subsection (1) of this section with a family income greater than one hundred sixty-five percent and less than or equal to two hundred percent of the federal poverty level shall be assessed a charge for the cost of TTs, signal devices, and amplifying accessories based on a sliding scale of charges established by rule adopted by the department.

(c) The department shall charge a person eligible under subsection (1) of this section whose income exceeds two hundred percent of the federal poverty level the cost to the department of purchasing the equipment provided to that person.

(d) The department may waive part or all of the charges assessed under this subsection if the department finds that (i) the eligible person requires telebraille equipment or other equipment of similar cost and (ii) the charges normally assessed for the equipment under this subsection would

create an exceptional or undue hardship on the eligible person.

(e) For the purposes of this subsection, certification of family income by the eligible person or the person's guardian or head of household is sufficient to determine eligibility. [1993 c 425 § 1; 1992 c 144 § 3; 1990 c 89 § 3; 1987 c 304 § 3.]

Effective date—1993 c 425: "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 [May 15, 1993]." [1993 c 425 § 2.]

Legislative findings—Severability—1992 c 144: See notes following RCW 43.20A.720.

Legislative finding—1990 c 89: See note following RCW 43.20A.720.

43.20A.750 Grants for services in timber impact areas—Funding—Family support centers—Timber impact area defined. (Effective July 1, 1994.) (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, trade, and economic 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: (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. [1993 c 280 § 38; 1992 c 21 § 4; 1991 c 315 § 28.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Intent—1991 c 315: See note following RCW 50.12.270.

Severability—Conflict with federal requirements—Effective date—1991 c 315: See RCW 50.70.900 through 50.70.902.

43.20A.800 Vision services for the homeless—Coordination. The secretary of the department of social and health services shall coordinate the efforts of nonprofit agencies working with the homeless, the Washington academy of eye physicians and surgeons, the Washington optometric association, and the opticians association of Washington to deliver vision services to the homeless free of charge. The secretary shall enter into agreements identifying cooperating agencies and the circumstances under which specified services will be delivered. [1993 c 96 § 2.]

Findings—1993 c 96: "The legislature finds that many homeless people in the state of Washington have impaired eyesight that reduces their chances of obtaining employment or training for employment. The legislature finds that it is in the public interest to facilitate ophthalmologists, optometrists, and opticians in providing free vision services to homeless people of the state." [1993 c 96 § 1.]

43.20A.810 Vision services for the homeless—Funding. To the extent consistent with the department's budget, the secretary shall pay for the eyeglasses hardware prescribed and dispensed pursuant to the program set up in RCW 43.20A.800 through 43.20A.840. The secretary shall also attempt to obtain private sector funding for this program. [1993 c 96 § 3.]

Findings—1993 c 96: See note following RCW 43.20A.800.

43.20A.820 Vision services for the homeless—Use of used eyeglass frames by providers. Ophthalmologists, optometrists, and dispensing opticians may utilize used eyeglass frames obtained through donations to this program. [1993 c 96 § 4.]

Findings—1993 c 96: See note following RCW 43.20A.800.

43.20A.830 Vision services for the homeless—Provider liability. An ophthalmologist, optometrist, or dispensing optician who provides:

(1) Free vision services; or

(2) Eyeglasses, or any part thereof, including used frames, at or below retail cost to homeless people in the state of Washington

and who is not reimbursed for such services or eyeglasses as allowed for in RCW 43.20A.840, is not liable for civil damages for injury to a homeless person resulting from any act or omission in providing such services or eyeglasses, other than an act or omission constituting gross negligence or intentional conduct. [1993 c 96 § 5.]

Findings—1993 c 96: See note following RCW 43.20A.800.

43.20A.840 Vision services for the homeless—Third party payers. Nothing in RCW 43.20A.800 through 43.20A.840 shall prevent ophthalmologists, optometrists, or dispensing opticians from collecting for either their goods or services, or both from third-party payers covering the goods or services for homeless persons. [1993 c 96 § 6.]

Findings—1993 c 96: See note following RCW 43.20A.800.

43.20A.845 Vision services for the homeless—Program name. The program created in RCW 43.20A.800 through 43.20A.840 shall be known as the eye care for the homeless program in Washington. [1993 c 96 § 7.]

Findings—1993 c 96: See note following RCW 43.20A.800.

Chapter 43.20B
REVENUE RECOVERY FOR DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Sections

43.20B.140 Recovery of costs of public assistance provided to recipients sixty-five or older authorized—Exceptions—Lien. (1) The department is authorized to recover the cost of public assistance benefits provided under a program under chapter 74.09 RCW provided to a recipient who was sixty-five years or older, upon the recipient's death except:

(a) Where there is a surviving spouse; or

(b) Where there is a surviving child under twenty-one years of age or blind or disabled as defined in the state plan under Title XIX of the social security act; or

(c) For family heirlooms, collectibles, antiques, papers, jewelry, photos, or other personal effects that have been held in the possession of the deceased recipient to which a surviving child may otherwise be entitled not to exceed a total fair market value of two thousand dollars.

(2) The department may assert and enforce a claim against the estate of the deceased recipient for the debt in subsection (1) of this section, in accordance with chapter 11.40 RCW.

(3) The remedies in subsection (2) of this section are nonexclusive and upon the death of the recipient, the department shall have a lien for the debt in subsection (1) of this section. The lien attaches to the real property of which the deceased recipient was seized immediately before death. Upon subsequent filing of the notice thereof with the county auditor of the county in which the real property is located, the lien shall be deemed to relate back and be effective against such property as of the date of the recipient's death. Recovery under the lien shall be upon the sale or transfer of the subject property. [1993 c 272 § 2; 1987 c 283 § 13. Formerly RCW 74.09.750.]

Savings—Severability—1993 c 272: See notes following RCW 43.20B.347.

Severability—Savings—1987 c 283: See notes following RCW 43.20A.020.

43.20B.347 Mental illness—Treatment costs—Lien against real and personal property. Whenever a notice and finding of responsibility, or appeal therefrom, has become final, the department may file a lien against the real and personal property of all persons found financially responsible under RCW 43.20B.330 with the county auditor of the county where the persons reside or own property. [1993 c 272 § 1.]

Savings—1993 c 272: "This act does not have the effect of terminating or in any way modifying any liability, civil or criminal, that is already in existence on the effective date of this act." [1993 c 272 § 6.]

Severability—1993 c 272: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 c 272 § 7.]

Chapter 43.21B
ENVIRONMENTAL HEARINGS OFFICE—POLLUTION CONTROL HEARINGS BOARD OF THE STATE

Sections

43.21B.110 Pollution control hearings board jurisdiction. (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 18.104.155, 70.94.431, 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and 90.56.330.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 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) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70.95J.080.

(f) 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. [1993 c 387 § 22. Prior: 1992 c 174 § 13; 1992 c 73 § 1; 1989 c 175 § 102; 1987 c 109 § 10; 1970 ex.s. c 62 § 41.]

Effective date—1993 c 387: See RCW 18.104.930.

Effective dates—Severability—1992 c 73: See RCW 82.23B.902 and 90.56.905.

Effective date—1989 c 175: See note following RCW 34.05.010.

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

Order for compliance with oil spill contingency or prevention plan not subject to review by pollution control hearings board: RCW 90.56.270.

43.21B.300 Penalty procedures. (1) Any civil penalty provided in RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and 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 18.104.155, which shall be credited to the reclamation account as provided in RCW 18.104.155(7), 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 90.56.330, which shall be credited to the coastal protection fund created by RCW 90.48.390. [1993 c 387 § 23; 1992 c 73 § 2; 1987 c 109 § 5.]

Effective date—1993 c 387: See RCW 18.104.930.

Effective dates—Severability—1992 c 73: See RCW 82.23B.902 and 90.56.905.

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

Chapter 43.21C
STATE ENVIRONMENTAL POLICY

Sections

43.21C.034 Use of existing documents. Lead agencies are authorized to use in whole or in part existing environmental documents for new project or nonproject actions, if the documents adequately address environmental considerations set forth in RCW 43.21C.030. The prior proposal or action and the new proposal or action need not be identical, but must have similar elements that provide a basis for comparing their environmental consequences such as timing, types of impacts, alternatives, or geography. The lead agency shall independently review the content of the existing documents and determine that the information and analysis to be used is relevant and adequate. If necessary, the lead agency may require additional documentation to ensure that all environmental impacts have been adequately addressed. [1993 c 23 § 1.]

Chapter 43.21F
STATE ENERGY OFFICE

Sections

43.21F.047 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 43.21J
ENVIRONMENTAL AND FOREST RESTORATION PROJECTS

Sections

43.21J.005 Legislative findings. (1) The legislature finds that the long-term health of the economy of Washington state depends on the sustainable management of its natural resources. Washington's forests, estuaries, waterways, and watersheds provide a livelihood for thousands of citizens of Washington state and millions of dollars of income and tax revenues every year from forests, fisheries, shellfisheries, recreation, tourism, and other water-dependent industries.

(2) The legislature further finds that the livelihoods and revenues produced by Washington's forests, estuaries, waterways, and watersheds would be enhanced by immediate investments in clean water infrastructure and habitat restoration.

(3) The legislature further finds that an insufficiency in financial resources, especially in timber-dependent communities, has resulted in investments in clean water and habitat restoration too low to ensure the long-term economic and environmental health of Washington's forests, estuaries, waterways, and watersheds.

(4) The legislature further finds that unemployed workers and Washington's economically distressed communities, especially timber-dependent areas, can benefit from opportunities for employment in environmental restoration projects.

(5) The legislature therefore declares that immediate investments in a variety of environmental restoration projects, based on sound principles of watershed management and environmental and forest restoration, are necessary to rehabilitate damaged watersheds and to assist dislocated workers and the unemployed gain job skills necessary for long-term employment. [1993 c 516 § 1.]

43.21J.010 Intent—Purpose—Definitions. (1) It is the intent of this chapter to provide financial resources to make substantial progress toward: (a) Implementing the Puget Sound water quality management plan and other watershed-based management strategies and plans; (b) ameliorating degradation to watersheds; and (c) keeping and creating stable, environmentally sound, good wage employment in Washington state. The legislature intends that employment under this chapter is not to result in the displacement or partial displacement, whether by the reduction of hours of nonovertime work, wages, or other employment benefits, of currently employed workers, including but not limited to state civil service employees, or of currently or normally contracted services.

(2) It is the purpose of this chapter to:

(a) Implement clean water, forest, and habitat restoration projects that will produce measurable improvements in water and habitat quality, that rate highly when existing environmental ranking systems are applied, and that provide economic stability.

(b) Facilitate the coordination and consistency of federal, state, tribal, local, and private water and habitat protection and enhancement programs in the state's watersheds.

(c) Fund necessary projects for which a public planning process has been completed.

(d) Provide immediate funding to create jobs and training for environmental restoration and enhancement jobs for unemployed workers and displaced workers in impact areas, especially timber-dependent communities.

(3) For purposes of this chapter "impact areas" means: (a) Distressed counties as defined in RCW 43.165.010(3)(a); (b) subcounty areas in those counties not covered under (a) of this subsection that are timber impact areas as defined in RCW 43.31.601; (c) urban subcounty areas as defined in RCW 43.165.010(3)(c); and (d) areas that the task force determines are likely to experience dislocations in the near future from downturns in natural resource-based industries.

(4) For purposes of this chapter, "high-risk youth" means youth eligible for Washington conservation corps programs under chapter 43.220 RCW or Washington service corps programs under chapter 50.65 RCW.

(5) For purposes of this chapter, "dislocated forest products worker" has the meaning set forth in RCW 50.70.010.

(6) For purposes of this chapter, "task force" means the environmental enhancement and job creation task force created under RCW 43.21J.030. [1993 c 516 § 2.]

43.21J.020 Environmental and forest restoration account. (1) The environmental and forest restoration account is established in the state treasury. Money in the account may be spent only after appropriation by the legislature and in a manner consistent with this chapter. Private nonprofit organizations and state, local, and tribal entities are eligible for funds under this chapter. Money in the account may be used to make grants, loans, or interagency contracts as needed to implement environmental and forest restoration projects.

(2) For fiscal years 1994 through 1998, at least fifty percent of the funds in the environmental and forest restora-

tion account shall be used for environmental restoration and enhancement projects in rural communities impacted by the decline in timber harvest levels as defined in chapter 50.70 RCW and that employ displaced timber workers. These projects may include watershed restoration such as removing or upgrading roads to reduce erosion and sedimentation, and improvements in forest habitat such as thinning and pruning. Beginning July 1, 1998, at least fifty percent of the funds in the environmental and forest restoration account shall be used for environmental restoration and enhancement projects in counties with unemployment rates above the state average.

(3) The environmental and forest restoration account shall consist of funds appropriated by law, principal and interest from the repayment of loans granted under this chapter, and federal and other money received by the state for deposit in the account.

(4) At least ten percent of the funds distributed from the environmental and forest restoration account annually shall be allocated to the Washington conservation corps established under chapter 43.220 RCW to employ high-risk youth on projects consistent with this chapter and to fund administrative support services required by the senior environmental corps established under chapter 43.63A RCW.

(5) At least five percent of the funds distributed from the environmental and forest restoration account annually shall be used for contracts with nonprofit corporations to fund or finance projects, including those that increase private sector investments in pollution prevention activities and equipment and that are consistent with the provisions of this section and RCW 43.21J.040.

(6) No more than five percent of the annual revenues to the environmental and forest restoration account may be expended for administrative purposes by any state agency or project administration; however, funds expended by the Washington conservation corps shall be subject solely to the limitations set forth in RCW 43.220.230.

(7) Except for essential administrative and supervisory purposes, funds in the environmental and forest restoration account may not be used for hiring permanent state employees. [1993 c 516 § 3.]

43.21J.030 Environmental enhancement and job creation task force. (1) There is created the environmental enhancement and job creation task force within the office of the governor. The purpose of the task force is to provide a coordinated and comprehensive approach to implementation of chapter 516, Laws of 1993. The task force shall consist of the commissioner of public lands, the director of the department of wildlife, the director of the department of fisheries, the director of the department of ecology, the director of the parks and recreation commission, the timber team coordinator, the executive director of the work force training and education coordinating board, and the executive director of the Puget sound water quality authority, or their designees. The task force may seek the advice of the following agencies and organizations: The department of community development, the department of trade and economic development, the conservation commission, the employment security department, the interagency committee for outdoor recreation, appropriate federal agencies, appropriate special districts, the Washington state association of counties, the association of Washington cities, labor organizations, business organizations, timber-dependent communities, environmental organizations, and Indian tribes. The governor shall appoint the task force chair. Members of the task force shall serve without additional pay. Participation in the work of the committee by agency members shall be considered in performance of their employment. The governor shall designate staff and administrative support to the task force and shall solicit the participation of agency personnel to assist the task force.

(2) The task force shall have the following responsibilities:

(a) Soliciting and evaluating, in accordance with the criteria set forth in RCW 43.21J.040, requests for funds from the environmental and forest restoration account and making distributions from the account. The task force shall award funds for projects and training programs it approves and may allocate the funds to state agencies for disbursement and contract administration;

(b) Coordinating a process to assist state agencies and local governments to implement effective environmental and forest restoration projects funded under this chapter;

(c) Considering unemployment profile data provided by the employment security department;

(d) No later than December 31, 1993, providing recommendations to the appropriate standing committees of the legislature for improving the administration of grants for projects or training programs funded under this chapter that prevent habitat and environmental degradation or provide for its restoration;

(e) Submitting to the appropriate standing committees of the legislature a biennial report summarizing the jobs and the environmental benefits created by the projects funded under this chapter.

(3) Beginning July 1, 1994, the task force shall have the following responsibilities:

(a) To solicit and evaluate proposals from state and local agencies, private nonprofit organizations, and tribes for environmental and forest restoration projects;

(b) To rank the proposals based on criteria developed by the task force in accordance with RCW 43.21J.040; and

(c) To determine funding allocations for projects to be funded from the account created in RCW 43.21J.020 and for projects or programs as designated in the omnibus operating and capital appropriations acts. [1993 c 516 § 5.]

43.21J.040 Environmental enhancement and restoration project proposals—Evaluation—Award of funds. (1) Subject to the limitations of RCW 43.21J.020, the task force shall award funds from the environmental and forest restoration account on a competitive basis. The task force shall evaluate and rate environmental enhancement and restoration project proposals using the following criteria:

(a) The ability of the project to produce measurable improvements in water and habitat quality;

(b) The cost-effectiveness of the project based on: (i) Projected costs and benefits of the project; (ii) past costs and environmental benefits of similar projects; and (iii) the ability of the project to achieve cost efficiencies through its design to meet multiple policy objectives;

(c) The inclusion of the project as a high priority in a federal, state, tribal, or local government plan relating to environmental or forest restoration, including but not limited to a local watershed action plan, storm water management plan, capital facility plan, growth management plan, or a flood control plan; or the ranking of the project by conservation districts as a high priority for water quality and habitat improvements;

(d) The number of jobs to be created by the project for dislocated forest products workers, high-risk youth, and residents of impact areas;

(e) Participation in the project by environmental businesses to provide training, cosponsor projects, and employ or jointly employ project participants;

(f) The ease with which the project can be administered from the community the project serves;

(g) The extent to which the project will either augment existing efforts by organizations and governmental entities involved in environmental and forest restoration in the community or receive matching funds, resources, or in-kind contributions; and

(h) The capacity of the project to produce jobs and job-related training that will pay market rate wages and impart marketable skills to workers hired under this chapter.

(2) The following types of projects and programs shall be given top priority in the first fiscal year after July 1, 1993:

(a) Projects that are highly ranked in and implement adopted or approved watershed action plans, such as those developed pursuant to Puget Sound water quality authority rules adopted for local planning and management of nonpoint source pollution;

(b) Conservation district projects that provide water quality and habitat improvements;

(c) Indian tribe projects that provide water quality and habitat improvements; or

(d) Projects that implement actions approved by a shellfish protection district under chapter 100, Laws of 1992.

(3) Funds shall not be awarded for the following activities:

(a) Administrative rule making;

(b) Planning; or

(c) Public education. [1993 c 516 § 4.]

43.21J.050 Training or employment. (1) Eligibility for training or employment in projects funded through the environmental and forest restoration account shall, to the extent practicable, be for workers who are currently unemployed.

(2) To the greatest extent practicable, the following groups of individuals shall be given preference for training or employment in projects funded through the environmental and forest restoration account:

(a) Dislocated workers who are receiving unemployment benefits or have exhausted unemployment benefits; and

(b) High-risk youth.

(3) Projects funded for forest restoration shall be for workers whose employment was terminated in the Washington forest products industry within the previous four years.

(4) The task force shall submit a list to private industry councils and the employment security department of projects receiving funds under the provisions of this chapter. The list shall include the number, location, and types of jobs expected to be provided by each project. The employment security department shall recruit workers for these jobs by:

(a) Notifying dislocated forest workers who meet the definitions in chapter 50.70 RCW, who are receiving unemployment benefits or who have exhausted unemployment benefits, of their eligibility for the programs;

(b) Notifying other unemployed workers;

(c) Developing a pool of unemployed workers including high-risk youth eligible to enroll in the program; and

(d) Establishing procedures for workers to apply to the programs.

(5) The employment security department shall refer eligible workers to employers hiring under the environmental and forest restoration account programs. Recipients of funds shall consider the list of eligible workers developed by the employment security department before conducting interviews or making hiring decisions. Recipients of funds shall ensure that workers are aware of whatever opportunities for vocational training, job placement, and remedial education are available from the employment security department.

(6) An individual is eligible for applicable employment security benefits while participating in training related to this chapter. Eligibility shall be confirmed by the commissioner of employment security by submitting a commissioner-approved training waiver.

(7) Persons receiving funds from the environmental and forest restoration account shall not be considered state employees for the purposes of existing provisions of law with respect to hours of work, sick leave, vacation, and civil service but shall receive health benefits. Persons receiving funds from this account who are hired by a state agency, except for Washington conservation and service corps enrollees, shall receive medical and dental benefits as provided under chapter 41.05 RCW and industrial insurance coverage under Title 51 RCW, but are exempt from the provisions of chapter 41.06 RCW.

(8) Compensation for employees, except for Washington conservation and service corps enrollees, hired under the program established by this chapter shall be based on market rates in accordance with the required skill and complexity of the jobs created. Remuneration paid to employees under this chapter shall be considered covered employment for purposes of chapter 50.04 RCW.

(9) Employment under this program shall not result in the displacement or partial displacement, whether by the reduction of hours of nonovertime work, wages, or other employment benefits, of currently employed workers, including but not limited to state civil service employees, or of currently or normally contracted services. [1993 c 516 § 8.]

43.21J.060 Unemployment compensation benefits—Training. An individual shall be considered to be in training with the approval of the commissioner as defined in RCW 50.20.043, and be eligible for applicable unemployment insurance benefits while participating in and making satisfactory progress in training related to this chapter. [1993 c 516 § 9.]

43.21J.070 Unemployment compensation benefits—Special base year and benefit year. For the purpose of providing the protection of the unemployment compensation system to individuals at the conclusion of training or employment obtained as a result of this chapter, a special base year and benefit year are established.

(1) Only individuals who have entered training or employment provided by the environmental and forest restoration account, and whose employment or training under such account was not considered covered under chapter 50.04 RCW, shall be allowed the special benefit provisions of this chapter.

(2) An application for initial determination made under this chapter must be filed in writing with the employment security department within twenty-six weeks following the week in which the individual commenced employment or training obtained as a result of this chapter. Notice from the individual, from the employing entity, or notice of hire from employment security department administrative records shall satisfy this requirement.

(3) For the purpose of this chapter, a special base year is established for an individual consisting of the first four of the last five completed calendar quarters, or if a benefit year is not established using the first four of the last five completed calendar quarters as the base year, the last four completed calendar quarters immediately prior to the first day of the calendar week in which the individual began employment or training provided by the environmental and forest restoration account.

(4) A special individual benefit year is established consisting of the entire period of training or employment provided by the environmental and forest restoration account and a fifty-two consecutive week period commencing with the first day of the calendar week in which the individual last participated in such employment or training. No special benefit year shall have a duration in excess of three hundred twelve calendar weeks. Such special benefit year will not be established unless the criteria contained in RCW 50.04.030 has been met, except that an individual meeting the requirements of this chapter and who has an unexpired benefit year established which would overlap the special benefit year may elect to establish a special benefit year under this chapter, notwithstanding the provisions in RCW 50.04.030 relating to establishment of a subsequent benefit year, and RCW 50.40.010 relating to waiver of rights. Such unexpired benefit year shall be terminated with the beginning of the special benefit year if the individual elects to establish a special benefit year under this chapter.

(5) The individual's weekly benefit amount and maximum amount payable during the special benefit year shall be governed by the provisions contained in RCW 50.20.120. The individual's basic and continuing right to benefits shall be governed by the general laws and rules relating to the payment of unemployment compensation benefits to the extent that they are not in conflict with the provisions of this chapter.

(6) The fact that wages, hours, or weeks worked during the special base year may have been used in computation of a prior valid claim for unemployment compensation shall not affect a claim for benefits made under the provisions of this chapter. However, wages, hours, and weeks worked used in computing entitlement on a claim filed under this chapter shall not be available or used for establishing entitlement or amount of benefits in any succeeding benefit year.

(7) Benefits paid to an individual filing under the provisions of this section shall not be charged to the experience rating account of any contribution paying employer. [1993 c 516 § 10.]

43.21J.800 Legislative budget committee report. On or before June 30, 1998, the legislative budget committee shall prepare a report to the legislature evaluating the implementation of the environmental restoration jobs act of 1993, chapter 516, Laws of 1993. [1993 c 516 § 11.]

43.21J.900 Short title—1993 c 516. This act shall be known as the environmental restoration jobs act of 1993. [1993 c 516 § 15.]

43.21J.901 Section captions and part headings—1993 c 516. Section captions and part headings as used in this act constitute no part of the law. [1993 c 516 § 16.]

43.21J.902 Severability—1993 c 516. 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. [1993 c 516 § 17.]

43.21J.903 Conflict with federal requirements—1993 c 516. 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. [1993 c 516 § 19.]

43.21J.904 Effective date—1993 c 516. 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, 1993. [1993 c 516 § 20.]

Chapter 43.31

DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT

Sections

Public disclosure: RCW 42.17.310.

43.31.005 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.31.015 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.31.025 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.31.035 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.31.045 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.31.055 Business expansion and trade development. (Effective until July 1, 1994.) The department shall assist in expanding the state's role as a major international gateway for landing and transshipping goods bound for domestic and foreign markets. The department shall identify and work with Washington businesses, especially minority and women-owned businesses and ethnic community-based organizations, which can utilize state assistance to increase domestic and foreign exports and are capable of increasing production of goods and services, including but not limited to manufactured goods, raw materials, services, and retail trade. The department shall participate in trade and industry exhibitions both foreign and domestic to promote and market state products and services. The department's activities shall include, but not be limited to:

(1) Operating an active and vigorous effort to market the state's products and services internationally, coordinated with private and public international trade efforts throughout the state.

(2) Coordinating with the domestic and foreign export market development activities of the state department of agriculture.

(3) Sending delegations to foreign countries and other states to promote trade with Washington.

(4) Acting as a centralized location for the assimilation and distribution of trade information.

(5) Identifying domestic and international markets in which minority and women-owned businesses may have an advantage and providing technical assistance to develop capacity for minority and women-owned businesses to participate in international trade. [1993 c 512 § 4; 1985 c 466 § 6.]

Reviser's note: RCW 43.31.055 was both amended and repealed during the 1993 legislative session, each without reference to the other. It has been decodified, effective July 1, 1994, for publication purposes pursuant to RCW 1.12.025.

Tacoma world trade center—1993 c 134: "The legislature recognizes that export opportunities for small and medium-sized businesses stimulates economic growth. Within current resources, the department of trade and economic development shall work with the Tacoma world trade center, to assist small and medium-sized businesses with export opportunities." [1993 c 134 § 1.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

Effective date—Severability—Headings—1985 c 466: See notes following RCW 43.31.005.

43.31.055 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Reviser's note: RCW 43.31.055 was both amended and repealed during the 1993 legislative session, each without reference to the other. It has been decodified, effective July 1, 1994, for publication purposes pursuant to RCW 1.12.025.

43.31.057 Washington products—Expansion of market—Pamphlet. (Effective July 1, 1994.) The department of community, trade, and economic development is directed to develop and promote means to stimulate the

expansion of the market for Washington products and shall have the following powers and duties:

(1) To develop a pamphlet for state-wide circulation which will encourage the purchase of items produced in the state of Washington;

(2) To include in the pamphlet a listing of products of Washington companies which individuals can examine when making purchases so they may have the opportunity to select one of those products in support of this program;

(3) To distribute the pamphlets on the broadest possible basis through local offices of state agencies, business organizations, chambers of commerce, or any other means the department deems appropriate;

(4) In carrying out these powers and duties the department shall cooperate and coordinate with other agencies of government and the private sector. [1993 c 280 § 39; 1986 c 183 § 2.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Legislative declaration—1986 c 183: "The legislature declares that:

(1) The development and sale of Washington business products is a vital element in expanding the state economy.

(2) The marketing of items produced in Washington state contributes substantial benefits to the economic base of the state, provides a large number of jobs and sizeable tax revenues to state and local governments, and provides an important stimulation to the economic strength of Washington companies.

(3) State government should play a significant role in the development and expansion of markets for Washington products." [1986 c 183 § 1.]

Severability—1986 c 183: "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." [1986 c 183 § 5.]

43.31.065 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.31.075 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.31.085 Business assistance center—Duties. (Effective until July 1, 1994.) The business assistance center shall:

(1) Serve as the state's lead agency and advocate for the development and conservation of businesses.

(2) Coordinate the delivery of state programs to assist businesses.

(3) Provide comprehensive referral services to businesses requiring government assistance.

(4) Serve as the business ombudsman within state government and advise the governor and the legislature of the need for new legislation to improve the effectiveness of state programs to assist businesses.

(5) Aggressively promote business awareness of the state's business programs and distribute information on the services available to businesses.

(6) Develop, in concert with local economic development and business assistance organizations, coordinated processes that complement both state and local activities and services.

(7) Work with other federal, state, and local agencies and organizations to ensure that business assistance services including small business, trade services, and distressed area programs are provided in a coordinated and cost-effective manner.

(8) Provide or contract for technical assistance to minority and women-owned business enterprises in a variety of areas, including, but not limited to, marketing, finance, bidding and estimating assistance, public contracting assistance, and management.

(9) In collaboration with the child care coordinating committee in the department of social and health services, prepare and disseminate information on child care options for employers and the existence of the program. As much as possible, and through interagency agreements where necessary, such information should be included in the routine communications to employers from (a) the department of revenue, (b) the department of labor and industries, (c) the department of community development, (d) the employment security department, (e) the department of trade and economic development, (f) the small business development center, and (g) the department of social and health services.

(10) In collaboration with the child care coordinating committee in the department of social and health services, compile information on and facilitate employer access to individuals, firms, organizations, and agencies that provide technical assistance to employers to enable them to develop and support child care services or facilities.

(11) Actively seek public and private money to support the child care facility fund described in RCW 43.31.502, staff and assist the child care facility fund committee as described in RCW 43.31.504, and work to promote applications to the committee for loan guarantees, loans, and grants. [1993 c 512 § 3; 1989 c 430 § 2; 1987 c 348 § 3; 1985 c 466 § 11.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

Legislative findings—Severability—1989 c 430: See notes following RCW 43.31.502.

Legislative findings—1987 c 348: See note following RCW 43.31.083.

Effective date—Severability—Headings—1985 c 466: See notes following RCW 43.31.005.

Child care coordinating committee: RCW 74.13.090.

Investment opportunities office: RCW 43.31.403 through 43.31.417.

Marketplace program: RCW 43.31.522.

Small business bonding assistance program: Chapter 43.119 RCW.

43.31.085 Business assistance center—Duties. (Effective July 1, 1994, until June 30, 1996.) The business assistance center shall:

(1) Serve as the state's lead agency and advocate for the development and conservation of businesses.

(2) Coordinate the delivery of state programs to assist businesses.

(3) Provide comprehensive referral services to businesses requiring government assistance.

(4) Serve as the business ombudsman within state government and advise the governor and the legislature of the need for new legislation to improve the effectiveness of state programs to assist businesses.

(5) Aggressively promote business awareness of the state's business programs and distribute information on the services available to businesses.

(6) Develop, in concert with local economic development and business assistance organizations, coordinated processes that complement both state and local activities and services.

(7) Work with other federal, state, and local agencies and organizations to ensure that business assistance services including small business, trade services, and distressed area programs are provided in a coordinated and cost-effective manner.

(8) Provide or contract for technical assistance to minority and women-owned business enterprises in a variety of areas, including, but not limited to, marketing, finance, bidding and estimating assistance, public contracting assistance, and management.

(9) In collaboration with the child care coordinating committee in the department of social and health services, prepare and disseminate information on child care options for employers and the existence of the program. As much as possible, and through interagency agreements where necessary, such information should be included in the routine communications to employers from (a) the department of revenue, (b) the department of labor and industries, (c) the employment security department, (d) the department of community, trade, and economic development, (e) the small business development center, and (f) the department of social and health services.

(10) In collaboration with the child care coordinating committee in the department of social and health services, compile information on and facilitate employer access to individuals, firms, organizations, and agencies that provide technical assistance to employers to enable them to develop and support child care services or facilities.

(11) Actively seek public and private money to support the child care facility fund described in RCW 43.31.502, staff and assist the child care facility fund committee as described in RCW 43.31.504, and work to promote applications to the committee for loan guarantees, loans, and grants. [1993 c 512 § 3; 1993 c 280 § 40; 1989 c 430 § 2; 1987 c 348 § 3; 1985 c 466 § 11.]

Reviser's note: This section was amended by 1993 c 280 § 40 and by 1993 c 512 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Legislative findings—Severability—1989 c 430: See notes following RCW 43.31.502.

Legislative findings—1987 c 348: See note following RCW 43.31.083.

Effective date—Severability—Headings—1985 c 466: See notes following RCW 43.31.005.

Child care coordinating committee: RCW 74.13.090.

Investment opportunities office: RCW 43.31.403 through 43.31.417.

Marketplace program: RCW 43.31.522.

Small business bonding assistance program: Chapter 43.119 RCW.

43.31.091 Business assistance center—Termination. The business assistance center and its powers and duties shall be terminated on June 30, 1995, as provided in RCW 43.31.092. [1993 c 280 § 80; 1990 c 297 § 9; 1987 c 348 § 16. Formerly RCW 43.131.343.]

Effective date—1993 c 280 §§ 80, 81: "Sections 80 and 81 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 [May 10, 1993]." [1993 c 280 § 85.]

Severability—1993 c 280: See RCW 43.330.903.

Legislative findings—1987 c 348: See note following RCW 43.31.083.

43.31.092 Business assistance center—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1996:

(1) Section 2, chapter 348, Laws of 1987 and RCW 43.31.083;

(2) Section 11, chapter 466, Laws of 1985, section 3, chapter 348, Laws of 1987, section 2, chapter 430, Laws of 1989 and RCW 43.31.085;

(3) Section 4, chapter 348, Laws of 1987 and RCW 43.31.087; and

(4) Section 5, chapter 348, Laws of 1987 and RCW 43.31.089. [1993 c 280 § 81; 1990 c 297 § 10; 1987 c 348 § 17. Formerly RCW 43.131.344.]

Effective date—1993 c 280 §§ 80, 81: See note following RCW 43.31.091.

Severability—1993 c 280: See RCW 43.330.903.

Legislative findings—1987 c 48: See note following RCW 43.31.083.

43.31.0925 Business assistance center—Minority and women business development office. There is established within the department's business assistance center the minority and women business development office. This office shall provide business-related assistance to minorities and women as well as serve as an outreach program to increase minority and women-owned businesses' awareness and use of existing business assistance services. [1993 c 512 § 7.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

43.31.093 Minority and women-owned small businesses—Entrepreneurial training courses. The department of trade and economic development shall contract with public and private agencies, institutions, and organizations to conduct entrepreneurial training courses for minority and women-owned small businesses. The instruction shall be intensive, practical training courses in financing, marketing, managing, accounting, and recordkeeping for a small business, with an emphasis on federal, state, local, or private programs available to assist small businesses. The business assistance center may recommend professional instructors, with practical knowledge and experience on how to start and operate a business, to teach the courses. Instruction shall be offered in major population centers throughout the state at times and locations which are convenient for minority and women small business owners and entrepreneurs. [1993 c 512 § 6.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

43.31.095 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.31.097 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.31.105 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.31.115 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.31.130 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.31.135 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.31.205 Hanford reservation—Promotion of sublease for nuclear-related industry. (Effective July 1, 1994.) In an effort to enhance the economy of the Tri-Cities area, the department of community, 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 organization located in or near the Tri-Cities area. [1993 c 280 § 41; 1992 c 228 § 2; 1990 c 281 § 2.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Legislative findings—1992 c 228: "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." [1992 c 228 § 1.]

Legislative findings—1990 c 281: "The legislature finds that the one thousand acres of land leased from the federal government to the state of Washington on the Hanford reservation constitutes an unmatched resource for development of high-technology industry, nuclear medicine research, and research into new waste immobilization and reduction techniques. The legislature further finds that continued diversification of the Tri-Cities economy will help stabilize and improve the Tri-Cities economy, and that this effort can be aided by emphasizing the resources of local expertise and nearby facilities." [1990 c 281 § 1.]

43.31.373 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.31.375 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.31.377 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.31.379 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.31.381 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.31.383 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.31.387 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.31.409 Investment opportunities office—Created. (Effective July 1, 1994.) There is created in the business assistance center of the department of community, trade, and economic development the Washington investment opportunities office. [1993 c 280 § 42; 1989 c 312 § 3.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability—1989 c 312: See note following RCW 43.31.403.

Business assistance center: RCW 43.31.083.

43.31.411 Investment opportunities office—Duties—Report to legislature. (Effective July 1, 1994.) The Washington investment opportunities office shall:

(1) Maintain a list of all entrepreneurs engaged in manufacturing, wholesaling, transportation services, development of destination tourism resorts, or traded services throughout the state seeking capital resources and interested in the services of the investment opportunities office.

(2) Maintain a file on each entrepreneur which may include the entrepreneur's business plan and any other information which the entrepreneur offers for review by potential investors.

(3) Assist entrepreneurs in procuring the managerial and technical assistance necessary to attract potential investors. Such assistance shall include the automatic referral to the small business innovators opportunity program of any entrepreneur with a new product meriting the services of the program.

(4) Provide entrepreneurs with information about potential investors and provide investors with information about those entrepreneurs which meet the investment criteria of the investor.

(5) Promote small business securities financing.

(6) Remain informed about investment trends in capital markets and preferences of individual investors or investment firms throughout the nation through literature surveys, conferences, and private meetings.

(7) Publicize the services of the investment opportunities office through public meetings throughout the state, appropriately targeted media, and private meetings. Whenever practical, the office shall use the existing services of local associate development organizations in outreach and identification of entrepreneurs and investors.

(8) Report to the ways and means committees and appropriate economic development committees of the senate and the house of representatives by December 1, 1989, and each year thereafter, on the accomplishments of the office. Such reports shall include:

(a) The number of entrepreneurs on the list referred to in subsection (1) of this section, segregated by standard industrial classification codes;

(b) The number of investments made in entrepreneurs, segregated as required by (a) of this subsection, as a result of contact with the investment opportunities office, the dollar amount of each such investment, the source, by state or nation, of each investment, and the number of jobs created as a result of each investment;

(c) The number of entrepreneurs on the list referred to in subsection (1) of this section segregated by counties, the number of investments, the dollar amount of investments, and the number of jobs created through investments in each county as a result of contact with the investment opportunities office;

(d) A categorization of jobs created through investments made as a result of contact with the investment opportunities office, the number of jobs created in each such category, and the average pay scale for jobs created in each such category;

(e) The results of client satisfaction surveys distributed to entrepreneurs and investors using the services of the investment opportunities office; and

(f) Such other information as the managing director finds appropriate. [1993 c 280 § 43; 1989 c 312 § 4.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability—1989 c 312: See note following RCW 43.31.403.

43.31.422 Hanford area economic investment fund. (Effective July 1, 1994.) The Hanford area economic investment fund is established in the custody of the state treasurer. Moneys in the fund shall only be used pursuant to the recommendations of the committee created in RCW 43.31.425 and the approval of the director of community, trade, and economic development for Hanford area revolving loan funds, Hanford area infrastructure projects, or other Hanford area economic development and diversification projects, but may not be used for government or nonprofit organization operating expenses. Up to five percent of moneys in the fund may be used for program administration. For the purpose of this chapter "Hanford area" means Benton and Franklin counties. Disbursements from the fund shall be on the authorization of the director of community, trade, and economic development or the director's designee after an affirmative vote of at least six members of the committee created in RCW 43.31.425 on any recommendations by the committee created in RCW 43.31.425. The fund is subject to the allotment procedures under chapter 43.88 RCW, but no appropriation is required for disbursements. The legislature intends to establish similar economic investment funds for areas that develop low-level radioactive waste disposal facilities. [1993 c 280 § 44; 1991 c 272 § 19.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Effective dates—1991 c 272: See RCW 81.108.901.

Surcharge on waste generators: RCW 43.200.230, 43.200.233, and 43.200.235.

43.31.430 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.31.432 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.31.434 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.31.436 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.31.438 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.31.440 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.31.442 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.31.504 Child care facility fund committee—Generally. (Effective July 1, 1994.) The child care facility fund committee is established within the business assistance center of the department of community, trade, and economic development. The committee shall administer the child care facility fund, with review by the director of community, trade, and economic development.

(1) The committee shall have five members. The director of community, trade, and economic development shall appoint the members, who shall include:

(a) Two persons experienced in investment finance and having skills in providing capital to new businesses, in starting and operating businesses, and providing professional services to small or expanding businesses;

(b) One person representing a philanthropic organization with experience in evaluating funding requests;

(c) One child care services expert; and

(d) One early childhood development expert.

In making these appointments, the director shall give careful consideration to ensure that the various geographic regions of the state are represented and that members will be available for meetings and are committed to working cooperatively to address child care needs in Washington state.

(2) The committee shall elect officers from among its membership and shall adopt policies and procedures specifying the lengths of terms, methods for filling vacancies, and other matters necessary to the ongoing functioning of the committee.

(3) Committee members shall serve without compensation, but may request reimbursement for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(4) Committee members shall not be liable to the state, to the child care facility fund, or to any other person as a result of their activities, whether ministerial or discretionary, as members except for willful dishonesty or intentional violation of the law. The department of community, trade, and economic development may purchase liability insurance for members and may indemnify these persons against the claims of others. [1993 c 280 § 45; 1989 c 430 § 4.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Legislative findings—Severability—1989 c 430: See notes following RCW 43.31.502.

Business assistance center: RCW 43.31.083.

43.31.522 Marketplace program—Definitions. (Effective July 1, 1994.) Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.31.524 and 43.31.526:

(1) "Department" means the department of community, trade, and economic development.

(2) "Center" means the business assistance center established under RCW 43.31.083.

(3) "Director" means the director of community, trade, and economic development.

(4) "Local nonprofit organization" means a local nonprofit organization organized to provide economic development or community development services, including but not limited to associate development organizations, economic development councils, and community development corporations. [1993 c 280 § 46; 1990 c 57 § 2; 1989 c 417 § 2.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Finding—1990 c 57; 1989 c 417: "The legislature finds and declares that substantial benefits in increased employment and business activity can be obtained by assisting businesses in identifying opportunities to purchase the goods and services they need from Washington state suppliers rather than from out-of-state suppliers and in identifying new markets for Washington state firms to provide goods and services. The replacement of out-of-state imports with services and manufactured goods produced in-state can be an important source of economic growth in a local community especially in rural areas. Businesses in the state are often unaware that goods and services they purchase from out-of-state suppliers are available from in-state firms with substantial advantages in responsiveness, service, and price. Increasing the economic partnerships between businesses in Washington state can build bridges between urban and rural communities and can result in the identification of additional opportunities for successful economic development initiatives. Providing additional information to businesses regarding in-state sources of goods and services can be a particularly valuable component of revitalization strategies in economically distressed areas. The legislature finds and declares that it is the policy of the state to strengthen the economies of local communities by increasing the economic partnerships between in-state businesses and creating programs to assist businesses in identifying in-state sources of goods and services, and in addition to identify new markets for Washington firms to provide goods and services." [1990 c 57 § 1; 1989 c 417 § 1.]

Severability—1989 c 417: "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." [1989 c 417 § 15.]

43.31.524 Marketplace program—Generally. (Effective July 1, 1994.) There is established a Washington marketplace program within the business assistance center established under RCW 43.31.083. The program shall assist businesses to competitively meet their needs for goods and services within Washington state by providing information relating to the replacement of imports or the fulfillment of new requirements with Washington products produced in Washington state. The program shall place special emphasis on strengthening rural economies in economically distressed areas of the state meeting the criteria of an "eligible area" as defined in RCW 82.60.020(3). [1993 c 280 § 47; 1990 c 57 § 3; 1989 c 417 § 3.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Finding—1990 c 57; 1989 c 417: See note following RCW 43.31.522.

Severability—1989 c 417: See note following RCW 43.31.522.

43.31.526 Marketplace program—Implementation—Report. (Effective July 1, 1994.) (1) The department shall contract with local nonprofit organizations in distressed areas of the state that meet the criteria of an "eligible area" as defined in RCW 82.60.020(3) to implement the Washington marketplace program in these areas. The department, in order to foster cooperation and linkages between distressed and nondistressed areas and urban and rural areas, may enter into joint contracts with multiple nonprofit organizations. Contracts with economic development organizations to foster cooperation and linkages between distressed and nondistressed areas and urban and rural areas shall be structured by the department and the distressed area marketplace programs. Contracts with economic development organizations shall:

(a) Award contracts based on a competitive bidding process, pursuant to chapter 43.19 RCW;

(b) Give preference to nonprofit organizations representing a broad spectrum of community support; and

(c) Ensure that each location contain sufficient business activity to permit effective program operation.

The department may require that contractors contribute at least twenty percent local funding.

(2) The contracts with local nonprofit organizations shall be for, but not limited to, the performance of the following services for the Washington marketplace program:

(a) Contacting Washington state businesses to identify goods and services they are currently buying or are planning in the future to buy out-of-state and determine which of these goods and services could be purchased on competitive terms within the state;

(b) Identifying locally sold goods and services which are currently provided by out-of-state businesses;

(c) Determining, in consultation with local business, goods and services for which the business is willing to make contract agreements;

(d) Advertising market opportunities described in (c) of this subsection; and

(e) Receiving bid responses from potential suppliers and sending them to that business for final selection.

(3) Contracts may include provisions for charging service fees of businesses that profit as a result of participation in the program.

(4) The center shall also perform the following activities in order to promote the goals of the program:

(a) Prepare promotional materials or conduct seminars to inform communities and organizations about the Washington marketplace program;

(b) Provide technical assistance to communities and organizations interested in developing an import replacement program;

(c) Develop standardized procedures for operating the local component of the Washington marketplace program;

(d) Provide continuing management and technical assistance to local contractors; and

(e) Report by December 31 of each year to the appropriate economic development committees of the senate and the house of representatives describing the activities of the Washington marketplace program. [1993 c 280 § 48; 1990 c 57 § 4; 1989 c 417 § 4.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Finding—1990 c 57; 1989 c 417: See note following RCW 43.31.522.

Severability—1989 c 417: See note following RCW 43.31.522.

43.31.611 Timber recovery coordinator—Expiration of section. (1) The governor shall appoint a timber recovery coordinator. The coordinator shall coordinate the state and federal economic and social programs targeted to timber impact areas.

(2) The coordinator's responsibilities shall include but not be limited to:

(a) Serving as executive secretary of the economic recovery coordination board and directing staff associated with the board.

(b) Chairing the agency timber task force and directing staff associated with the task force.

(c) Coordinating and maximizing the impact of state and federal assistance to timber impact areas.

(d) Coordinating and expediting programs to assist timber impact areas.

(e) Providing the legislature with a status and impact report on the timber recovery program in January 1992.

(3) This section shall expire June 30, 1995. [1993 c 316 § 1; 1991 c 314 § 3.]

Effective date—1993 c 316: "Sections 1 through 9 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 30, 1993." [1993 c 316 § 12.]

Findings—1991 c 314: See note following RCW 43.31.601.

43.31.621 Agency timber task force—Expiration of section. (Effective until July 1, 1994.) (1) There is established the agency timber task force. The task force shall be chaired by the timber recovery coordinator. It shall be the responsibility of the coordinator that all directives of chapter 314, Laws of 1991 are carried out expeditiously by the agencies represented in the task force. The task force shall consist of the directors, or representatives of the directors, of the following agencies: The department of trade and economic development, department of community development, employment security department, department of social and health services, state board for community and technical colleges, state work force training and education coordinating board, or its replacement entity, department of natural resources, department of transportation, state energy office, department of wildlife, University of Washington center for international trade in forest products, and department of ecology. The task force may consult and enlist the assistance of the following: The higher education coordinating board, University of Washington college of forest resources, Washington State University school of forestry, Northwest policy center, state superintendent of public instruction, the Evergreen partnership, Washington association of counties, and rural development council.

(2) This section shall expire June 30, 1995. [1993 c 316 § 2; 1991 c 314 § 4.]

Effective date—1993 c 316: See note following RCW 43.31.611.

Findings—1991 c 314: See note following RCW 43.31.601.

43.31.621 Agency timber task force—Expiration of section. (Effective July 1, 1994.) (1) There is established the agency timber task force. The task force shall be chaired by the timber recovery coordinator. It shall be the responsibility of the coordinator that all directives of chapter 314, Laws of 1991 are carried out expeditiously by the agencies represented in the task force. The task force shall consist of the directors, or representatives of the directors, of the following agencies: The department of community, trade, and economic development, employment security department, department of social and health services, state board for community and technical colleges, state work force training and education coordinating board, or its replacement entity, department of natural resources, department of transportation, state energy office, department of wildlife, University of Washington center for international trade in forest products, and department of ecology. The task force may consult and enlist the assistance of the following: The higher education coordinating board, University of Washington college of forest resources, Washington State University school of forestry, Northwest policy center, state superintendent of public instruction, the Evergreen partnership, Washington association of counties, and rural development council.

(2) This section shall expire June 30, 1995. [1993 c 316 § 2; 1993 c 280 § 49; 1991 c 314 § 4.]

Reviser's note: This section was amended by 1993 c 280 § 49 and by 1993 c 316 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—1993 c 316: See note following RCW 43.31.611.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Findings—1991 c 314: See note following RCW 43.31.601.

43.31.631 Economic recovery coordination board—Expiration of section. (1) There is established the economic recovery coordination board consisting of one representative, appointed by the governor, from each county that is a timber impact area. The timber recovery coordinator shall also be a member of the board. Each associate development organization from counties that are timber impact areas, in consultation with the county legislative authority, shall submit to the governor the names of three nominees representing different interests in each county. Within sixty days after July 28, 1991, the governor shall select one nominee from each list submitted by associate development organizations. In making the appointments, the governor shall endeavor to ensure that the board represents a diversity of backgrounds. Vacancies shall be filled in the same manner as the original appointment.

(2) The board shall:

(a) Advise the timber recovery coordinator and the agency timber task force on issues relating to timber impact area economic and social development, and review and provide recommendations on proposals for the diversification of the timber impact areas presented to it by the timber recovery coordinator.

(b) Respond to the needs and concerns of citizens at the local level.

(c) Develop strategies for the economic recovery of timber impact areas.

(d) Provide recommendations to the governor, the legislature, and congress on land management and economic and regulatory policies that affect timber impact areas.

(e) Recommend to the legislature any changes or improvements in existing programs designed to benefit timber impact areas.

(3) Members of the board and committees shall receive no compensation but shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

(4) This section shall expire June 30, 1995. [1993 c 316 § 3; 1991 c 314 § 6.]

Effective date—1993 c 316: See note following RCW 43.31.611.

Findings—1991 c 314: See note following RCW 43.31.601.

43.31.641 Department duties—Extension programs—Value-added production—Industrial diversification. (Effective July 1, 1994.) The department of community, trade, and economic development, as a member of the agency timber task force and in consultation with the board, shall:

(1) Implement an expanded value-added forest products development industrial extension program. The department shall provide technical assistance to small and medium-sized forest products companies to include:

(a) Secondary manufacturing product development;

(b) Plant and equipment maintenance;

(c) Identification and development of domestic market opportunities;

(d) Building products export development assistance;

(e) At-risk business development assistance;

(f) Business network development; and

(g) Timber impact area industrial diversification.

(2) Provide local contracts for small and medium-sized forest product companies, start-ups, and business organizations for business feasibility, market development, and business network contracts that will benefit value-added production efforts in the industry.

(3) Contract with local business organizations in timber impact areas for development of programs to promote industrial diversification. The department shall provide local capacity-building grants to local governments and community-based organizations in timber impact areas, which may include long-range planning and needs assessments.

For the 1991-93 biennium, the department of community, trade, and economic development shall use funds appropriated for this section for contracts and for no more than two additional staff positions. [1993 c 280 § 50; 1991 c 314 § 7.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Findings—1991 c 314: See note following RCW 43.31.601.

43.31.651 Sustainable economic development efforts—Community assistance. (Effective July 1, 1994.) The department of community, trade, and economic development as a part of the agency timber task force and in consultation with the board, shall implement a community assistance program to enable communities to build local capacity for sustainable economic development efforts. The program shall provide resources and technical assistance to timber impact areas. [1993 c 280 § 51; 1991 c 314 § 9.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Findings—1991 c 314: See note following RCW 43.31.601.

43.31.790 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.31.800 State international trade fairs—"Director" defined. (Effective July 1, 1994.) "Director" as used in RCW *43.31.790 through 43.31.850 and 67.16.100 means the director of community, trade, and economic development. [1993 c 280 § 52; 1987 c 195 § 4; 1965 c 148 § 2.]

***Reviser's note:** RCW 43.31.790 was repealed by 1993 c 280 § 82, effective July 1, 1994.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

43.31.830 State international trade fairs—Certification of fairs—Allotments—Division and payment from state trade fair fund. (Effective July 1, 1994.) (1) It shall be the duty of the director of community, trade, and economic development to certify, from the applications received, the state international trade fair or fairs qualified and entitled to receive funds under RCW 67.16.100, and under rules established by the director.

(2) The director shall make annual allotments to state international trade fairs determined qualified to be entitled to participate in the state trade fair fund and shall fix times for the division of and payment from the state trade fair fund: PROVIDED, That total payment to any one state international trade fair shall not exceed sixty thousand dollars in any one year, where participation or presentation occurs within

the United States, and eighty thousand dollars in any one year, where participation or presentation occurs outside the United States: PROVIDED FURTHER, That a state international trade fair may qualify for the full allotment of funds under either category. Upon certification of the allotment and division of fair funds by the director the treasurer shall proceed to pay the same to carry out the purposes of RCW 67.16.100. [1993 c 280 § 53; 1987 c 195 § 7; 1975 1st ex.s. c 292 § 5; 1965 c 148 § 5.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

43.31.840 State international trade fairs—Post audit of participating fairs—Reports. (Effective July 1, 1994.) The director of community, trade, and economic development shall at the end of each year for which an annual allotment has been made, conduct a post audit of all of the books and records of each state international trade fair participating in the state trade fair fund. The purpose of such post audit shall be to determine how and to what extent each participating state international trade fair has expended all of its funds.

The audit required by this section shall be a condition to future allotments of money from the state international trade fair fund, and the director shall make a report of the findings of each post audit and shall use such report as a consideration in an application for any future allocations. [1993 c 280 § 54; 1975 1st ex.s. c 292 § 6; 1965 c 148 § 6.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Chapter 43.33A
STATE INVESTMENT BOARD

Sections

43.33A.100 Offices—Personnel—Officers—Compensation—Transfer of employees—Existing contracts and obligations. The state investment board shall maintain appropriate offices and employ such personnel as may be necessary to perform its duties. Employment by the investment board shall include but not be limited to an executive director, investment officers, and a confidential secretary, which positions are exempt from classified service under chapter 41.06 RCW. Employment of the executive director by the board shall be for a term of three years, and such employment shall be subject to confirmation of the state finance committee: PROVIDED, That nothing shall prevent the board from dismissing the director for cause before the expiration of the term nor shall anything prohibit the board, with the confirmation of the state finance committee, from employing the same individual as director in succeeding terms. Compensation levels for the investment officers employed by the investment board shall be established by the Washington personnel resources board.

As of July 1, 1981, all employees classified under chapter 41.06 RCW and engaged in duties assumed by the state investment board on July 1, 1981, are assigned to the state investment board. The transfer shall not diminish any rights granted these employees under chapter 41.06 RCW nor exempt the employees from any action which may occur thereafter in accordance with chapter 41.06 RCW.

All existing contracts and obligations pertaining to the functions transferred to the state investment board in *this 1980 act shall remain in full force and effect, and shall be performed by the board. None of the transfers directed by *this 1980 act shall affect the validity of any act performed by a state entity or by any official or employee thereof prior to July 1, 1981. [1993 c 281 § 50; 1981 c 219 § 3; 1981 c 3 § 10.]

***Reviser's note:** For "this 1980 act," see note following RCW 43.33A.030.

Effective date—1993 c 281: See note following RCW 41.06.022.

Effective dates—1981 c 219: See note following RCW 43.33A.020.

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

Chapter 43.41
OFFICE OF FINANCIAL MANAGEMENT

Sections

Inventory of state-owned or leased facilities: RCW 43.82.150.

43.41.040 Definitions. As used in this chapter, unless the context indicates otherwise:

(1) "Office" means the office of financial management.

(2) "Director" means the director of financial management.

(3) "Agency" means and includes every state agency, office, officer, board, commission, department, state institution, or state institution of higher education, which includes all state universities, regional universities, The Evergreen State College, and community and technical colleges. [1993 c 500 § 4; 1979 c 151 § 110; 1969 ex.s. c 239 § 2.]

Finding—Severability—Effective date—1993 c 500: See notes following RCW 43.41.180.

43.41.140 Employee commuting in state-owned or leased vehicle—Policies and regulations. Pursuant to policies and regulations promulgated by the office of financial management, an elected state officer or delegate or a state agency director or delegate may permit an employee to commute in a state-owned or leased vehicle if such travel is on official business, as determined in accordance with RCW 43.41.130, and is determined to be economical and advantageous to the state, or as part of a commute trip reduction program as required by RCW 70.94.551. [1993 c 394 § 3; 1979 c 151 § 119; 1975 1st ex.s. c 167 § 15.]

Finding—Purpose—1993 c 394: See note following RCW 43.01.220.

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

43.41.180 Electronic funds and information transfer—State agency use. (1) The office of financial management is authorized to approve the use of electronic and other

technological means to transfer both funds and information whenever economically feasible, to eliminate paper documentation wherever possible, and to provide greater fiscal responsibility. This authorization includes but is not limited to the authority to approve use of electronic means to transfer payroll, vendor payments, and benefit payments and acceptance of credit cards, debit cards, and other consumer debt instruments for payment of taxes, licenses, and fees. The office of financial management shall adopt rules under RCW 43.41.110(13) to specify the manner in which electronic and other technological means, including credit cards, are available to state agencies.

(2) No state agency may use electronic or other technological means, including credit cards, without specific continuing authorization from the office of financial management. [1993 c 500 § 2.]

Finding—1993 c 500: "The legislature finds that:

(1) Effective and efficient management of the state's cash resources requires expeditious revenue collection, aggregation, and investment of available balances and timely payments;

(2) The use of credit cards, debit cards, and electronic transfers of funds and information are customary and economical business practices to improve cash management that the state should consider and use when appropriate;

(3) Statutory changes are necessary to aid the state in complying with the federal cash management improvement act of 1990; and

(4) The policies, procedures, and practices of cash management should be reviewed and revised as required to ensure that the state achieves the most effective cash management possible." [1993 c 500 § 1.]

Severability—1993 c 500: "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." [1993 c 500 § 12.]

Effective date—1993 c 500: "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, 1993." [1993 c 500 § 13.]

Chapter 43.43
WASHINGTON STATE PATROL

Sections

43.43.115 Real property—Sale of surplus at fair market value—Distribution of proceeds. Whenever real property owned by the state of Washington and under the jurisdiction of the Washington state patrol is no longer required, it may be sold at fair market value. All proceeds received from the sale of real property, less any real estate broker commissions, shall be deposited into the state patrol highway account: PROVIDED, That if accounts or funds other than the state patrol highway account have contributed to the purchase or improvement of the real property, the office of financial management shall determine the proportional equity of each account or fund in the property and improvements, and shall direct the proceeds to be deposited proportionally therein. [1993 c 438 § 1.]

43.43.330 Examinations for promotion. Appropriate examinations shall be conducted for the promotion of commissioned patrol officers to the rank of sergeant and lieutenant. The examinations shall be prepared and conducted under the supervision of the chief of the Washington state patrol, who shall cause at least thirty days written notice thereof to be given to all patrol officers eligible for such examinations. The written notice shall specify the expected type of examination and relative weights to be assigned if a combination of tests is to be used. Examinations shall be given once every two years, or whenever the eligible list becomes exhausted as the case may be. After the giving of each such examination a new eligible list shall be compiled replacing any existing eligible list for such rank. Only grades attained in the last examination given for a particular rank shall be used in compiling each eligible list therefor. The chief, or in his discretion a committee of three individuals appointed by him, shall prepare and conduct the examinations, and thereafter grade and evaluate them in accordance with the following provisions, or factors: For promotion to the rank of sergeant or lieutenant, the examination shall consist of one or more of the following components: (1) Oral examination; (2) written examination; (3) service rating; (4) personnel record; (5) assessment center or other valid tests that measures the skills, knowledge, and qualities needed to perform these jobs. A cutoff score may be set for each testing component that allows only those scoring above the cutoff on one component to proceed to take a subsequent component. [1993 c 155 § 1; 1985 c 4 § 1; 1969 ex.s. c 20 § 1; 1965 c 8 § 43.43.330. Prior: 1959 c 115 § 1; 1949 c 192 § 2; Rem. Supp. 1949 § 6362-61a.]

43.43.745 Convicted persons, fingerprinting required, records—Furloughs, information to section, notice to local agencies—Arrests, disposition information—Convicts, information to section, notice to local agencies—Registration of sex offenders. (1) It shall be the duty of the sheriff or director of public safety of every county, of the chief of police of each city or town, or of every chief officer of other law enforcement agencies operating within this state, to record the fingerprints of all persons held in or remanded to their custody when convicted of any crime as provided for in RCW 43.43.735 for which the penalty of imprisonment might be imposed and to disseminate and file such fingerprints in the same manner as those recorded upon arrest pursuant to RCW 43.43.735 and 43.43.740.

(2) Every time the secretary authorizes a furlough as provided for in RCW 72.66.012 the department of corrections shall notify, forty-eight hours prior to the beginning of such furlough, the sheriff or director of public safety of the county to which the prisoner is being furloughed, the nearest Washington state patrol district facility in the county wherein the furloughed prisoner is to be residing, and other similar criminal justice agencies that the named prisoner has been granted a furlough, the place to which furloughed, and the dates and times during which the prisoner will be on furlough status. In the case of an emergency furlough the

forty-eight hour time period shall not be required but notification shall be made as promptly as possible and before the prisoner is released on furlough.

(3) Disposition of the charge for which the arrest was made shall be reported to the section at whatever stage in the proceedings a final disposition occurs by the arresting law enforcement agency, county prosecutor, city attorney, or court having jurisdiction over the offense: PROVIDED, That the chief shall promulgate rules pursuant to chapter 34.05 RCW to carry out the provisions of this subsection.

(4) Whenever a person serving a sentence for a term of confinement in a state correctional facility for convicted felons, pursuant to court commitment, is released on an order of the state indeterminate sentence review board, or is discharged from custody on expiration of sentence, the department of corrections shall promptly notify the sheriff or director of public safety, the nearest Washington state patrol district facility, and other similar criminal justice agencies that the named person has been released or discharged, the place to which such person has been released or discharged, and the conditions of his or her release or discharge.

Local law enforcement agencies may require persons convicted of sex offenses to register pursuant to RCW 9A.44.130. In addition, nothing in this section shall be construed to prevent any local law enforcement authority from recording the residency and other information concerning any convicted felon or other person convicted of a criminal offense when such information is obtained from a source other than from registration pursuant to RCW 9A.44.130 which source may include any officer or other agency or subdivision of the state. [1993 c 24 § 1; 1990 c 3 § 409; 1985 c 346 § 6; 1973 c 20 § 1; 1972 ex.s. c 152 § 10.]

Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.

Construction—Prior rules and regulations—1973 c 20: See note following RCW 72.66.010.

43.43.832 Background checks—Disclosure of child abuse or financial exploitation activity. (1) The legislature finds that businesses and organizations providing services to children, developmentally disabled persons, and vulnerable adults need adequate information to determine which employees or licensees to hire or engage. Therefore, the Washington state patrol criminal identification system may disclose, upon the request of a business or organization as defined in RCW 43.43.830, an applicant's record for convictions of offenses against children or other persons, convictions for crimes relating to financial exploitation, but only if the victim was a vulnerable adult, adjudications of child abuse in a civil action, the issuance of a protection order against the respondent under chapter 74.34 RCW, and disciplinary board final decisions and any subsequent criminal charges associated with the conduct that is the subject of the disciplinary board final decision. When necessary, applicants may be employed on a conditional basis pending completion of such a background investigation.

(2) The legislature also finds that the state board of education may request of the Washington state patrol criminal identification system information regarding a certificate applicant's record for convictions under subsection (1) of this section.

(3) The legislature also finds that law enforcement agencies, the office of the attorney general, prosecuting authorities, and the department of social and health services may request this same information to aid in the investigation and prosecution of child, developmentally disabled person, and vulnerable adult abuse cases and to protect children and adults from further incidents of abuse.

(4) The legislature further finds that the department of social and health services, when considering persons for state positions directly responsible for the care, supervision, or treatment of children, developmentally disabled persons, or vulnerable adults or when licensing or authorizing such persons or agencies pursuant to its authority under chapter 74.15, 18.51, 18.20, or 72.23 RCW, or any later-enacted statute which purpose is to license or regulate a facility which handles vulnerable adults, must consider the information listed in subsection (1) of this section. However, when necessary, persons may be employed on a conditional basis pending completion of the background investigation. The Washington personnel resources board shall adopt rules to accomplish the purposes of this subsection as it applies to state employees. [1993 c 281 § 51; 1990 c 3 § 1102. Prior: 1989 c 334 § 2; 1989 c 90 § 2; 1987 c 486 § 2.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.

Chapter 43.51
PARKS AND RECREATION COMMISSION

Sections

43.51.060 Further powers—Director of parks and recreation—Salaries. The commission may:

(1) Make rules and regulations for the proper administration of its duties;

(2) Accept any grants of funds made with or without a matching requirement by the United States, or any agency thereof, for purposes in keeping with the purposes of this chapter; accept gifts, bequests, devises and endowments for purposes in keeping with such purposes; enter into cooperative agreements with and provide for private nonprofit groups to use state park property and facilities to raise money to contribute gifts, grants, and support to the commission for the purposes of this chapter. The commission may

assist the nonprofit group in a cooperative effort by providing necessary agency personnel and services, if available. However, none of the moneys raised may inure to the benefit of the nonprofit group, except in furtherance of its purposes to benefit the commission as provided in this chapter. The agency and the private nonprofit group shall agree on the nature of any project to be supported by such gift or grant prior to the use of any agency property or facilities for raising money. Any such gifts may be in the form of recreational facilities developed or built in part or in whole for public use on agency property, provided that the facility is consistent with the purposes of the agency;

(3) Require certification by the commission of all parks and recreation workers employed in state aided or state controlled programs;

(4) Act jointly, when advisable, with the United States, any other state agencies, institutions, departments, boards, or commissions in order to carry out the objectives and responsibilities of this chapter;

(5) Grant franchises and easements for any legitimate purpose on parks or parkways, for such terms and subject to such conditions and considerations as the commission shall specify;

(6) Charge such fees for services, utilities, and use of facilities as the commission shall deem proper. All fees received by the commission shall be deposited with the state treasurer in the state general fund;

(7) Enter into agreements whereby individuals or companies may rent undeveloped parks or parkway land for grazing, agricultural, or mineral development purposes upon such terms and conditions as the commission shall deem proper, for a term not to exceed ten years;

(8) Determine the qualifications of and employ a director of parks and recreation who shall receive a salary as fixed by the governor in accordance with the provisions of RCW 43.03.040, and upon his recommendation, a supervisor of recreation, and determine the qualifications and salary of and employ such other persons as may be needed to carry out the provisions hereof; and

(9) Without being limited to the powers hereinbefore enumerated, the commission shall have such other powers as in the judgment of a majority of its members are deemed necessary to effectuate the purposes of this chapter: PROVIDED, That the commission shall not have power to supervise directly any local park or recreation district, and no funds shall be made available for such purpose. [1993 c 156 § 1; 1987 c 225 § 3; 1980 c 89 § 2; 1969 c 99 § 1; 1965 c 8 § 43.51.060. Prior: 1961 c 307 § 12; 1955 c 391 § 3; 1947 c 271 § 5; RRS § 10768-4.]

Effective date—1969 c 99: "This 1969 amendatory act shall take effect July 1, 1969." [1969 c 99 § 12.] For codification of 1969 c 99, see Codification Tables, Volume 0.

43.51.430 Underwater parks—Lead agency. The state parks and recreation commission shall act as the lead agency for the establishment of underwater parks in state waters and for environmental reviews of projects necessary to establish underwater parks. The commission may enter into interagency agreements to facilitate timely receipt of necessary permits from other state agencies and local governments. [1993 c 267 § 1.]

43.51.432 Underwater parks—Authority to establish—Powers and duties. The state parks and recreation commission may establish a system of underwater parks to provide for diverse recreational diving opportunities and to conserve and protect unique marine resources of the state of Washington. In establishing and maintaining an underwater park system, the commission may:

(1) Plan, construct, and maintain underwater parks;

(2) Acquire property and enter management agreements with other units of state government for the management of lands, tidelands, and bedlands as underwater parks;

(3) Construct artificial reefs and other underwater features to enhance marine life and recreational uses of an underwater park;

(4) Accept gifts and donations for the benefit of underwater parks;

(5) Facilitate private efforts to construct artificial reefs and underwater parks;

(6) Work with the federal government, local governments and other appropriate agencies of state government, including but not limited to: The department of natural resources, the department of fisheries, the department of wildlife and the natural heritage council to carry out the purposes of RCW 43.51.430 through 43.51.438; and

(7) Contract with other state agencies or local governments for the management of an underwater park unit. [1993 c 267 § 2.]

43.51.434 Underwater parks—Fees—Underwater park account. The commission may charge a fee for recreational uses of an underwater park to offset a part or all of the costs of creating and administering the underwater park system. The fees and any monetary gifts shall be deposited to the underwater park account, which is created in the state treasury. Funds in the underwater park account shall be expended for the operation and creation of state underwater parks, and shall be subject to appropriation. Before implementing a fee program for underwater park uses, the commission shall submit to the appropriate committees of the legislature an estimate of what the fees would be and a plan for collecting these fees. [1993 c 267 § 3.]

43.51.436 Underwater parks—Diverse recreational opportunity. In establishing an underwater park system, the commission shall seek to create diverse recreational opportunities in areas throughout Washington state. The commission shall place a high priority upon creating units that possess unique or diverse marine life or underwater natural or artificial features such as shipwrecks. [1993 c 267 § 4.]

43.51.438 Underwater parks—Liability. The commission is not liable for unintentional injuries to users of underwater parks, whether the facilities are administered by the commission or by another entity or person. However, nothing in this section prevents the liability of the commission for injuries sustained by a user by reason of a known dangerous artificial latent condition for which warning signs have not been conspicuously posted. [1993 c 267 § 5.]

43.51.440 Water trail recreation program—Created. The legislature recognizes the increase in water-

oriented recreation by users of human and wind-powered, beachable vessels such as kayaks, canoes, or day sailors on Washington's waters. These recreationists frequently require overnight camping facilities along the shores of public or private beaches. The legislature now creates a water trail recreation program, to be administered by the Washington state parks and recreation commission. [1993 c 182 § 1.]

43.51.442 Water trail recreation program—Powers and duties. In addition to its other powers, duties, and functions, the commission may:

(1) Plan, construct, and maintain suitable facilities for water trail activities on lands administered or acquired by the commission or as authorized on lands administered by tribes or other public agencies or private landowners by agreement.

(2) Provide and issue, upon payment of the proper fee, with the assistance of those authorized agents as may be necessary for the convenience of the public, water trail permits to utilize designated water trail facilities. The commission may, after consultation with the water trail advisory committee, adopt rules authorizing reciprocity of water trail permits provided by another state or Canadian province, but only to the extent that a similar exemption or provision for water trail permits is issued by that state or province.

(3) Compile, publish, distribute, and charge a fee for maps or other forms of public information indicating areas and facilities suitable for water trail activities.

(4) Contract with a public agency, private entity, or person for the actual conduct of these duties.

(5) Work with individuals or organizations who wish to volunteer their time to support the water trail recreation program. [1993 c 182 § 2.]

43.51.444 Water trail recreation program—Grants. The commission may make water trail program grants to public agencies or tribal governments and may contract with any public agency, tribal government, entity, or person to develop and implement water trail programs. [1993 c 182 § 3.]

43.51.446 Water trail recreation program—Liability. The commission is not liable for unintentional injuries to users of facilities administered for water trail purposes under this chapter, whether the facilities are administered by the commission or by any other entity or person. However, nothing in this section prevents the liability of the commission for injuries sustained by a user by reason of a known dangerous artificial latent condition for which warning signs have not been conspicuously posted. [1993 c 182 § 4.]

43.51.448 Water trail recreation program—Permits. A person may not participate as a user of the water trail recreation program without first obtaining a water trail permit. A person must renew this permit on an annual basis in order to continue to participate as a user of the program. The fee for the issuance of the state-wide water trail permit for each year shall be determined by the commission after consultation with the water trail advisory committee. All state-wide water trail permits shall expire on the last day of December of the year for which the permit is issued. [1993 c 182 § 5.]

43.51.450 Water trail recreation program—Account created. The water trail program account is created in the state treasury. All receipts from sales of materials pursuant to RCW 43.51.442, from state-wide water trail permit fees collected pursuant to RCW 43.51.448, and all monetary civil penalties collected pursuant to RCW 43.51.454 shall be deposited in the water trail program account. Any gifts, grants, donations, or moneys from any source received by the commission for the water trail program shall also be deposited in the water trail program account. Moneys in the account may be spent only after appropriation to the commission, and may be used solely for water trail program purposes, including: (1) Administration, acquisition, development, operation, planning, and maintenance of water trail lands and facilities, and grants or contracts therefor; and (2) the development and implementation of water trail informational, safety, enforcement, and education programs, and grants or contracts therefor. [1993 c 182 § 6.]

43.51.452 Water trail recreation program—Rules. The commission may, after consultation with the water trail advisory committee, adopt rules to administer the water trail program and facilities on areas owned or administered by the commission. Where water trail facilities administered by other public or private entities are incorporated into the water trail system, the rules adopted by those entities shall prevail. The commission is not responsible or liable for enforcement of these alternative rules. [1993 c 182 § 7.]

43.51.454 Water trail recreation program—Violation. Violation of the provisions of the commission's rules governing the use of water trail facilities and property shall constitute a civil infraction, punishable as provided under chapter 7.84 RCW. [1993 c 182 § 8.]

43.51.456 Water trail advisory committee. (1) There is created a water trail advisory committee to advise the parks and recreation commission in the administration of RCW 43.51.440 through 43.51.454 and to assist and advise the commission in the development of water trail facilities and programs.

(2) The advisory committee shall consist of twelve members, who shall be appointed as follows:

(a) Five public members representing recreational water trail users, to be appointed by the commission;

(b) Two public members representing commercial sectors with an interest in the water trail system, to be appointed by the commission;

(c) One representative each from the department of natural resources, the department of wildlife, the Washington state association of counties, and the association of Washington cities, to be appointed by the director of the agency or association. The director of the Washington state parks and recreation commission or the director's designee shall serve as secretary to the committee and shall be a nonvoting member.

(3) Except as provided in this section, the terms of the public members appointed by the commission shall begin on

January 1st of the year of appointment and shall be for three years or until a successor is appointed, except in the case of appointments to fill vacancies for the remainder of an unexpired term. In making the initial appointments to the advisory committee, the commission shall appoint two public members to serve one year, two public members to serve for two years, and three public members to serve for three years. Public members of the advisory committee may be reimbursed from the water trail program account for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(4) The committee shall select a chair and adopt rules necessary to govern its proceedings. The committee shall meet at the times and places it determines, not less than twice a year, and additionally as required by the committee chair or by majority vote of the committee. [1993 c 182 § 9.]

43.51.955 Department of fish and wildlife, fish and wildlife commission—Powers, duties, and authority—No hunting in any state park. (Effective July 1, 1994.) Nothing in RCW 43.51.946 through 43.51.956 shall be construed to interfere with the powers, duties, and authority of the state department of fish and wildlife or the state fish and wildlife commission to regulate, manage, conserve, and provide for the harvest of wildlife within such area: PROVIDED, HOWEVER, That no hunting shall be permitted in any state park. [1993 1st sp.s. c 2 § 19; 1987 c 506 § 93; 1977 ex.s. c 75 § 10.]

Effective date—1993 1st sp.s. c 2 §§ 1-6, 8-59, and 61-79: See RCW 43.300.900.

Severability—1993 1st sp.s. c 2: See RCW 43.300.901.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Chapter 43.57
INTERSTATE COMPACT COMMISSION

Sections

43.57.010 through 43.57.030 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 43.59
TRAFFIC SAFETY COMMISSION

Sections

43.59.130 Report to legislative transportation committee.

Pedestrian safety: "The Washington traffic safety commission and its member agencies shall, in cooperation with other interested organizations, including the media, develop and execute with existing resources a state-wide pedestrian safety education program. The Washington traffic safety commission shall evaluate the effectiveness of Washington's pedestrian safety program and report its findings to the legislative transportation committee by January 1, 1995." [1993 c 153 § 4.]

Chapter 43.60A
DEPARTMENT OF VETERANS AFFAIRS

Sections

43.60A.906 Collective bargaining units or agreements not altered. Nothing contained in this chapter shall be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until any such agreement has expired or until any such bargaining unit has been modified by action of the Washington personnel resources board as provided by law. [1993 c 281 § 52; 1975-'76 2nd ex.s. c 115 § 16.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Chapter 43.63A
DEPARTMENT OF COMMUNITY DEVELOPMENT

Sections

Reviser's note—Sunset Act application: The state fire protection policy board is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.365. RCW 43.63A.310, 43.63A.320, and 43.63A.330 are scheduled for future repeal under RCW 43.131.366.

Public disclosure: RCW 42.17.310.

43.63A.020 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.63A.030 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.63A.040 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.63A.050 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.63A.060 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.63A.065 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.63A.066 Child abuse and neglect prevention training for participants in head start or early childhood education assistance programs—Department's duties. (Effective July 1, 1994.) The department of community, trade, and economic development shall have primary responsibility for providing child abuse and neglect prevention training to preschool age children participating in the federal head start program or the early childhood education and assistance program established under RCW 28A.215.010 through 28A.215.200 and 28A.215.900 through 28A.215.908. [1993 c 280 § 58; 1990 c 33 § 579; 1987 c 489 § 4.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Intent—1987 c 489: See note following RCW 28A.300.150.

43.63A.075 Community development finance program. (Effective July 1, 1994.) The department shall establish a community development finance program. Pursuant to this program, the department shall: (1) Develop expertise in federal, state, and local community and economic development programs; and (2) assist communities and businesses to secure available financing. To the extent permitted by federal law, the department is encouraged to use federal community block grant funds to make urban development action grants to communities which have not been eligible to receive such grants prior to June 30, 1984. [1993 c 280 § 59; 1985 c 466 § 53; 1984 c 125 § 6.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.005.

43.63A.078 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.63A.095 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.63A.100 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.63A.115 Community action agency network—Delivery system for federal and state anti-poverty programs. (Effective July 1, 1994.) (1) The community action agency network, established initially under the federal economic opportunity act of 1964 and subsequently under the federal community services block grant program of 1981, as amended, shall be a delivery system for federal and state anti-poverty programs in this state, including but not limited to the community services block grant program, the low-income energy assistance program, and the federal department of energy weatherization program.

(2) Local community action agencies comprise the community action agency network. The community action agency network shall serve low-income persons in the counties. Each community action agency and its service area shall be designated in the state federal community

service block grant plan as prepared by the department of community, trade, and economic development.

(3) Funds for anti-poverty programs may be distributed to the community action agencies by the department of community, trade, and economic development and other state agencies in consultation with the authorized representatives of community action agency networks. [1993 c 280 § 60; 1990 c 156 § 1.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

43.63A.130 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.63A.140 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.63A.155 Local government bond information—Publication—Rules. (Effective July 1, 1994.) The department of community, trade, and economic development shall retain the bond information it receives under RCW 39.44.210 and 39.44.230 and shall publish summaries of local government bond issues at least once a year.

The department of community, trade, and economic development shall adopt rules under chapter 34.05 RCW to implement RCW 39.44.210 and 39.44.230. [1993 c 280 § 61; 1989 c 225 § 5; 1985 c 130 § 6.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

43.63A.210 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.63A.215 Accessory apartments—Development and placement—Local governments. (1) The department shall, in consultation with the affordable housing advisory board created in RCW 43.185B.020, report to the legislature on the development and placement of accessory apartments. The department shall produce a written report by December 15, 1993, which:

(a) Identifies local governments that allow the siting of accessory apartments in areas zoned for single-family residential use; and

(b) Makes recommendations to the legislature designed to encourage the development and placement of accessory apartments in areas zoned for single-family residential use.

(2) The recommendations made under subsection (1) of this section shall not take effect before ninety days following adjournment of the 1994 regular legislative session.

(3) Unless provided otherwise by the legislature, by December 31, 1994, local governments shall incorporate in their development regulations, zoning regulations, or official controls the recommendations contained in subsection (1) of this section. The accessory apartment provisions shall be part of the local government's development regulation, zoning regulation, or official control. To allow local flexibility, the recommendations shall be subject to such regulations, conditions, procedures, and limitations as determined by the local legislative authority.

(4) As used in this section, "local government" means:

(a) A city or code city with a population that exceeds twenty thousand;

(b) A county that is required to or has elected to plan under the state growth management act; and

(c) A county with a population that exceeds one hundred twenty-five thousand. [1993 c 478 § 7.]

43.63A.220 Encouragement and assistance to the formation of employee stock ownership plans—Study and plan—Report. (Effective July 1, 1994.) (1) The department of community, trade, and economic development is directed to undertake a study as to the best means of providing encouragement and assistance to the formulation of employee stock ownership plans providing for the partial or total acquisition, through purchase, distribution in lieu of compensation, or a combination of these means or any other lawful means, of shares of stock or other instruments of equity in facilities by persons employed at these facilities in cases in which operations at these facilities would, absent employee equity ownership, be terminated, relocated outside of the state, or so reduced in volume as to entail the permanent layoff of a substantial number of the employees.

(2) In conducting its study, the department shall:

(a) Consider federal and state law relating directly or indirectly to plans proposed under subsection (1) of this section, and to the organization and operation of any trusts established pursuant to the plans, including but not limited to, the federal internal revenue code and any regulations promulgated under the internal revenue code, the federal securities act of 1933 as amended and other federal statutes providing for regulation of the issuance of securities, the federal employee retirement income and security act of 1974 as amended, the Chrysler loan guarantee legislation enacted by the United States congress in 1979, and other federal and state laws relating to employment, compensation, taxation, and retirement;

(b) Consult with relevant persons in the public sector, relevant persons in the private sector, including trustees of any existing employee stock ownership trust, and employees of any firm operating under an employee stock ownership trust, and with members of the academic community and of relevant branches of the legal profession;

(c) Examine the experience of trusts organized pursuant to an employee stock ownership plan in this state or in any other state; and

(d) Make other investigations as it may deem necessary in carrying out the purposes of this section.

(3) Pursuant to the findings and conclusions of the study conducted under subsection (2) of this section, the department of community, trade, and economic development shall develop a plan to encourage and assist the formulation of employee stock ownership plans providing for the acquisition of stock by employees of facilities in this state which are subject to closure or drastically curtailed operation. The department shall determine the amount of any costs of implementing the plan.

(4) The director of community, trade, and economic development shall, within one year of July 28, 1985, report

the findings and conclusion of the study, together with details of the plan developed pursuant to the study, to the legislature, and shall include in the report any recommendations for legislation which the director deems appropriate.

(5) The department of community, trade, and economic development shall carry out its duties under this section using available resources. [1993 c 280 § 62; 1987 c 505 § 34; 1985 c 263 § 2.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Legislative declaration—1985 c 263: "The legislature declares it to be the policy of this state to encourage the broadening of the base of capital ownership among wider numbers of Washington citizens, and to encourage the use of employee stock ownership plans as one means of broadening the ownership of capital." [1985 c 263 § 1.]

43.63A.230 Employee ownership program—Advisory panel—Reports—When employee stock ownership plans qualify. (Effective July 1, 1994.) (1) The department of community, trade, and economic development shall integrate an employee ownership program within its existing technical assistance programs. The employee ownership program shall provide technical assistance to cooperatives authorized under chapter 23.78 RCW and conduct educational programs on employee ownership and self-management. The department shall include information on the option of employee ownership wherever appropriate in its various programs.

(2) The department shall maintain a list of firms and individuals with expertise in the field of employee ownership and utilize such firms and individuals, as appropriate, in delivering and coordinating the delivery of technical, managerial, and educational services. In addition, the department shall work with and rely on the services of the employment security department and state institutions of higher education to promote employee ownership.

(3) The department shall report to the governor, the appropriate economic development committees of the senate and the house of representatives, and the ways and means committees of each house by December 1 of 1988, and each year thereafter, on the accomplishments of the employee-ownership program. Such reports shall include the number and types of firms assisted, the number of jobs created by such firms, the types of services, the number of workshops presented, the number of employees trained, and the results of client satisfaction surveys distributed to those using the services of the program.

(4) For purposes of this section, an employee stock ownership plan qualifies as a cooperative if at least fifty percent, plus one share, of its voting shares of stock are voted on a one-person-one-vote basis. [1993 c 280 § 63; 1988 c 186 § 17; 1987 c 457 § 15.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Effective date—1988 c 186 § 17: "Section 17 of this act shall take effect June 30, 1993." [1988 c 186 § 18.]

Severability—1987 c 457: See RCW 23.78.902.

43.63A.245 Senior environmental corps—Definitions. (Effective July 1, 1994.) Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.63A.240 through 43.63A.270.

"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 community, trade, and economic 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, trade, and economic development.

"Director" means the director of community, trade, and economic 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. [1993 c 280 § 64; 1992 c 63 § 2.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability—1992 c 63: See note following RCW 43.63A.240.

43.63A.247 Senior environmental corps—Created. (Effective July 1, 1994.) The senior environmental corps is created within the department of community, trade, and economic development. The departments of agriculture, community, trade, and economic development, employment security, 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. [1993 c 280 § 65; 1992 c 63 § 3.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability—1992 c 63: See note following RCW 43.63A.240.

43.63A.260 Senior environmental corps—Coordinating council—Duties. (Effective July 1, 1994.) 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, trade, and economic 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. [1993 c 280 § 66; 1992 c 63 § 5.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability—1992 c 63: See note following RCW 43.63A.240.

43.63A.275 Retired senior volunteer programs (RSVP)—Funds distribution. (Effective July 1, 1994.) (1) Each biennium the department of community, trade, and economic 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, trade, and economic 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, trade, and economic 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, chapter 65, Laws of 1992. 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. [1993 c 280 § 67; 1992 c 65 § 2.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Findings—1992 c 65: "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." [1992 c 65 § 1.]

43.63A.300 State fire protection services—Intent. (Effective July 1, 1994.) The legislature finds that fire protection services at the state level are provided by different, independent state agencies. This has resulted in a lack of a comprehensive state-level focus for state fire protection services, funding, and policy. It is the intent of the legislature to consolidate fire protection services into a single state agency and to create a state board with the responsibility of (1) establishing a comprehensive state policy regarding fire protection services and (2) advising the director of community, trade, and economic development and the director of fire protection on matters relating to their duties under state law. It is also the intent of the legislature that the fire protection services program created herein will assist local fire protection agencies in program development without encroaching upon their historic autonomy. [1993 c 280 § 68; 1986 c 266 § 54.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability—1986 c 266: See note following RCW 38.52.005.

State fire protection: Chapter 48.48 RCW.

43.63A.320 State fire protection policy board—Duties. (Effective July 1, 1994.) Except for matters relating to the statutory duties of the director of community, trade, and economic development which are to be carried out through the director of fire protection, the board shall have the responsibility of developing a comprehensive state policy regarding fire protection services. In carrying out its duties, the board shall:

(1) Adopt a state fire protection master plan;

(2) Monitor fire protection in the state and develop objectives and priorities to improve fire protection for the state's citizens;

(3) Establish and promote state arson control programs and ensure development of local arson control programs;

(4) Provide representation for local fire protection services to the governor in state-level fire protection planning matters such as, but not limited to, hazardous materials;

(5) Seek and solicit grants, gifts, bequests, devices, and matching funds for use in furthering the objectives and duties of the board, and establish procedures for administering them;

(6) Promote mutual aid and disaster planning for fire services in this state;

(7) Assure the dissemination of information concerning the amount of fire damage including that damage caused by arson, and its causes and prevention;

(8) Submit annually a report to the governor containing a statement of its official acts pursuant to this chapter, and make such studies, reports, and recommendations to the governor and the legislature as are requested;

(9) Adopt a state fire training and education master plan;

(10) Develop and adopt a master plan for the construction, equipping, maintaining, and operation of necessary fire service training and education facilities, but the authority to

construct, equip, and maintain such facilities is subject to chapter 43.19 RCW;

(11) Develop and adopt a master plan for the purchase, lease, or other acquisition of real estate necessary to establish and operate fire service training and education facilities in a manner provided by law;

(12) Adopt standards for state-wide fire service training and education courses including courses in arson detection and investigation for personnel of fire, police, and prosecutor's departments;

(13) Assure the administration of any legislation enacted by the legislature in pursuance of the aims and purposes of any acts of Congress insofar as the provisions thereof may apply;

(14) Cooperate with the common schools, community colleges, institutions of higher education, and any department or division of the state, or of any county or municipal corporation in establishing and maintaining instruction in fire service training and education in accordance with any act of Congress and legislation enacted by the legislature in pursuance thereof and in establishing, building, and operating training and education facilities.

This section does not apply to forest fire service personnel and programs. Industrial fire departments and private fire investigators may participate in training and education programs under this chapter for a reasonable fee established by rule. [1993 c 280 § 69; 1986 c 266 § 56.]

Sunset Act application: See note following chapter digest.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability—1986 c 266: See note following RCW 38.52.005.

43.63A.330 State fire protection policy board—Advisory duties. (Effective July 1, 1994.) In regards to the statutory duties of the director of community, trade, and economic development which are to be carried out through the director of fire protection, the board shall serve in an advisory capacity in order to enhance the continuity of state fire protection services. In this capacity, the board shall:

(1) Advise the director of community, trade, and economic development and the director of fire protection on matters pertaining to their duties under law; and

(2) Advise the director of community, trade, and economic development and the director of fire protection on all budgeting and fiscal matters pertaining to the duties of the director of fire protection and the board. [1993 c 280 § 70; 1986 c 266 § 57.]

Sunset Act application: See note following chapter digest.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability—1986 c 266: See note following RCW 38.52.005.

43.63A.340 Director of fire protection—Appointment—Duties. (Effective July 1, 1994.) (1) Wherever the term state fire marshal appears in the Revised Code of Washington or the Washington Administrative Code it shall mean the director of fire protection.

(2) The director of community, trade, and economic development shall appoint an assistant director who shall be known as the director of fire protection. The board, after consulting with the director, shall prescribe qualifications for the position of director of fire protection. The board shall submit to the director a list containing the names of three persons whom the board believes meet its qualifications. If requested by the director, the board shall submit one additional list of three persons whom the board believes meet its qualifications. The appointment shall be from one of the lists of persons submitted by the board.

(3) The director of fire protection may designate one or more deputies and may delegate to those deputies his or her duties and authorities as deemed appropriate.

(4) The director of community, trade, and economic development, through the director of fire protection, shall, after consultation with the board, prepare a biennial budget pertaining to fire protection services. Such biennial budget shall be submitted as part of the department's budget request.

(5) The director of community, trade, and economic development, through the director of fire protection, shall implement and administer, within the constraints established by budgeted resources, the policies of the board and all duties of the director of community, trade, and economic development which are to be carried out through the director of fire protection.

(6) The director of community, trade, and economic development, through the director of fire protection, shall seek the advice of the board in carrying out his or her duties under law. [1993 c 280 § 71; 1986 c 266 § 58.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability—1986 c 266: See note following RCW 38.52.005.

43.63A.400 Grants to public broadcast stations. (Effective July 1, 1994.) The department of community, trade, and economic development shall distribute grants to eligible public radio and television broadcast stations under RCW 43.63A.410 and 43.63A.420 to assist with programming, operations, and capital needs. [1993 c 280 § 72; 1987 c 308 § 2.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Legislative findings—1987 c 308: "The legislature finds that public broadcasting creates a cultural and educational environment that is important to the citizens of the state. The legislature also finds that it is in the public interest to provide state support to bring cultural, educational, and public affairs broadcasting services to the citizens of the state." [1987 c 308 § 1.]

43.63A.410 Grants to broadcast stations eligible for grants from corporation for public broadcasting—Formula—Annual financial statements. (Effective July 1, 1994.) (1) Eligibility for grants under this section shall be limited to broadcast stations which are:

(a) Licensed to Washington state organizations, nonprofit corporations, or other entities under section 73.621 of the regulations of the federal communications commission; and

(b) Qualified to receive community service grants from the federally chartered corporation for public broadcasting. Eligibility shall be established as of February 28th of each year.

(2) The formula in this subsection shall be used to compute the amount of each eligible station's grant under this section.

(a) Appropriations under this section shall be divided into a radio fund, which shall be twenty-five percent of the total appropriation under this section, and a television fund, which shall be seventy-five percent of the total appropriation under this section. Each of the two funds shall be divided into a base grant pool, which shall be fifty percent of the fund, and an incentive grant pool, which shall be the remaining fifty percent of the fund.

(b) Each eligible participating public radio station shall receive an equal share of the radio base grant pool, plus a share of the radio incentive grant pool equal to the proportion its nonfederal financial support bears to the sum of all participating radio stations' nonfederal financial support as most recently reported to the corporation for public broadcasting.

(c) Each eligible participating public television station shall receive an equal share of the television base grant pool, plus a share of the television incentive grant pool equal to the proportion its nonfederal financial support bears to the sum of all participating television stations' nonfederal financial support as most recently reported to the corporation for public broadcasting.

(3) Annual financial reports to the corporation for public broadcasting by eligible stations shall also be submitted by the stations to the department of community, trade, and economic development. [1993 c 280 § 73; 1987 c 308 § 3.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Legislative findings—1987 c 308: See note following RCW 43.63A.400.

43.63A.440 Assistance to communities adversely impacted by reductions in timber harvested from federal lands. (Effective July 1, 1994.) (1) The department of community, trade, and economic development shall provide technical and financial assistance to communities adversely impacted by reductions in timber harvested from federal lands. This assistance shall include the formation and implementation of community economic development plans. The department of community, trade, and economic development shall utilize existing state technical and financial assistance programs, and shall aid communities in seeking private and federal financial assistance for the purposes of this section. The department may contract for services provided for under this section.

(2) The sum of four hundred fifty thousand dollars, or as much thereof as may be necessary, is appropriated from the general fund to the department of community, trade, and economic development for the biennium ending June 30, 1991, for the purposes of subsection (1) of this section. [1993 c 280 § 74; 1989 c 424 § 7.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Findings—Effective date—1989 c 424: See notes following RCW 76.12.190.

43.63A.450 Community diversification program. (Effective July 1, 1994.) The community diversification program is created in the department of community, trade, and economic development. The program shall include:

(1) The monitoring and forecasting of shifts in the economic prospects of major defense employers in the state. This shall include but not be limited to the monitoring of defense contract expenditures, other federal contracts, defense employment shifts, the aircraft and aerospace industry, computer products, and electronics;

(2) The identification of cities, counties, or regions within the state that are primarily dependent on defense or other federal contracting and the identification of firms dependent on federal defense contracts;

(3) Assistance to communities in broadening the local economic base through the provision of management assistance, assistance in financing, entrepreneurial training, and assistance to businesses in using off-the-shelf technology to start new production processes or introduce new products;

(4) Formulating a state plan for diversification in defense dependent communities in collaboration with the employment security department and the office of financial management. The plan shall use the information made available through carrying out subsections (1) and (2) of this section; and

(5) The identification of diversification efforts conducted by other states, the federal government, and other nations, and the provision of information on these efforts, as well as information gained through carrying out subsections (1) and (2) of this section, to firms, communities, and work forces that are defense dependent.

The department shall, beginning January 1, 1992, report annually to the governor and the legislature on the activities of the community diversification program. [1993 c 280 § 75; 1990 c 278 § 2.]

Reviser's note—Sunset Act application: The community diversification program is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.367. RCW 43.63A.450 is scheduled for future repeal under RCW 43.131.368.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Legislative finding—1990 c 278: "The legislature finds that the industrial and manufacturing base of the Washington economy has undergone tremendous change during the past two decades. The challenge facing Washington firms is to become as productive and efficient as possible to survive in an increasingly competitive world market. Many of the state's communities are dependent on one or two industries. Many firms are heavily reliant on the defense expenditures of the federal government. It is the intent of the legislature to assist communities in planning for economic change, developing a broader economic base, and preparing for any shift in federal priorities that could cause a reduction in federal expenditures, and assist firms by providing information and technical assistance necessary for them to introduce new products or production processes." [1990 c 278 § 1.]

Severability—1990 c 278: "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." [1990 c 278 § 6.]

43.63A.460 Manufactured housing—Department duties. (Effective July 1, 1994.) Beginning on July 1, 1991, the department of community, trade, and economic development shall be responsible for performing all the consumer complaint and related functions of the state administrative agency that are required for purposes of complying with the regulations established by the federal department of housing and urban development for manufactured housing, including the preparation and submission of the state administrative plan.

The department of community, trade, and economic development may enter into state or local interagency

agreements to coordinate site inspection activities with record monitoring and complaint handling. The interagency agreement may also provide for the reimbursement for cost of work that an agency performs. The department may include other related areas in any interagency agreements which are necessary for the efficient provision of services.

The department of labor and industries shall transfer all records, files, books, and documents necessary for the department of community, trade, and economic development to assume these new functions.

The directors of community, trade, and economic development and the department of labor and industries shall immediately take such steps as are necessary to ensure that *this act is implemented on June 7, 1990. [1993 c 280 § 76; 1990 c 176 § 2.]

***Reviser's note:** For codification of "this act" [1990 c 176], see note following RCW 43.22.495.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330,903.

Transfer of duties from the department of labor and industries: RCW 43.22.495.

43.63A.465 Manufactured housing—Federal standards—Enforcement. (Contingent expiration date.) The director of the department of community development shall enforce manufactured housing safety and construction standards adopted by the secretary of housing and urban development under the National Manufactured Housing Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426). Furthermore, the director may make agreements with the United States government, state agencies, or private inspection organizations to implement the development and enforcement of applicable provisions of this chapter and the National Manufactured Housing Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426) regarding the state administrative agency program. [1993 c 124 § 1.]

43.63A.470 Manufactured housing—Inspections, investigations. (Contingent expiration date.) (1) The director or the director's authorized representative shall conduct such inspections and investigations as may be necessary to implement or enforce manufactured housing rules adopted under the authority of this chapter or to carry out the director's duties under this chapter.

(2) For the purposes of enforcement of this chapter, persons duly designated by the director upon presenting appropriate credentials to the owner, operator, or agent in charge shall:

(a) At reasonable times and without advance notice enter any factory, warehouse, or establishment in which manufactured homes are manufactured, stored, or held for sale; and

(b) At reasonable times, within reasonable limits, and in a reasonable manner inspect any factory, warehouse, or establishment as required to comply with the standards adopted by the secretary of housing and urban development under the National Manufactured Housing Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426). Each inspection shall be commenced and completed with reasonable promptness.

(3) For the purpose of carrying out the provisions of this chapter, the director or the director's authorized representative is authorized:

(a) To require, by general or special orders, any factory, warehouse, or establishment in which manufactured homes are manufactured, to file, in such form as prescribed, reports or answers in writing to specific questions relating to any function of the department under this chapter. Such reports and answers shall be made under oath or otherwise, and shall be filed with the department within such reasonable time periods as prescribed by the department; and

(b) To hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records, as the director or such officer or employee deems advisable.

(4) In carrying out the inspections authorized by this section the director shall establish by rule, under chapter 34.05 RCW, and impose on manufactured home manufacturers, distributors, and dealers such reasonable fees as may be necessary to offset the expenses incurred by the director in conducting the inspections, provided these fees are set in accordance with guidelines established by the United States secretary of housing and urban development. [1993 c 124 § 5.]

43.63A.475 Manufactured housing—Rules. (Contingent expiration date.) The department shall adopt all rules under chapter 34.05 RCW necessary to implement chapter 124, Laws of 1993, giving due consideration to standards and regulations adopted by the secretary of housing and urban development under the National Manufactured Housing Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426) for manufactured housing construction and safety standards. [1993 c 124 § 2.]

43.63A.480 Manufactured housing—Hearing procedures. (Contingent expiration date.) The department shall adopt appropriate hearing procedures under chapter 34.05 RCW for the holding of formal and informal presentation of views, giving due consideration to hearing procedures adopted by the secretary of housing and urban development under the National Manufactured Housing Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426). [1993 c 124 § 3.]

43.63A.485 Manufactured housing—Violations—Fines. (Contingent expiration date.) (1) A person who violates any of the provisions of the National Manufactured Housing Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426) applicable to RCW 43.63A.465, 43.63A.470, 43.63A.475, and 43.63A.480 or any rules adopted under RCW 43.63A.465, 43.63A.470, 43.63A.475, and 43.63A.480 is liable to the state of Washington for a civil penalty of not to exceed one thousand dollars for each such violation. Each violation of the provisions of the National Manufactured Housing Construction and Safety Standards Act of 1974 (800 Stat. 700; 42

U.S.C. Secs. 5401-5426) applicable to RCW 43.63A.465, 43.63A.470, 43.63A.475, and 43.63A.480 or any rules adopted under RCW 43.63A.465, 43.63A.470, 43.63A.475, and 43.63A.480, shall constitute a separate violation with respect to each manufactured home or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty may not exceed one million dollars for any related series of violations occurring within one year from the date of the first violation.

(2) An individual or a director, officer, or agent of a corporation who knowingly and willfully violates any of the provisions of RCW 43.63A.465, 43.63A.470, 43.63A.475, and 43.63A.480 or any rules adopted under RCW 43.63A.465, 43.63A.470, 43.63A.475, and 43.63A.480, in a manner that threatens the health or safety of any purchaser, shall be fined not more than one thousand dollars or imprisoned not more than one year, or both.

(3) Any legal fees, court costs, expert witness fees, and staff costs expended by the state in successfully pursuing violators of RCW 43.63A.465, 43.63A.470, 43.63A.475, and 43.63A.480 shall be reimbursed in full by the violators. [1993 c 124 § 4.]

43.63A.490 Manufactured housing—Contingent expiration date. RCW 43.63A.465 through 43.63A.490 shall expire and be of no force and effect on January 1 in any year following the failure of the United States department of housing and urban development to reimburse the state for the duties described in RCW 43.63A.465 through 43.63A.490. [1993 c 124 § 6.]

43.63A.510 Affordable housing—Inventory of state-owned land. (1) The department shall work with the departments of natural resources, transportation, social and health services, corrections, and general administration to identify and catalog under-utilized, state-owned land and property suitable for the development of affordable housing for very low-income, low-income or moderate-income households. The departments of natural resources, transportation, social and health services, corrections, and general administration shall provide an inventory of real property that is owned or administered by each agency and is available for lease or sale. The inventories shall be provided to the department by November 1, 1993, with inventory revisions provided each November 1 thereafter.

(2) Upon written request, the department shall provide a copy of the inventory of state-owned and publicly owned lands and buildings to parties interested in developing the sites for affordable housing.

(3) As used in this section:

(a) "Affordable housing" means residential housing that is rented or owned by a person who qualifies as a very low-income, low-income, or moderate-income household or who is from a special needs population, and whose monthly housing costs, including utilities other than telephone, do not exceed thirty percent of the household's monthly income.

(b) "Very low-income household" means a single person, family, or unrelated persons living together whose income is at or below fifty percent of the median income, adjusted for household size, for the county where the affordable housing is located.

(c) "Low-income household" means a single person, family, or unrelated persons living together whose income is more than fifty percent but is at or below eighty percent of the median income where the affordable housing is located.

(d) "Moderate-income household" means a single person, family, or unrelated persons living together whose income is more than eighty percent but is at or below one hundred fifteen percent of the median income where the affordable housing is located. [1993 c 461 § 2; 1990 c 253 § 6.]

Finding—1993 c 461: "(1) The legislature finds that:

(a) The lack of affordable housing for very low-income, low-income, or moderate-income households and special needs populations is intensified by the rising cost of land and construction; and

(b) There are publicly owned land and buildings which may be suitable to be marketed, sold, leased, or exchanged for the development of affordable housing.

(2) The legislature declares that the purpose of this act is to:

(a) Provide for an analysis of the inventory of state-owned lands and buildings prepared by the departments of natural resources, transportation, corrections, and general administration;

(b) Identify other publicly owned land and buildings that may be suitable for the development of affordable housing for very-low income, low-income, or moderate-income households and special needs populations;

(c) Provide a central location of inventories of state and publicly owned land and buildings that may be suitable to be marketed, sold, leased, or exchanged for the development of affordable housing; and

(d) Encourage an effective use of publicly owned surplus and underutilized land and buildings suitable for the development of affordable housing for very low-income, low-income, or moderate-income households and special needs populations." [1993 c 461 § 1.]

Legislative finding and purpose—1990 c 253: See note following RCW 43.70.330.

43.63A.560 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.63A.600 Emergency mortgage and rental assistance program for dislocated forest products workers—Goals. (Effective July 1, 1994.) (1) The department of community, trade, and economic development, as a member of the agency timber task force and in consultation with the economic recovery coordination board, shall establish and administer the emergency mortgage and rental assistance program. The department shall identify the communities most adversely affected by reductions in timber harvest levels and shall prioritize assistance under this program to these communities. The department shall work with the department of social and health services and the timber recovery coordinator to develop the program in timber impact areas. Organizations eligible to receive funds for distribution under the program are those organizations that are eligible to receive assistance through the Washington housing trust fund.

(2) The goals of the program are to:

(a) Provide temporary emergency mortgage or rental assistance loans on behalf of dislocated forest products workers in timber impact areas who are unable to make current mortgage or rental payments on their permanent residences and are subject to immediate eviction for nonpayment of mortgage installments or nonpayment of rent;

(b) Prevent the dislocation of individuals and families from their permanent residences and their communities; and

(c) Maintain economic and social stability in timber impact areas. [1993 c 280 § 77; 1991 c 315 § 23.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Intent—1991 c 315: See note following RCW 50.12.270.

Severability—Conflict with federal requirements—Effective date—1991 c 315: See RCW 50.70.900 through 50.70.902.

43.63A.650 Housing—Department's coordination duties. (1) The department shall be the principal state department responsible for coordinating federal and state resources and activities in housing, except for programs administered by the Washington state housing finance commission under chapter 43.180 RCW, and for evaluating the operations and accomplishments of other state departments and agencies as they affect housing.

(2) The department shall work with local governments, tribal organizations, local housing authorities, nonprofit community or neighborhood-based organizations, and regional or state-wide nonprofit housing assistance organizations, for the purpose of coordinating federal and state resources with local resources for housing. [1993 c 478 § 13.]

43.63A.660 Housing—Technical assistance and information, affordable housing. The department shall provide technical assistance and information to state agencies and local governments to assist in the identification and removal of regulatory barriers to the development and placement of affordable housing. In providing assistance the department may:

(1) Analyze the costs and benefits of state legislation, rules, and administrative actions and their impact on the development and placement of affordable housing;

(2) Analyze the costs and benefits of local legislation, rules, and administrative actions and their impact on the development and placement of affordable housing;

(3) Assist state agencies and local governments in determining the impact of existing and anticipated actions, legislation, and rules on the development and placement of affordable housing;

(4) Investigate techniques and opportunities for reducing the life-cycle housing costs through regulatory reform;

(5) Develop model standards and ordinances designed to reduce regulatory barriers to affordable housing and assisting in their adoption and use at the state and local government level;

(6) Provide technical assistance and information to state agencies and local governments for implementation of legislative and administrative reform programs to remove barriers to affordable housing;

(7) Prepare state regulatory barrier removal strategies;

(8) Provide staffing to the affordable housing advisory board created in RCW 43.185B.020; and

(9) Perform other activities as the director deems necessary to assist the state, local governments, and the housing industry in meeting the affordable housing needs of the state. [1993 c 478 § 14.]

43.63A.670 Home-matching program—Finding, purpose. (1) The legislature finds that:

(a) The trend toward smaller household sizes will continue into the foreseeable future;

(b) Many of these households are in housing units that contain more bedrooms than occupants;

(c) There are older homeowners on relatively low, fixed income who are experiencing difficulties maintaining their homes; and

(d) There are single parents, recently widowed persons, people in the midst of divorce or separation, and handicapped that are faced with displacement due to the high cost of housing.

(2) The legislature declares that the purpose of RCW 43.63A.680 is to develop a pilot program designed to:

(a) Provide home-matching services that can enable people to continue living in their homes while promoting continuity of home ownership and community stability; and

(b) Counter the problem of displacement among people on relatively low, fixed incomes by linking people offering living space with people seeking housing. [1993 c 478 § 18.]

43.63A.680 Home-matching program—Pilot programs. (1) The department may develop and administer a home-matching program for the purpose of providing grants and technical assistance to eligible organizations to operate local home-matching programs. For purposes of this section, "eligible organizations" are those organizations eligible to receive assistance through the Washington housing trust fund, chapter 43.185 RCW.

(2) The department may select up to five eligible organizations for the purpose of implementing a local home-matching program. The local home-matching programs are designed to facilitate: (a) Intergenerational homesharing involving older homeowners sharing homes with younger persons; (b) homesharing arrangements that involve an exchange of services such as cooking, housework, gardening, or babysitting for room and board or some financial consideration such as rent; and (c) the more efficient use of available housing.

(3) In selecting local pilot programs under this section, the department shall consider:

(a) The eligible organization's ability, stability, and resources to implement the local home-matching program;

(b) The eligible organization's efforts to coordinate other support services needed by the individual or family participating in the local home-matching program; and

(c) Other factors the department deems appropriate.

(4) The eligible organizations shall establish criteria for participation in the local home-matching program. The eligible organization shall make a determination of eligibility regarding the individuals' or families' participation in the local home-matching program. The determination shall include, but is not limited to a verification of the individual's or family's history of making rent payments in a consistent and timely manner. [1993 c 478 § 19.]

43.63A.690 Minority and women-owned business enterprises—Linked deposit program. (1) The department shall provide technical assistance and loan packaging services that enable minority and women-owned business

enterprises to obtain financing under the linked deposit program created under RCW 43.86A.060.

(2) The department shall, in consultation with the state treasurer, monitor the performance of loans made to minority and women-owned business enterprises under RCW 43.86A.060. [1993 c 512 § 31.]

Sunset Act application: See note following RCW 43.86A.060.

Finding—Intent—1993 c 512: See note following RCW 43.86A.060.

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

43.63A.700 Neighborhood reinvestment area—Application. (1) The department, in cooperation with the department of revenue, the employment security department, and the office of financial management, shall approve applications submitted by local governments for designation as a neighborhood reinvestment area under this section. The application shall be in the form and manner and contain such information as the department may prescribe, provided that the application for designation shall:

(a) Contain information sufficient for the director to determine if the criteria established in RCW 43.63A.710 have been met.

(b) Be submitted on behalf of the local government by its chief elected official, or, if none, by the governing body of the local government.

(c) Contain a five-year neighborhood reinvestment plan that describes the proposed designated neighborhood reinvestment area's community development needs and present a strategy for meeting those needs. The plan shall address the following categories: Housing needs; public infrastructure needs, such as transportation, water, sanitation, energy, and drainage/flood control; other public facilities needs, such as neighborhood facilities or facilities for provision of health, education, recreation, public safety, or other services; community economic development needs, such as commercial/industrial revitalization, job creation and retention considering the unemployment and underemployment of area residents, accessibility to financial resources by area residents and businesses, investment within the area, or other related components of community economic development; and social service needs.

The local government is required to provide a description of its strategy for meeting the needs identified in this subsection (1)(c). As part of the strategy, the local government is required to identify the needs for which specific plans are currently in place and the source of funds expected to be used. For the balance of the area's needs, the local government must identify the source of funds expected to become available during the next two-year period and actions the local government will take to acquire those funds.

(d) Certify that neighborhood residents were given the opportunity to participate in the development of the five-year neighborhood reinvestment strategy required under (c) of this subsection.

(2) No local government shall submit more than two neighborhoods to the department for possible designation as a designated neighborhood reinvestment area under this section.

(3)(a) Within ninety days after January 1, 1994, the director may designate up to six designated neighborhood reinvestment areas from among the applications eligible for designation as a designated neighborhood reinvestment area under this section. The director shall make determinations of designated neighborhood reinvestment areas on the basis of the following factors:

(i) The strength and quality of the local government commitments to meet the needs identified in the five-year neighborhood reinvestment plan required under this section.

(ii) The level of private commitments by private entities of additional resources and contribution to the designated neighborhood reinvestment area.

(iii) The potential for reinvestment in the area as a result of designation as a designated neighborhood reinvestment area.

(iv) Other factors the director of the department of community development deems necessary.

(b) The determination of the director as to the areas designated as neighborhood reinvestment areas shall be final. [1993 1st sp.s. c 25 § 401.]

Severability—Effective dates—Part headings, captions not law—1993 1st sp.s. c 25: See notes following RCW 82.04.230.

43.63A.710 Neighborhood reinvestment area—Requirements. (1) The director may not designate an area as a designated neighborhood reinvestment area unless that area meets the following requirements:

(a) The area must be designated by the legislative authority of the local government as an area to receive federal, state, and local assistance designed to increase economic, physical, or social activity in the area;

(b) The area must have at least fifty-one percent of the households in the area with incomes at or below eighty percent of the county's median income, adjusted for household size;

(c) The average unemployment rate for the area, for the most recent twelve-month period for which data is available must be at least one hundred twenty percent of the average unemployment rate of the county; and

(d) A five-year neighborhood reinvestment plan for the area that meets the requirements of RCW 43.63A.700(1)(c) and as further defined by the director must be adopted.

(2) The director may establish, by rule, such other requirements as the director may reasonably determine necessary and appropriate to assure that the purposes of this section are satisfied.

(3) In determining if an area meets the requirements of this section, the director may consider data provided by the United States bureau of the census from the most recent census or any other reliable data that the director determines to be acceptable for the purposes for which the data is used. [1993 1st sp.s. c 25 § 402.]

Severability—Effective dates—Part headings, captions not law—1993 1st sp.s. c 25: See notes following RCW 82.04.230.

Chapter 43.70
DEPARTMENT OF HEALTH

Sections

43.70.110 License fees—Exemption—Waiver. (1) The secretary shall charge fees to the licensee for obtaining a license. After June 30, 1995, municipal corporations providing emergency medical care and transportation services pursuant to chapter 18.73 RCW shall be exempt from such fees, provided that such other emergency services shall only be charged for their pro rata share of the cost of licensure and inspection, if appropriate. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

(3) Department of health advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees. [1993 1st sp.s. c 24 § 918; 1989 1st ex.s. c 9 § 263.]

Severability—Effective dates—1993 1st sp.s. c 24: See notes following RCW 28A.165.070.

43.70.320 Health professions account—Fees credited—Requirements for biennial budget request. (1) There is created in the state treasury an account to be known as the health professions account. All fees received by the department for health professions licenses, registration, certifications, renewals, or examinations and the civil penalties assessed and collected by the department under RCW 18.130.190 shall be forwarded to the state treasurer who shall credit such moneys to the health professions account.

(2) All expenses incurred in carrying out the health professions licensing activities of the department shall be paid from the account as authorized by legislative appropriation. Any residue in the account shall be accumulated and shall not revert to the general fund at the end of the biennium.

(3) The secretary shall biennially prepare a budget request based on the anticipated costs of administering the health professions licensing activities of the department which shall include the estimated income from health professions fees. [1993 c 492 § 411; 1991 sp.s. c 13 § 18; 1991 c 3 § 299; 1985 c 57 § 29; 1983 c 168 § 5. Formerly RCW 43.24.072.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

Severability—1983 c 168: See RCW 18.120.910.

43.70.460 Retired primary care provider liability malpractice insurance—Program authorized. (1) The department may establish a program to purchase and maintain liability malpractice insurance for retired primary care providers 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 primary care providers 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 RCW 43.70.470 shall not be interpreted to require a liability insurer to provide coverage to a primary care provider should the insurer determine that coverage should not be offered to a physician [primary care provider] 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 [primary care providers] that provided health care services under this section and RCW 43.70.470. This protection of immunity shall not extend to any clinic or primary care provider participating in the program.

(4) The department may monitor the claims experience of retired physicians [primary care providers] covered by liability insurers contracting with the department.

(5) The department may provide liability insurance under chapter 113, Laws of 1992 only to the extent funds are provided for this purpose by the legislature. [1993 c 492 § 276; 1992 c 113 § 2.]

Finding—1993 c 492: See note following RCW 28B.125.010.

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Legislative declaration—1992 c 113: "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." [1992 c 113 § 1.]

43.70.470 Retired primary care provider liability malpractice insurance—Conditions. The department may establish by rule the conditions of participation in the liability insurance program by retired primary care providers at clinics utilizing retired physicians [primary care providers] for the purposes of this section and RCW 43.70.460. These conditions shall include, but not be limited to, the following:

(1) The participating primary care provider associated with the clinic shall hold a valid license to practice as a physician under chapter 18.71 or 18.57 RCW, a naturopath under chapter 18.36A RCW, a physician assistant under chapter 18.71A or 18.57A RCW, an advanced registered nurse practitioner under chapter 18.88 RCW, a dentist under chapter 18.32 RCW, or other health professionals as may be deemed in short supply in the health personnel resource plan under chapter 28B.125 RCW. All primary care providers must be in conformity with current requirements for licensure as a retired primary care provider, including continuing education requirements;

(2) The participating primary care provider 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. Primary dental care shall be limited to diagnosis, oral hygiene, restoration, and extractions and shall not include orthodontia, or other specialized care and treatment;

(3) The provision of liability insurance coverage shall not extend to acts outside the scope of rendering medical services pursuant to this section and RCW 43.70.460;

(4) The participating primary care provider shall limit the provision of health care services to primarily 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 primary care provider shall not accept compensation for providing health care services from patients served pursuant to this section and RCW 43.70.460, nor from clinics serving these patients. "Compensation" shall mean any remuneration of value to the participating primary care provider for services provided by the primary care provider, but shall not be construed to include any nominal copayments charged by the clinic, nor reimbursement of related expenses of a participating primary care provider 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. [1993 c 492 § 277; 1992 c 113 § 3.]

Finding—1993 c 492: See note following RCW 28B.125.010.

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Legislative declaration—1992 c 113: See note following RCW 43.70.460.

43.70.500 Health care services practice indicators and risk management protocols. The department of health shall consult with health care providers and facilities, purchasers, health professional regulatory authorities under RCW 18.130.040, appropriate research and clinical experts, and consumers of health care services to identify specific practice areas where practice indicators and risk management protocols have been developed, including those that have been demonstrated to be effective among persons of color. Practice indicators shall be based upon expert consensus and best available scientific evidence. The department shall:

(1) Develop a definition of expert consensus and best available scientific evidence so that practice indicators can serve as a standard for excellence in the provision of health care services.

(2) Establish a process to identify and evaluate practice indicators and risk management protocols as they are developed by the appropriate professional, scientific, and clinical communities.

(3) Recommend the use of practice indicators and risk management protocols in quality assurance, utilization review, or provider payment to the health services commission. [1993 c 492 § 410.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

43.70.510 Health care services coordinated quality improvement program. (1)(a) Health care institutions and medical facilities, other than hospitals, that are licensed by the department, professional societies or organizations, and certified health plans approved pursuant to RCW 43.72.100 may maintain a coordinated quality improvement program for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice as set forth in RCW 70.41.200.

(b) All such programs shall comply with the requirements of RCW 70.41.200(1)(a), (c), (d), (e), (f), (g), and (h) as modified to reflect the structural organization of the institution, facility, professional societies or organizations, or certified health plan, unless an alternative quality improvement program substantially equivalent to RCW 70.41.200(1)(a) is developed. All such programs, whether complying with the requirement set forth in RCW 70.41.200(1)(a) or in the form of an alternative program, must be approved by the department before the discovery limitations provided in subsections (3) and (4) of this section shall apply. In reviewing plans submitted by licensed entities that are associated with physicians' offices, the department shall ensure that the discovery limitations of this section are applied only to information and documents related specifically to quality improvement activities undertaken by the licensed entity.

(2) Health care provider groups of ten or more providers may maintain a coordinated quality improvement program for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice as set forth in RCW 70.41.200. All

such programs shall comply with the requirements of RCW 70.41.200(1)(a), (c), (d), (e), (f), (g), and (h) as modified to reflect the structural organization of the health care provider group. All such programs must be approved by the department before the discovery limitations provided in subsections (3) and (4) of this section shall apply.

(3) Any person who, in substantial good faith, provides information to further the purposes of the quality improvement and medical malpractice prevention program or who, in substantial good faith, participates on the quality improvement committee shall not be subject to an action for civil damages or other relief as a result of such activity.

(4) Information and documents, including complaints and incident reports, created specifically for, and collected, and maintained by a quality improvement committee are not subject to discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude: (a) In any civil action, the discovery of the identity of persons involved in the medical care that is the basis of the civil action whose involvement was independent of any quality improvement activity; (b) in any civil action, the testimony of any person concerning the facts that form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (c) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence information collected and maintained by quality improvement committees regarding such health care provider; (d) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restrictions imposed, if any and the reasons for the restrictions; or (e) in any civil action, discovery and introduction into evidence of the patient's medical records required by rule of the department of health to be made regarding the care and treatment received.

(5) The department of health shall adopt rules as are necessary to implement this section. [1993 c 492 § 417.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

43.70.520 Public health services improvement plan. (1) The legislature finds that the public health functions of community assessment, policy development, and assurance of service delivery are essential elements in achieving the objectives of health reform in Washington state. The legislature further finds that the population-based services provided by state and local health departments are cost-effective and are a critical strategy for the long-term containment of health care costs. The legislature further finds that the public health system in the state lacks the capacity to fulfill these functions consistent with the needs of a reformed health care system.

(2) The department of health shall develop, in consultation with local health departments and districts, the state board of health, the health services commission, area Indian health service, and other state agencies, health services providers, and citizens concerned about public health, a public health services improvement plan. The plan shall provide a detailed accounting of deficits in the core functions of assessment, policy development, assurance of the current public health system, how additional public health funding would be used, and describe the benefits expected from expanded expenditures.

(3) The plan shall include:

(a) Definition of minimum standards for public health protection through assessment, policy development, and assurances:

(i) Enumeration of communities not meeting those standards;

(ii) A budget and staffing plan for bringing all communities up to minimum standards;

(iii) An analysis of the costs and benefits expected from adopting minimum public health standards for assessment, policy development, and assurances;

(b) Recommended strategies and a schedule for improving public health programs throughout the state, including:

(i) Strategies for transferring personal health care services from the public health system, into the uniform benefits package where feasible; and

(ii) Timing of increased funding for public health services linked to specific objectives for improving public health; and

(c) A recommended level of dedicated funding for public health services to be expressed in terms of a percentage of total health service expenditures in the state or a set per person amount; such recommendation shall also include methods to ensure that such funding does not supplant existing federal, state, and local funds received by local health departments, and methods of distributing funds among local health departments.

(4) The department shall coordinate this planning process with the study activities required in section 258, chapter 492, Laws of 1993.

(5) By March 1, 1994, the department shall provide initial recommendations of the public health services improvement plan to the legislature regarding minimum public health standards, and public health programs needed to address urgent needs, such as those cited in subsection (7) of this section.

(6) By December 1, 1994, the department shall present the public health services improvement plan to the legislature, with specific recommendations for each element of the plan to be implemented over the period from 1995 through 1997.

(7) Thereafter, the department shall update the public health services improvement plan for presentation to the legislature prior to the beginning of a new biennium.

(8) Among the specific population-based public health activities to be considered in the public health services improvement plan are: Health data assessment and chronic and infectious disease surveillance; rapid response to outbreaks of communicable disease; efforts to prevent and control specific communicable diseases, such as tuberculosis and acquired immune deficiency syndrome; health education

to promote healthy behaviors and to reduce the prevalence of chronic disease, such as those linked to the use of tobacco; access to primary care in coordination with existing community and migrant health clinics and other not for profit health care organizations; programs to ensure children are born as healthy as possible and they receive immunizations and adequate nutrition; efforts to prevent intentional and unintentional injury; programs to ensure the safety of drinking water and food supplies; poison control; trauma services; and other activities that have the potential to improve the health of the population or special populations and reduce the need for or cost of health services. [1993 c 492 § 467.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

43.70.530 Home visitor program. The department of health, the department of social and health services, the department of community development, the superintendent of public instruction, and the employment security department shall, collectively and collaboratively, develop a plan for a home health visitor program that shall have as its primary purpose the prevention of child abuse and neglect through the provision of selected educational and supportive services to high risk parents of newborns.

(1) The program shall: (a) Be community-based; (b) include early hospital-based screening to identify high risk parents of newborns; (c) provide for an effective, in-home outreach and support program for high risk parents of newborns that involves: (i) Frequent home visits, (ii) parent training on early childhood development, parenting, and the stress factors that lead to abuse and neglect, and (iii) referrals to needed social and health services; and (d) demonstrate effective coordination among current community-based programs that may also serve high risk parents and their infants, including child abuse prevention programs, first steps, second steps, the early childhood education and assistance program, the healthy kids program, child welfare services, the women, infants, and child [children] program, the high priority infant tracking program, the birth to six program, local and state public health prevention and early intervention services, and other services as identified.

(2) The plan shall: (a) Include an estimate and a description of the high risk groups to be served; (b) detail the screening process and mechanisms to be used to identify high risk parents; (c) detail the services to be included in the in-home program; (d) describe staffing that may include the use of teams of professionals, paraprofessionals, and volunteers; (e) describe how the program will be evaluated, including the measurable outcomes to be achieved; and (f) provide an estimate of the costs to fully implement the program state-wide, and for possible consideration, a series of pilot projects with a phased-in schedule.

(3) The plan shall be provided to the appropriate legislative committees by December 1, 1993. [1993 c 179 § 2.]

Intent—1993 c 179: "The incidence of child abuse and neglect has reached epidemic proportions in the nation. In Washington state alone, there were sixty-two thousand five hundred reports of child abuse and neglect in 1991. That is one occurrence for every twenty-one children in this state. Research shows that most reported cases of physical abuse and neglect occurs among children under the age of five. Research also shows that child abuse and neglect can be prevented. One of the most effective strategies for preventing child abuse and neglect is to provide parents who are most at risk of abuse, with education and supportive services beginning at the time their infant is born and continuing in the home. Therefore, it is the legislature's intent to develop the home health visitor program in this state." [1993 c 179 § 1.]

Effective date—1993 c 179: "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 [April 30, 1993]." [1993 c 179 § 3.]

Chapter 43.72

HEALTH SYSTEM REFORM—HEALTH SERVICES COMMISSION

Sections

43.72.005 Intent. The legislature intends that chapter 492, Laws of 1993 establish structures, processes, and specific financial limits to stabilize the overall cost of health services within the economy, reduce the demand for unneeded health services, provide access to essential health services, improve public health, and ensure that health system costs do not undermine the financial viability of nonhealth care businesses. [1993 c 492 § 401.]

Findings—1993 c 492: "The legislature finds that our health and financial security are jeopardized by our ever increasing demand for health care and by current health insurance and health system practices. Current health system practices encourage public demand for unneeded, ineffective, and sometimes dangerous health treatments. These practices often result in unaffordable cost increases that far exceed ordinary inflation for essential care. Current total health care expenditure rates should be sufficient to provide access to essential health care interventions to all within a reformed, efficient system.

The legislature finds that too many of our state's residents are without health insurance, that each year many individuals and families are forced into poverty because of serious illness, and that many must leave gainful employment to be eligible for publicly funded medical services. Additionally, thousands of citizens are at risk of losing adequate health insurance, have had insurance canceled recently, or cannot afford to renew existing coverage.

The legislature finds that businesses find it difficult to pay for health insurance and remain competitive in a global economy, and that individuals, the poor, and small businesses bear an inequitable health insurance burden.

The legislature finds that persons of color have significantly higher rates of mortality and poor health outcomes, and substantially lower numbers and percentages of persons covered by health insurance than the general population. It is intended that chapter 492, Laws of 1993 make provisions to address the special health care needs of these racial and ethnic populations in order to improve their health status.

The legislature finds that uncontrolled demand and expenditures for health care are eroding the ability of families, businesses, communities, and governments to invest in other enterprises that promote health, maintain independence, and ensure continued economic welfare. Housing, nutrition, education, and the environment are all diminished as we invest ever increasing shares of wealth in health care treatments.

The legislature finds that while immediate steps must be taken, a long-term plan of reform is also needed." [1993 c 492 § 101.]

Intent—1993 c 492: "(1) The legislature intends that state government policy stabilize health services costs, assure access to essential services for all residents, actively address the health care needs of persons of color, improve the public's health, and reduce unwarranted health services costs to preserve the viability of nonhealth care businesses.

(2) The legislature intends that:

(a) Total health services costs be stabilized and kept within rates of increase similar to the rates of personal income growth within a publicly regulated, private marketplace that preserves personal choice;

(b) State residents be enrolled in the certified health plan of their choice that meets state standards regarding affordability, accessibility, cost-effectiveness, and clinical efficaciousness;

(c) State residents be able to choose health services from the full range of health care providers, as defined in RCW 43.72.010(12), in a manner consistent with good health services management, quality assurance, and cost effectiveness;

(d) Individuals and businesses have the option to purchase any health services they may choose in addition to those included in the uniform benefits package or supplemental benefits;

(e) All state residents, businesses, employees, and government participate in payment for health services, with total costs to individuals on a sliding scale based on income to encourage efficient and appropriate utilization of services;

(f) These goals be accomplished within a reformed system using private service providers and facilities in a way that allows consumers to choose among competing plans operating within budget limits and other regulations that promote the public good; and

(g) A policy of coordinating the delivery, purchase, and provision of health services among the federal, state, local, and tribal governments be encouraged and accomplished by chapter 492, Laws of 1993.

(3) Accordingly, the legislature intends that chapter 492, Laws of 1993 provide both early implementation measures and a process for overall reform of the health services system." [1993 c 492 § 102.]

Finding—1993 c 492: See note following RCW 28B.125.010.

43.72.010 Definitions. In this chapter, unless the context otherwise requires:

(1) "Certified health plan" or "plan" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, a health maintenance organization as defined in RCW 48.46.020, or an entity certified in accordance with RCW 48.43.020 through 48.43.120.

(2) "Chair" means the presiding officer of the Washington health services commission.

(3) "Commission" or "health services commission" means the Washington health services commission.

(4) "Community rate" means the rating method used to establish the premium for the uniform benefits package adjusted to reflect actuarially demonstrated differences in utilization or cost attributable to geographic region and family size as determined by the commission.

(5) "Continuous quality improvement and total quality management" means a continuous process to improve health services while reducing costs.

(6) "Employee" means a resident who is in the employment of an employer, as defined by chapter 50.04 RCW.

(7) "Enrollee" means any person who is a Washington resident enrolled in a certified health plan.

(8) "Enrollee point of service cost-sharing" means amounts paid to certified health plans directly providing services, health care providers, or health care facilities by enrollees for receipt of specific uniform benefits package services, and may include copayments, coinsurance, or deductibles, that together must be actuarially equivalent across plans and within overall limits established by the commission.

(9) "Enrollee premium sharing" means that portion of the premium that is paid by enrollees or their family members.

(10) "Federal poverty level" means the federal poverty guidelines determined annually by the United States department of health and human services or successor agency.

(11) "Health care facility" or "facility" means hospices licensed under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW, rural health [care] facilities as defined in RCW 70.175.020, psychiatric hospitals licensed under chapter 71.12 RCW, nursing homes licensed under chapter 18.51 RCW, community mental health centers licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed under chapter 70.41 RCW, ambulatory diagnostic, treatment or surgical facilities licensed under chapter 70.41 RCW, drug and alcohol treatment facilities licensed under chapter 70.96A RCW, and home health agencies licensed under chapter 70.127 RCW, and includes such facilities if owned and operated by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations, but does not include Christian Science sanatoriums operated,

listed, or certified by the First Church of Christ Scientist, Boston, Massachusetts.

(12) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 RCW and chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

(13) "Health insurance purchasing cooperative" or "cooperative" means a member-owned and governed nonprofit organization certified in accordance with RCW 43.72.080 and 48.43.160.

(14) "Long-term care" means institutional, residential, outpatient, or community-based services that meet the individual needs of persons of all ages who are limited in their functional capacities or have disabilities and require assistance with performing two or more activities of daily living for an extended or indefinite period of time. These services include case management, protective supervision, in-home care, nursing services, convalescent, custodial, chronic, and terminally ill care.

(15) "Major capital expenditure" means any project or expenditure for capital construction, renovations, or acquisition, including medical technological equipment, as defined by the commission, costing more than one million dollars.

(16) "Managed care" means an integrated system of insurance, financing, and health services delivery functions that: (a) Assumes financial risk for delivery of health services and uses a defined network of providers; or (b) assumes financial risk for delivery of health services and promotes the efficient delivery of health services through provider assumption of some financial risk including capitation, prospective payment, resource-based relative value scales, fee schedules, or similar method of limiting payments to health care providers.

(17) "Maximum enrollee financial participation" means the income-related total annual payments that may be required of an enrollee per family who chooses one of the three lowest priced uniform benefits packages offered by plans in a geographic region including both premium sharing and enrollee point of service cost-sharing.

(18) "Persons of color" means Asians/Pacific Islanders, African, Hispanic, and Native Americans.

(19) "Premium" means all sums charged, received, or deposited by a certified health plan as consideration for a uniform benefits package or the continuance of a uniform benefits package. Any assessment, or any "membership," "policy," "contract," "service," or similar fee or charge made by the certified health plan in consideration for the uniform benefits package is deemed part of the premium. "Premium" shall not include amounts paid as enrollee point of service cost-sharing.

(20) "Qualified employee" means an employee who is employed at least thirty hours during a week or one hundred twenty hours during a calendar month.

(21) "Registered employer health plan" means a health plan established by a private employer of more than seven thousand active employees in this state solely for the benefit of such employees and their dependents and that meets the requirements of RCW 43.72.120. Nothing contained in this subsection shall be deemed to preclude the plan from providing benefits to retirees of the employer.

(22) "Seasonal employee" means any person who works:

(a) For one or more employers during the calendar year;

(b) For six months or less, per year; and

(c) For at least half-time per month, during a designated season, within the same industry sector, designated by the commission, including food processing, agricultural production, agricultural harvesting, plantation Christmas tree planting, and tree planting on timber land.

(23) "Supplemental benefits" means those appropriate and effective health services that are not included in the uniform benefits package or that expand the type or level of health services available under the uniform benefits package and that are offered to all residents in accordance with the provisions of RCW 43.72.160 and 43.72.170.

(24) "Technology" means the drugs, devices, equipment, and medical or surgical procedures used in the delivery of health services, and the organizational or supportive systems within which such services are provided. It also means sophisticated and complicated machinery developed as a result of ongoing research in the basic biological and physical sciences, clinical medicine, electronics, and computer sciences, as well as specialized professionals, medical equipment, procedures, and chemical formulations used for both diagnostic and therapeutic purposes.

(25) "Uniform benefits package" or "package" means those appropriate and effective health services, defined by the commission under RCW 43.72.130, that must be offered to all Washington residents through certified health plans.

(26) "Washington resident" or "resident" means a person who intends to reside in the state permanently or indefinitely and who did not move to Washington for the primary purpose of securing health services under RCW 43.72.090 through 43.72.240, 43.72.300, 43.72.310, 43.72.800, and chapters 48.43 and 48.85 RCW. "Washington resident" also includes people and their accompanying family members who are residing in the state for the purpose of engaging in employment for at least one month, who did not enter the state for the primary purpose of obtaining health services. The confinement of a person in a nursing home, hospital, or other medical institution in the state shall not by itself be sufficient to qualify such person as a resident. [1993 c 494 § 1; 1993 c 492 § 402.]

43.72.020 Washington health services commission—Generally. (1) There is created an agency of state government to be known as the Washington health services commission. The commission shall consist of five members reflecting ethnic and racial diversity, appointed by the governor, with the consent of the senate. One member shall be designated by the governor as chair and shall serve at the pleasure of the governor. The insurance commissioner shall serve as an additional nonvoting member. Of the initial members, one shall be appointed to a term of three years, two shall be appointed to a term of four years, and two shall be appointed to a term of five years. Thereafter, members shall be appointed to five-year terms. Vacancies shall be filled by appointment for the remainder of the unexpired term of the position being vacated.

(2) Members of the commission shall have no pecuniary interest in any business subject to regulation by the commission and shall be subject to chapter 42.18 RCW, the executive branch conflict of interest act.

(3) Members of the commission shall occupy their positions on a full-time basis and are exempt from the provisions of chapter 41.06 RCW. Commission members and the professional commission staff are subject to the public disclosure provisions of chapter 42.17 RCW. Members shall be paid a salary to be fixed by the governor in accordance with RCW 43.03.040. A majority of the members of the commission constitutes a quorum for the conduct of business. [1993 c 492 § 403.]

43.72.030 Chair—Powers and duties. The chair shall be the chief administrative officer and the appointing authority of the commission and has the following powers and duties:

(1) Direct and supervise the commission's administrative and technical activities in accordance with the provisions of this chapter and rules and policies adopted by the commission;

(2) Employ personnel of the commission in accordance with chapter 41.06 RCW, and prescribe their duties. With the approval of a majority of the commission, the chair may appoint persons to administer any entity established pursuant to subsection (8) of this section, and up to seven additional employees all of whom shall be exempt from the provisions of chapter 41.06 RCW;

(3) Enter into contracts on behalf of the commission;

(4) Accept and expend gifts, donations, grants, and other funds received by the commission;

(5) Delegate administrative functions of the commission to employees of the commission as the chair deems necessary to ensure efficient administration;

(6) Subject to approval of the commission, appoint advisory committees and undertake studies, research, and analysis necessary to support activities of the commission;

(7) Preside at meetings of the commission;

(8) Consistent with policies and rules established by the commission, establish such administrative divisions, offices, or programs as are necessary to carry out the purposes of chapter 492, Laws of 1993; and

(9) Perform such other administrative and technical duties as are consistent with chapter 492, Laws of 1993 and the rules and policies of the commission. [1993 c 492 § 405.]

43.72.040 Commission powers and duties. The commission has the following powers and duties:

(1) Ensure that all residents of Washington state are enrolled in a certified health plan to receive the uniform benefits package, regardless of age, sex, family structure, ethnicity, race, health condition, geographic location, employment, or economic status.

(2) Endeavor to ensure that all residents of Washington state have access to appropriate, timely, confidential, and effective health services, and monitor the degree of access to such services. If the commission finds that individuals or populations lack access to certified health plan services, the commission shall:

(a) Authorize appropriate state agencies, local health departments, community or migrant health clinics, public hospital districts, or other nonprofit health service entities to take actions necessary to assure such access. This includes authority to contract for or directly deliver services described within the uniform benefits package to special populations; or

(b) Notify appropriate certified health plans and the insurance commissioner of such findings. The commission shall adopt by rule standards by which the insurance commissioner may, in such event, require certified health plans in closest proximity to such individuals and populations to extend their catchment areas to those individuals and populations and offer them enrollment.

(3) Adopt necessary rules in accordance with chapter 34.05 RCW to carry out the purposes of chapter 492, Laws of 1993. An initial set of draft rules establishing at least the commission's organization structure, the uniform benefits package, and standards for certified health plan certification, must be submitted in draft form to appropriate committees of the legislature by December 1, 1994.

(4) Establish and modify as necessary, in consultation with the state board of health and the department of health, and coordination with the planning process set forth in RCW 43.70.520 a uniform set of health services based on the recommendations of the health care cost control and access commission established under House Concurrent Resolution No. 4443 adopted by the legislature in 1990.

(5) Establish and modify as necessary the uniform benefits package as provided in RCW 43.72.130, which shall be offered to enrollees of a certified health plan. The benefit package shall be provided at no more than the maximum premium specified in subsection (6) of this section.

(6)(a) Establish for each year a community-rated maximum premium for the uniform benefits package that shall operate to control overall health care costs. The maximum premium cost of the uniform benefits package in the base year 1995 shall be established upon an actuarial determination of the costs of providing the uniform benefits package and such other cost impacts as may be deemed relevant by the commission. Beginning in 1996, the growth rate of the premium cost of the uniform benefits package for each certified health plan shall be allowed to increase by a rate no greater than the average growth rate in the cost of the package between 1990 and 1993 as actuarially determined, reduced by two percentage points per year until the growth rate is no greater than the five-year rolling average of growth in Washington per capita personal income, as determined by the office of financial management.

(b) In establishing the community-rated maximum premium under this subsection, the commission shall review various methods for establishing the community-rated maximum premium and shall recommend such methods to the legislature by December 1, 1994.

The commission may develop and recommend a rate for employees that provides nominal, if any, variance between the rate for individual employees and employees with dependents to minimize any economic incentive to an employer to discriminate between prospective employees based upon whether or not they have dependents for whom coverage would be required.

(c) If the commission adds or deletes services or benefits to the uniform benefits package in subsequent years, it may increase or decrease the maximum premium to reflect the actual cost experience of a broad sample of providers of that service in the state, considering the factors enumerated in (a) of this subsection and adjusted actuarially. The addition of services or benefits shall not result in a redetermination of the entire cost of the uniform benefits package.

(d) The level of state expenditures for the uniform benefits package shall be limited to the appropriation of funds specifically for this purpose.

(7) Determine the need for medical risk adjustment mechanisms to minimize financial incentives for certified health plans to enroll individuals who present lower health risks and avoid enrolling individuals who present higher health risks, and to minimize financial incentives for employer hiring practices that discriminate against individuals who present higher health risks. In the design of medical risk distribution mechanisms under this subsection, the commission shall (a) balance the benefits of price competition with the need to protect certified health plans from any unsustainable negative effects of adverse selection; (b) consider the development of a system that creates a risk profile of each certified health plan's enrollee population that does not create disincentives for a plan to control benefit utilization, that requires contributions from plans that enjoy a low-risk enrollee population to plans that have a high-risk enrollee population, and that does not permit an adjustment of the premium charged for the uniform benefits package or supplemental coverage based upon either receipt or contribution of assessments; and (c) consider whether registered employer health plans should be included in any medical risk adjustment mechanism. Proposed medical risk adjustment mechanisms shall be submitted to the legislature as provided in RCW 43.72.180.

(8) Design a mechanism to assure minors have access to confidential health care services as currently provided in RCW 70.24.110 and 71.34.030.

(9) Monitor the actual growth in total annual health services costs.

(10) Monitor the increased application of technology as required by chapter 492, Laws of 1993 and take necessary action to ensure that such application is made in a cost-effective and efficient manner and consistent with existing laws that protect individual privacy.

(11) Establish reporting requirements for certified health plans that own or manage health care facilities, health care facilities, and health care providers to periodically report to the commission regarding major capital expenditures of the plans. The commission shall review and monitor such reports and shall report to the legislature regarding major capital expenditures on at least an annual basis. The Washington health care facilities authority and the commission shall develop standards jointly for evaluating and approving major capital expenditure financing through the Washington health care facilities authority, as authorized pursuant to chapter 70.37 RCW. By December 1, 1994, the commission and the authority shall submit jointly to the legislature such proposed standards. The commission and the authority shall, after legislative review, but no later than June 1, 1995, publish such standards. Upon publication, the authority may not approve financing for major capital expenditures unless approved by the commission.

(12) Establish maximum enrollee financial participation levels. The levels shall be related to enrollee household income.

(13) For health services provided under the uniform benefits package and supplemental benefits, adopt standards for enrollment, and standardized billing and claims processing forms. The standards shall ensure that these procedures minimize administrative burdens on health care providers, health care facilities, certified health plans, and consumers. Subject to federal approval or phase-in schedules whenever necessary or appropriate, the standards also shall apply to state-purchased health services, as defined in RCW 41.05.011.

(14) Propose that certified health plans adopt certain practice indicators or risk management protocols for quality assurance, utilization review, or provider payment. The commission may consider indicators or protocols recommended according to RCW 43.70.500 for these purposes.

(15) Propose other guidelines to certified health plans for utilization management, use of technology and methods of payment, such as diagnosis-related groups and a resource-based relative value scale. Such guidelines shall be voluntary and shall be designed to promote improved management of care, and provide incentives for improved efficiency and effectiveness within the delivery system.

(16) Adopt standards and oversee and develop policy for personal health data and information system as provided in chapter 70.170 RCW.

(17) Adopt standards that prevent conflict of interest by health care providers as provided in RCW 18.130.320.

(18) At the appropriate juncture and in the fullness of time, consider the extent to which medical research and health professions training activities should be included within the health service system set forth in chapter 492, Laws of 1993.

(19) Evaluate and monitor the extent to which racial and ethnic minorities have access and to [to and] receive health services within the state, and develop strategies to address barriers to access.

(20) Develop standards for the certification process to certify health plans and employer health plans to provide the uniform benefits package, according to the provisions for certified health plans and registered employer health plans under chapter 492, Laws of 1993.

(21) Develop rules for implementation of individual and employer participation under RCW 43.72.210 and 43.72.220 specifically applicable to persons who work in this state but do not live in the state or persons who live in this state but work outside of the state. The rules shall be designed so that these persons receive coverage and financial requirements that are comparable to that received by persons who both live and work in the state.

(22) After receiving advice from the health services effectiveness committee, adopt rules that must be used by certified health plans, disability insurers, health care service contractors, and health maintenance organizations to determine whether a procedure, treatment, drug, or other health service is no longer experimental or investigative.

(23) Establish a process for purchase of uniform benefits package services by enrollees when they are out-of-state.

(24) Develop recommendations to the legislature as to whether state and school district employees, on whose behalf health benefits are or will be purchased by the health care authority pursuant to chapter 41.05 RCW, should have the option to purchase health benefits through health insurance purchasing cooperatives on and after July 1, 1997. In developing its recommendations, the commission shall consider:

(a) The impact of state or school district employees purchasing through health insurance purchasing cooperatives on the ability of the state to control its health care costs; and

(b) Whether state or school district employees purchasing through health insurance purchasing cooperatives will result in inequities in health benefits between or within groups of state and school district employees.

(25) Establish guidelines for providers dealing with terminal or static conditions, taking into consideration the ethics of providers, patient and family wishes, costs, and survival possibilities.

(26) Evaluate the extent to which Taft-Hartley health care trusts provide benefits to certain individuals in the state; review the federal laws under which these trusts are organized; and make appropriate recommendations to the governor and the legislature on or before December 1, 1994, as to whether these trusts should be brought under the provisions of chapter 492, Laws of 1993 when it is fully implemented, and if the commission recommends inclusion of the trusts, how to implement such inclusion.

(27) Make appropriate recommendations to the governor and the legislature on or before December 1, 1994, as to how seasonal workers and their employers may be brought under the provisions of chapter 492, Laws of 1993 when it is fully implemented, and with particular attention to the financial impact on seasonal workers and their employers. Until such time this study has been completed and the legislature has taken affirmative action, RCW 43.72.220 shall not apply to seasonal workers or their employers.

(28) Evaluate whether Washington is experiencing a higher percentage in in-migration of residents from other states and territories than would be expected by normal trends as a result of the availability of unsubsidized and subsidized health care benefits for all residents and report to the governor and the legislature their findings.

(29) In developing the uniform benefits package and other standards pursuant to this section, consider the likelihood of the establishment of a national health services plan adopted by the federal government and its implications.

(30) Evaluate the effect of reforms under chapter 492, Laws of 1993 on access to care and economic development in rural areas.

To the extent that the exercise of any of the powers and duties specified in this section may be inconsistent with the powers and duties of other state agencies, offices, or commissions, the authority of the commission shall supersede that of such other state agency, office, or commission, except in matters of personal health data, where the commission shall have primary data system policy-making authority and the department of health shall have primary responsibility for the maintenance and routine operation of personal health data systems. [1993 c 494 § 2; 1993 c 492 § 406.]

Review of health care trusts—1993 c 458: "If chapter 492, Laws of 1993 is enacted into law, the provisions of chapter 48.62 RCW shall be reviewed to evaluate the extent to which health care trusts provide benefits to certain individuals in the state; and to review the federal laws that may constrain the organization or operation of these joint employee-employer entities. The health services commission shall make appropriate recommendations to the governor and the legislature as to how these trusts can be brought under the provisions of chapter 492, Laws of 1993." [1993 c 458 § 3.]

43.72.050 Economic viability of certified health plans threatened—Modification of maximum premium—Submission to legislature. Upon the recommendation of the insurance commissioner, and on the basis of evidence established by independent actuarial analysis, if the commission finds that the economic viability of a significant number of the state's certified health plans is seriously threatened, the commission may increase the maximum premium to the extent mandated by the Constitution, and must immediately thereafter submit to the legislature a proposal for a new formula for adjusting the maximum premium, which must be enacted into law by a sixty percent vote of each house of the legislature. [1993 c 492 § 407.]

43.72.060 Advisory committees and special committees. (1)(a) The chair shall appoint an advisory committee with balanced representation from consumers, business, government, labor, certified health plans, practicing health care providers, health care facilities, and health services researchers reflecting ethnic and racial diversity. In addition, the chair may appoint special committees for specified periods of time.

(b) The chair shall also appoint a five-member health services effectiveness committee whose members possess a breadth of experience and knowledge in the treatment, research, and public and private funding of health care services. The committee shall meet at the call of the chair. The health services effectiveness committee shall advise the commission on: (i) Those health services that may be determined by the commission to be appropriate and effective; (ii) use of technology and practice indicators; (iii) the uniform benefits package; and (iv) rules that insurers and certified health plans must use to determine whether a procedure, treatment, drug, or other health service is no longer experimental or investigative.

(c) The commission shall also appoint a small business advisory committee composed of seven owners of businesses with twenty-five or fewer full-time equivalent employees reflecting ethnic and racial diversity, to assist the commission in development of the small business economic impact statement and the small business assistance program, as provided in RCW 43.72.140 and 43.72.240.

(d) The commission shall also appoint an organized labor advisory committee composed of seven representatives of employee organizations representing employees of public or private employers. The committee shall assist the commission in conducting the evaluation of Taft-Hartley health care trusts and self-insured employee health benefits plans, as provided in RCW 43.72.040(26), and shall advise the commission on issues related to the impact of chapter 492, Laws of 1993 on negotiated health benefits agreements and other employee health benefits plans.

(2) Members of committees and panels shall serve without compensation for their services but shall be reimbursed for their expenses while attending meetings on behalf of the commission in accordance with RCW 43.03.050 and 43.03.060. [1993 c 492 § 404.]

43.72.070 Continuous quality improvement and total quality management. To ensure the highest quality health services at the lowest total cost, the commission shall establish a total quality management system of continuous quality improvement. Such endeavor shall be based upon the recognized quality science for continuous quality improvement. The commission shall impanel a committee composed of persons from the private sector and related sciences who have broad knowledge and successful experiences in continuous quality improvement and total quality management applications. It shall be the responsibility of the committee to develop standards for a Washington state health services supplier certification process and recommend such standards to the commission for review and adoption. Once adopted, the commission shall establish a schedule, with full compliance no later than July 1, 1996, whereby all health service providers and health service facilities shall be certified prior to providing uniform benefits package services. [1993 c 492 § 409.]

43.72.080 Health insurance purchasing cooperatives—Designation of regions by commission—Information systems—Minimum standards and rules. (1) The commission shall designate four geographic regions within the state in which health insurance purchasing cooperatives may operate, based upon population, assuming that each cooperative must serve no less than one hundred fifty thousand persons; geographic factors; market conditions; and other factors deemed appropriate by the commission. The commission shall designate one health insurance purchasing cooperative per region.

(2) In coordination with the commission and consistent with the provisions of chapter 70.170 RCW, the department of health shall establish an information clearinghouse for the collection and dissemination of information necessary for the efficient operation of cooperatives, including the establishment of a risk profile information system related to certified health plan enrollees that would permit the equitable distribution of losses among plans in accordance with RCW 43.72.040(7).

(3) Every health insurance purchasing cooperative shall:

(a) Admit all individuals, employers, or other groups wishing to participate in the cooperative;

(b) Make available for purchase by cooperative members every health care program offered by every certified health plan operating within the cooperative's region;

(c) Be operated as a member-governed and owned, nonprofit cooperative in which no certified health plan, health maintenance organization, health care service contractor, independent practice association, independent physician organization, or any individual with a pecuniary interest in any such organization, shall have any pecuniary interest in or management control of the cooperative;

(d) Provide for centralized enrollment and premium collection and distribution among certified health plans; and

(e) Serve as an ombudsman for its members to resolve inquiries, complaints, or other concerns with certified health plans.

(4) Every health insurance purchasing cooperative shall assist members in selecting certified health plans and for this purpose may devise a rating system or similar system to judge the quality and cost-effectiveness of certified health plans consistent with guidelines established by the commission. For this purpose, each cooperative and directors, officers, and other employees of the cooperative are immune from liability in any civil action or suit arising from the publication of any report, brochure, or guide, or dissemination of information related to the services, quality, price, or cost-effectiveness of certified plans unless actual malice, fraud, or bad faith is shown. Such immunity is in addition to any common law or statutory privilege or immunity enjoyed by such person, and nothing in this section is intended to abrogate or modify in any way such common law or statutory privilege or immunity.

(5) Every health insurance purchasing cooperative shall bear the full cost of its operations, including the costs of participating in the information clearinghouse, through assessments upon its members. Such assessments shall be billed and accounted for separately from premiums collected and distributed for the purchase of the uniform benefits package or any other supplemental insurance or health services program.

(6) No health insurance purchasing cooperative may bear any financial risk for the delivery of uniform benefits package services, or for any other supplemental insurance or health services program.

(7) No health insurance purchasing cooperative may directly broker, sell, contract for, or provide any insurance or health services program. However, nothing contained in this section shall be deemed to prohibit the use or employment of insurance agents or brokers by the cooperative for other purposes or to prohibit the facilitation of the sale and purchase by members of supplemental insurance or health services programs.

(8) The commission may adopt rules necessary for the implementation of this section including rules governing charter and bylaw provisions of cooperatives and may adopt rules prohibiting or permitting other activities by cooperatives.

(9) The commission shall consider ways in which cooperatives can develop, encourage, and provide incentives for employee wellness programs. [1993 c 492 § 425.]

Certification: Chapter 48.43 RCW.

43.72.090 Uniform or supplemental benefits—Provision by certified health plan only—Uniform benefits package as minimum. (1) On and after July 1, 1995, no person or entity in this state shall provide the uniform benefits package and supplemental benefits as defined in RCW 43.72.010 without being certified as a certified health plan by the insurance commissioner.

(2) On and after July 1, 1995, no certified health plan may offer less than the uniform benefits package to residents of this state and no registered employer health plan may provide less than the uniform benefits package to its employees and their dependents. [1993 c 492 § 427.]

Certification: Chapter 48.43 RCW.

43.72.100 Certified health plans—Duties. A certified health plan shall:

(1) Provide the benefits included in the uniform benefits package to enrolled Washington residents for a prepaid per capita community-rated premium not to exceed the maximum premium established by the commission and provide such benefits through managed care in accordance with rules adopted by the commission;

(2) Offer supplemental benefits to enrolled Washington residents for a prepaid per capita community-rated premium and provide such benefits through managed care in accordance with rules adopted by the commission;

(3) Accept for enrollment any state resident within the plan's service area and provide or assure the provision of all services within the uniform benefits package and offer supplemental benefits regardless of age, sex, family structure, ethnicity, race, health condition, geographic location, employment status, socioeconomic status, other condition or situation, or the provisions of RCW 49.60.174(2). The insurance commissioner may grant a temporary exemption from this subsection, if, upon application by a certified health plan, the commissioner finds that the clinical, financial, or administrative capacity to serve existing enrollees will be impaired if a certified health plan is required to continue enrollment of additional eligible individuals;

(4) If the plan provides benefits through contracts with, ownership of, or management of health care facilities and contracts with or employs health care providers, demonstrate to the satisfaction of the insurance commissioner in consultation with the department of health and the commission that its facilities and personnel are adequate to provide the benefits prescribed in the uniform benefits package and offer supplemental benefits to enrolled Washington residents, and that it is financially capable of providing such residents with, or has made adequate contractual arrangements with health care providers and facilities to provide enrollees with such benefits;

(5) Comply with portability of benefits requirements prescribed by the commission;

(6) Comply with administrative rules prescribed by the commission, the insurance commissioner, and other state agencies governing certified health plans;.

(7) Provide all enrollees with instruction and informational materials to increase individual and family awareness of injury and illness prevention; encourage assumption of personal responsibility for protecting personal health; and stimulate discussion about the use and limits of medical care in improving the health of individuals and communities;

(8) Disclose to enrollees the charity care requirements under chapter 70.170 RCW;

(9) Include in all of its contracts with health care providers and health care facilities a provision prohibiting such providers and facilities from billing enrollees for any amounts in excess of applicable enrollee point of service cost-sharing obligations for services included in the uniform benefits package and supplemental benefits;

(10) Include in all of its contracts issued for uniform benefits package and supplemental benefits coverage a subrogation provision that allows the certified health plan to recover the costs of uniform benefits package and supplemental benefits services incurred to care for an enrollee injured by a negligent third party. The costs recovered shall be limited to:

(a) If the certified health plan has not intervened in the action by an injured enrollee against a negligent third party, then the amount of costs the certified health plan can recover shall be limited to the excess remaining after the enrollee has been fully compensated for his or her loss minus a proportionate share of the enrollee's costs and fees in bringing the action. The proportionate share shall be determined by:

(i) The fees and costs approved by the court in which the action was initiated; or

(ii) The written agreement between the attorney and client that established fees and costs when fees and costs are not addressed by the court.

When fees and costs have been approved by a court, after notice to the certified health plan, the certified health plan shall have the right to be heard on the matter of attorneys' fees and costs or its proportionate share;

(b) If the certified health plan has intervened in the action by an injured enrollee against a negligent third party, then the amount of costs the certified health plan can recover shall be the excess remaining after the enrollee has been fully compensated for his or her loss or the amount of the plan's incurred costs, whichever is less;

(11) Establish and maintain a grievance procedure approved by the commissioner, to provide a reasonable and effective resolution of complaints initiated by enrollees concerning any matter relating to the provision of benefits under the uniform benefits package and supplemental benefits, access to health care services, and quality of services. Each certified health plan shall respond to complaints filed with the insurance commissioner within fifteen working days. The insurance commissioner in consultation with the commission shall establish standards for resolution of grievances;

(12) Comply with the provisions of chapter 48.30 RCW prohibiting unfair and deceptive acts and practices to the extent such provisions are not specifically modified or superseded by the provisions of chapter 492, Laws of 1993 and be prohibited from offering or supplying incentives that would have the effect of avoiding the requirements of subsection (3) of this section;

(13) Have culturally sensitive health promotion programs that include approaches that are specifically effective for persons of color and accommodating to different cultural value systems, gender, and age;

(14) Permit every category of health care provider to provide health services or care for conditions included in the uniform benefits package to the extent that:

(a) The provision of such health services or care is within the health care providers' permitted scope of practice; and

(b) The providers agree to abide by standards related to:

(i) Provision, utilization review, and cost containment of health services;

(ii) Management and administrative procedures; and

(iii) Provision of cost-effective and clinically efficacious health services;

(15) Establish the geographic boundaries in which they will obligate themselves to deliver the services required under the uniform benefits package and include such

information in their application for certification, but the commissioner shall review such boundaries and may disapprove, in conformance with guidelines adopted by the commission, those that have been clearly drawn to be exclusionary within a health care catchment area;

(16) Annually report the names and addresses of all officers, directors, or trustees of the certified health plan during the preceding year, and the amount of wages, expense reimbursements, or other payments to such individuals;

(17) Annually report the number of residents enrolled and terminated during the previous year. Additional information regarding the enrollment and termination pattern for a certified health plan may be required by the commissioner to determine compliance with the open enrollment and free access requirements of chapter 492, Laws of 1993; and

(18) Disclose any financial interests held by officers and directors in any facilities associated with or operated by the certified health plan. [1993 c 492 § 428.]

43.72.110 Limited certified dental plan. (1) For the purposes of this section "limited certified dental plan" or "dental plan" means a limited health [care] service contractor governed by RCW 48.44.035 offering dental care services only and that complies with all certified health plan requirements for managed care, community rating, portability, and nondiscrimination as provided in RCW 43.72.100.

(2) A dental plan may provide coverage for dental services directly to individuals or to employers for the benefit of employees. If an individual or an employer purchases dental care services from a dental plan, the certified health plan covering the individual or the employees need not provide dental services required under the uniform benefits package. A certified health plan may subcontract with a dental plan to provide the dental benefits required under the uniform benefits package. [1993 c 492 § 429.]

43.72.120 Registered employer health plans. Consistent with the provisions of RCW 43.72.220, a registered employer health plan shall:

(1) Register with the insurance commissioner by filing its plan of management and operation including but not limited to information required by the commissioner sufficient for a determination by the commissioner that such plan meets the requirements of this section and any rules adopted by the health services commission and the insurance commissioner pertaining to such plans.

(2) Provide the benefits included in the uniform benefits package to employees and their dependents for a prepaid, community-rated premium not to exceed the maximum premium established by the commission and provide such benefits through managed care in accordance with rules adopted by the commission.

(3) Offer supplemental benefits to employees and their dependents for a prepaid, community-rated premium and provide such benefits through managed care in accordance with rules adopted by the commission. Benefits offered by such plan need not comply with the provisions of RCW 43.72.160 and 43.72.170.

(4) Provide or assure the provision of all services within the uniform benefits package and offer supplemental benefits regardless of age, sex, family structure, ethnicity, race, health condition, socioeconomic status, or other condition or situation, or the provisions of RCW 49.60.174(2).

(5) If the plan provides benefits through contracts with, ownership of, or management of health care facilities and contracts with or employs health care providers, demonstrate to the satisfaction of the insurance commissioner in consultation with the department of health and the commission that its facilities and personnel are adequate to provide the uniform benefits package and any supplemental benefits or has made adequate contractual arrangements with health care providers and facilities to provide employees and their dependents with such benefits.

(6) Comply with portability of benefits requirements prescribed by the commission for registered employer health plans.

(7) Comply with administrative rules prescribed by the commission, the insurance commissioner, and other state agencies governing registered employer health plans.

(8) Provide all employees and their dependents enrolled in the plan with instruction and informational materials to increase individual and family awareness of injury and illness prevention; encourage assumption of personal responsibility for protecting personal health; and stimulate discussion about the use and limits of medical care in improving the health of individuals and communities.

(9) Include in all of its contracts with health care providers and health care facilities a provision prohibiting such providers and facilities from billing employees and their dependents enrolled in the plan for any amounts in excess of applicable enrollee point of service, cost-sharing obligations for services included in the uniform benefits package and supplemental benefits.

(10) Include in all of its contracts issued for uniform benefits package and supplemental benefits coverage a subrogation provision that allows the plan to recover the costs of uniform benefits package and supplemental benefit services incurred to care for a plan enrollee injured by a negligent third party. The costs recovered shall be limited to:

(a) If the plan has not intervened in the action by an injured plan enrollee against a negligent third party, then the amount of costs the plan can recover shall be limited to the excess remaining after the plan enrollee has been fully compensated for his or her loss minus a proportionate share of the enrollee's costs and fees in bringing the action. The proportionate share shall be determined by:

(i) The fees and costs approved by the court in which the action was initiated; or

(ii) The written agreement between the attorney and client that established fees and costs when fees and costs are not addressed by the court.

When fees and costs have been approved by a court, after notice to the plan, the plan shall have the right to be heard on the matter of attorneys' fees and costs or its proportionate share;

(b) If the plan has intervened in the action by an injured enrollee against a negligent third party, then the amount of costs the plan can recover shall be the excess remaining after the enrollee has been fully compensated for his or her loss or the amount of the plan's incurred costs, whichever is less.

(11) Establish and maintain a grievance procedure approved by the insurance commissioner, to provide a reasonable and effective resolution of complaints initiated by plan enrollees concerning any matter relating to the provision of benefits under the uniform benefits package and supplemental benefits, access to health care services, and quality of services. Each plan shall respond to complaints filed with the insurance commissioner within fifteen working days. The insurance commissioner in consultation with the commission shall establish standards for resolution of grievances by enrollees of registered employer health plans.

(12) Have culturally sensitive health promotion programs that include approaches that are specifically effective for persons of color and accommodating to different cultural value systems, gender, and age.

(13) Permit every category of health care provider to provide health services or care for conditions included in the uniform benefits package to the extent that:

(a) The provision of such health services or care is within the health care providers' permitted scope of practice; and

(b) The providers agree to abide by standards related to:

(i) Provision, utilization review, and cost containment of health services;

(ii) Management and administrative procedures; and

(iii) Provision of cost-effective and clinically efficacious health services.

(14) Pay to the state treasurer a tax equivalent to the tax applied to taxpayers under RCW 48.14.0201 in accordance with rules adopted by the department of revenue.

(15) File their uniform benefits package and supplemental benefits with the insurance commissioner who may disapprove and order a modification of such package or benefits if such package or benefits fail to meet any standards or rules adopted by the commission pertaining to maximum premiums, enrollee financial participation, point of service cost-sharing, benefit design, or health service delivery.

(16) Comply with and shall be subject to RCW 48.43.170, 43.72.300, and 43.72.310.

(17) Pay an annual fee to the insurance commissioner's office in an amount established by rule of the commissioner necessary for the performance of the commissioner's responsibilities under this section consistent with and subject to the collection, depositing, and spending provisions applicable to fees collected pursuant to RCW 48.02.190.

(18) File an annual report with the commissioner containing such information as the commissioner may require to determine compliance with this section.

(19) In addition to any other penalties prescribed by law, be subject to the penalties contained in RCW 48.43.010 for violations of this section. [1993 c 492 § 430.]

43.72.130 Uniform benefits package design. (1) The commission shall define the uniform benefits package, which shall include those health services that, consistent with the goals and intent of chapter 492, Laws of 1993, are effective and necessary on a societal basis for the maintenance of the health of citizens of the state, weighed against the need to control state health services expenditures.

(2) The schedule of covered health services shall emphasize proven preventive and primary health care and shall be composed of the following essential health services: (a) Primary and specialty health services; (b) inpatient and outpatient hospital services; (c) prescription drugs and medications; (d) reproductive services; (e) services necessary for maternity and well-child care, including preventive dental services for children; and (f) case-managed chemical dependency, mental health, short-term skilled nursing facility, home health, and hospice services, to the extent that such services reduce inappropriate utilization of more intensive or less efficacious medical services. The commission shall determine the specific schedule of health services within the uniform benefits package, including limitations on scope and duration of services. The schedule shall be the benefit and actuarial equivalent of the schedule of benefits offered by the basic health plan on January 1, 1993, including any additions that may result from the inclusion of the services listed in (c) through (f) of this subsection. The commission shall consider the recommendations of health services effectiveness panels [committee] established pursuant to RCW 43.72.060 in defining the uniform benefits package.

(3) The uniform benefits package shall not limit coverage for preexisting or prior conditions, except that the commission shall establish exclusions for preexisting or prior conditions to the extent necessary to prevent residents from waiting until health services are needed before enrolling in a certified health plan.

(4) The commission shall establish enrollee point of service cost-sharing for nonpreventive health services, related to enrollee household income, such that financial considerations are not a barrier to access for low-income persons, but that, for those of means, the uniform benefits package provides for moderate point of service cost-sharing. All point of service cost-sharing and cost control requirements shall apply uniformly to all health care providers providing substantially similar uniform benefits package services. The schedule shall provide for an alternate and lower schedule of cost-sharing applicable to enrollees with household income below the federal poverty level.

(5) The commission shall adopt rules related to coordination of benefits and premium payments. The rules shall not have the effect of eliminating enrollee financial participation. The commission shall endeavor to assure an equitable distribution, among both employers and employees, of the costs of coverage for those households composed of more than one member in the work force.

(6) In determining the uniform benefits package, the commission shall endeavor to seek the opinions of and information from the public. The commission shall consider the results of official public health assessment and policy development activities including recommendations of the department of health in discharging its responsibilities under this section.

(7) The commission shall submit the following to the legislature by December 1, 1994, and by December 1 of the year preceding any year in which the commission proposes to significantly modify the uniform benefits package: (a) The uniform benefits package; and (b) an independent actuarial analysis of the cost of the proposed package, giving consideration to the factors considered under RCW

43.72.040(6). The commission shall not modify the services included in the uniform benefits package before January 1, 1999. [1993 c 492 § 449.]

43.72.140 Small business economic impact statement. (1) In conjunction with submission of the uniform benefits package as provided in RCW 43.72.130(7), the commission also shall submit a small business economic impact statement, prepared in consultation with the small business advisory committee. The impact statement shall address the economic impact on businesses with twenty-five or fewer full-time equivalent employees of participating in the cost of the uniform benefits package for their employees and employees' dependents. As an aid in preparing the small business economic impact statement, the commission shall conduct a survey of a statistically valid sample of small businesses.

(2) If the small business economic impact statement indicates a need to address the economic consequences of mandating employer participation in the cost of uniform benefits package coverage for employees and their dependents, the commission shall submit proposed strategies to address such consequences. Strategies may include: The level of employer participation in uniform benefits package costs; coverage of dependents; application of the uniform benefits package as the minimum benefits package offered to employees or dependents; and any other strategies deemed appropriate by the commission. [1993 c 492 § 450.]

43.72.150 Household income analysis. In conjunction with submission of the uniform benefits package as provided in RCW 43.72.130(7), the commission shall submit an analysis of the impact of employee premium contributions on individuals with household income of less than two hundred percent of the federal poverty level. The analysis shall include estimates of the cost of varying levels of premium subsidies for these individuals and their families. [1993 c 492 § 451.]

43.72.160 Certified health plan benefit packages—Offering, filing, and approval of forms. No uniform benefits package or supplemental benefits may be offered, delivered, or issued for delivery to any person in this state unless it otherwise complies with chapter 492, Laws of 1993, and complies with the following:

(1) All certified health plan forms for uniform and supplemental benefits issued by the plan to enrollees and such other marketing documents purporting to describe the plan's benefits shall comply with the minimum standards the commissioner deems reasonable and necessary to carry out the purposes and provisions of this chapter and consistent with health services commission standards. The plan's forms and documents shall fully inform enrollees of the health services to which they are entitled, and shall fully disclose any limitations, exclusions, rights, responsibilities, and duties required of either the enrollee or the certified health plan. No form or document may be issued, delivered, or issued for delivery unless it has been filed with and approved by the commissioner.

(2) Every form or document filing containing a certification, in a manner approved by the commissioner, by either the chief executive officer of the plan or by an actuary who is a member of the American academy of actuaries, attesting that the filing complies with Title 48 RCW, Title 284 WAC, and this chapter, may be used by such certified health plan immediately after filing with the commissioner. The commissioner may order a plan to cease using a certified form or document upon the grounds set forth in subsection (6) of this section.

(3) Every filing that does not contain a certification pursuant to subsection (2) of this section shall be made not less than thirty days in advance of any such issuance, delivery, or use. At the expiration of such thirty days the form or document filed shall be deemed approved unless affirmatively approved or disapproved by the commissioner within the thirty-day period. The commissioner may extend by not more than an additional fifteen days the period within which the commissioner may review such filing, by notifying the plan of the extension before expiration of the initial thirty-day period. At the expiration of any extension period and in the absence of prior affirmative approval or disapproval, any such form or document shall be deemed approved. The commissioner may withdraw approval at any time for cause. By approval of any filing for immediate use, the commissioner may waive any unexpired portion of the initial thirty-day waiting period.

(4) Whenever the commissioner disapproves a filing or withdraws a previous approval, the commissioner shall state the grounds for disapproval.

(5) The commissioner may exempt from the requirements of this section any plan document or form that, in the commissioner's opinion, may not practicably be applied to, or the filing and approval of which are, in the commissioner's opinion, not desirable or necessary for the protection of the public.

(6) The commissioner shall disapprove any form or document or shall withdraw any previous approval, only:

(a) If it is in any respect in violation of or does not comply with Title 48 RCW, Title 284 WAC, and this chapter, or any applicable order of the commissioner;

(b) If it does not comply with any controlling filing previously made and approved;

(c) If it contains or incorporates by reference any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions that unreasonably or deceptively affect the health services purported to be offered or provided;

(d) If it has any title, heading, or other indication of its provisions that is misleading;

(e) If purchase of health services under the form or document is being solicited by deceptive advertising; or

(f) If the health service benefits provided in the form or document are unreasonable in relation to the premium charged. [1993 c 492 § 452.]

43.72.170 Uniform and supplemental benefits—Rates—Filing and approval. (1) Premium rates for uniform benefits package and supplemental benefits shall not be excessive or inadequate, and shall not discriminate in a manner prohibited by RCW 43.72.100(3). Premium rates, enrollee point of service cost-sharing, or maximum enrollee financial participation amounts for a uniform benefits package may not exceed the limits established by the health

services commission in accordance with RCW 43.72.040. Premium rates for uniform benefits package and supplemental benefits shall be developed on a community-rated basis as determined by the health services commission.

(2) Prior to using, every certified health plan shall file with the commissioner its enrollee point of service, cost-sharing amounts, enrollee financial participation amounts, rates, its rating plan, and any other information used to determine the specific premium to be charged any enrollee and every modification of any of the foregoing.

(3) Every such filing shall indicate the type and extent of the health services contemplated and must be accompanied by sufficient information to permit the commissioner to determine whether it meets the requirements of this chapter. A plan shall offer in support of any filing:

(a) Any historical data and actuarial projections used to establish the rate filed;

(b) An exhibit detailing the major elements of operating expense for the types of health services affected by the filing;

(c) An explanation of how investment income has been taken into account in the proposed rates;

(d) Any other information that the plan deems relevant; and

(e) Any other information that the commissioner requires by rule.

(4) If a plan has insufficient loss experience to support its proposed rates, it may submit loss experience for similar exposures of other plans within the state.

(5) Every filing shall state its proposed effective date.

(6) Actuarial formulas, statistics, and assumptions submitted in support of a rate or form filing by a plan or submitted to the commissioner at the commissioner's request shall be withheld from public inspection in order to preserve trade secrets or prevent unfair competition.

(7) No plan may make or issue a benefits package except in accordance with its filing then in effect.

(8) The commissioner shall review a filing as soon as reasonably possible after made, to determine whether it meets the requirements of this section.

(9)(a) No filing may become effective within thirty days after the date of filing with the commissioner, which period may be extended by the commissioner for an additional period not to exceed fifteen days if the commissioner gives notice within such waiting period to the plan that the commissioner needs additional time to consider the filing.

(b) A filing shall be deemed to meet the requirements of this section unless disapproved by the commissioner within the waiting period or any extension period.

(c) If within the waiting or any extension period, the commissioner finds that a filing does not meet the requirements of this section, the commissioner shall disapprove the filing, shall notify the plan of the grounds for disapproval, and shall prohibit the use of the disapproved filing.

(10) If at any time after the applicable review period provided in this section, the commissioner finds that a filing does not meet the requirements of this section, the commissioner shall, after notice and hearing, issue an order specifying in what respect the commissioner finds that such filing fails to meet the requirements of this section, and stating when, within a reasonable period thereafter, the filings shall be deemed no longer effective.

The order shall not affect any benefits package made or issued prior to the expiration of the period set forth in the order. [1993 c 492 § 453.]

43.72.180 Legislative approval—Uniform benefits package and medical risk adjustment mechanisms. The legislature may disapprove of the uniform benefits package developed under RCW 43.72.130 and medical risk adjustment mechanisms developed under RCW 43.72.040(7) by an act of law at any time prior to the thirtieth day of the following regular legislative session. If such disapproval action is taken, the commission shall resubmit a modified package to the legislature within fifteen days of the disapproval. If the legislature does not disapprove or modify the package by an act of law by the end of that regular session, the package is deemed approved. [1993 c 492 § 454.]

43.72.190 Supplemental and additional benefits negotiation. (1) Nothing in chapter 492, Laws of 1993 shall preclude insurers, health care service contractors, health maintenance organizations, or certified health plans from insuring, providing, or contracting for benefits not included in the uniform benefits package or in supplemental benefits.

(2) Nothing in chapter 492, Laws of 1993 shall restrict the right of an employer to offer, an employee representative to negotiate for, or an individual to purchase supplemental or additional benefits not included in the uniform benefits package.

(3) Nothing in chapter 492, Laws of 1993 shall restrict the right of an employer to offer or an employee representative to negotiate for payment of up to one hundred percent of the premium of the lowest priced uniform benefits package available in the geographic area where the employer is located.

(4) Nothing in chapter 492, Laws of 1993 shall be construed to affect the collective bargaining rights of employee organizations to the extent that federal law specifically restricts the ability of states to limit collective bargaining rights of employee organizations.

(5) After July 1, 1999, no property or casualty insurance policy issued in this state may provide first-party coverage for health services to the extent that such services are provided under a uniform benefits package covering the resident to whom such property or casualty insurance policy is issued. [1993 c 492 § 455.]

43.72.200 Conscience or religion. (1) No certified health plan or health care provider may be required by law or contract in any circumstances to participate in the provision of any uniform benefit if they object to so doing for reason of conscience or religion. No person may be discriminated against in employment or professional privileges because of such objection.

(2) The provisions of this section are not intended to result in an enrollee being denied timely access to any service included in the uniform benefits package. Each certified health plan shall:

(a) Provide written notice to certified health plan enrollees, upon enrollment with the plan and upon enrollee request thereafter, listing, by provider, services that any

provider refuses to perform for reason of conscience or religion;

(b) Develop written information describing how an enrollee may directly access, in an expeditious manner, services that a provider refuses to perform; and

(c) Ensure that enrollees refused services under this section have prompt access to the information developed pursuant to (b) of this subsection. [1993 c 492 § 456.]

43.72.210 Individual participation. (1) All residents of the state of Washington are required to purchase a uniform benefits package from a certified health plan no later than July 1, 1999. This participation requirement shall be waived if imposition of the requirement would constitute a violation of the freedom of religion provisions set forth in the First Amendment, United States Constitution or Article I, section 11 of the state Constitution. Residents of the state of Washington who work in another state for an out-of-state employer shall be deemed to have satisfied the requirements of this section if they receive health insurance coverage through such employer.

(2) The commission shall monitor the enrollment of individuals into certified health plans and shall make public periodic reports concerning the number of persons enrolled and not enrolled, the reasons why individuals are not enrolled, recommendations to reduce the number of persons not enrolled, and recommendations regarding enforcement of this provision. [1993 c 492 § 463.]

43.72.220 Employer participation. (1) The legislature recognizes that small businesses play an essential and increasingly important role in the state's economy. The legislature further recognizes that many of the state's small business owners provide health insurance to their employees through small group policies at a cost that directly affects their profitability. Other small business owners are prevented from providing health benefits to their employees by the lack of access to affordable health insurance coverage. The legislature intends that the provisions of chapter 492, Laws of 1993 make health insurance more available and affordable to small businesses in Washington state through strong cost control mechanisms and the option to purchase health benefits through the basic health plan, the Washington state group purchasing association, and health insurance purchasing cooperatives.

(2) On July 1, 1995, every employer employing more than five hundred qualified employees shall:

(a) Offer a choice of the uniform benefits package as provided by at least three available certified health plans, one of which shall be the lowest cost available package within their geographic region, and for employers who have established a registered employer health plan, one of which may be its own registered employer health plan, to all qualified employees. The employer shall be required to pay no less than fifty percent of the premium cost of the lowest cost available package within their geographic region. On July 1, 1996, all dependents of qualified employees of these firms shall be offered a choice of packages as provided in this section with the employer paying no less than fifty percent of the premium of the lowest cost package within their geographic region.

(b) For employees who work fewer than thirty hours during a week or one hundred twenty hours during a calendar month, three hundred sixty hours during a calendar quarter or one thousand four hundred forty hours during a calendar year, and their dependents, pay, for the period of time adopted by the employer under this subsection, the amount resulting from application of the following formula: The number of hours worked by the employee in a month is multiplied by the amount of a qualified employee's premium, and that amount is then divided by one hundred twenty.

(c) If an employee under (b) of this subsection is the dependent of a qualified employee, and is therefore covered as a dependent by the qualified employee's employer, then the employer of the employee under (b) of this subsection shall not be required to participate in the cost of the uniform benefits package for that employee.

(d) If an employee working on a seasonal basis is a qualified employee of another employer, and therefore has uniform benefits package coverage through that primary employer, then the seasonal employer of the employee shall not be required to participate in the cost of the uniform benefits package for that employee.

(3) By July 1, 1996, every employer employing more than one hundred qualified employees shall:

(a) Offer a choice of the uniform benefits package as provided by at least three available certified health plans, one of which shall be the lowest cost available package within their geographic region, to all qualified employees. The employer shall be required to pay no less than fifty percent of the premium cost of the lowest cost available package within their geographic region. On July 1, 1997, all dependents of qualified employees in these firms shall be offered a choice of packages as provided in this section with the employer paying no less than fifty percent of the premium of the lowest cost package within their geographic region.

(b) For employees who work fewer than thirty hours during a week or one hundred twenty hours during a calendar month, three hundred sixty hours during a calendar quarter or one thousand four hundred forty hours during a calendar year, and their dependents, pay, for the period of time adopted by the employer under this subsection, the amount resulting from application of the following formula: The number of hours worked by the employee in a month is multiplied by the amount of a qualified employee's premium, and that amount is then divided by one hundred twenty.

(c) If an employee under (b) of this subsection is the dependent of a qualified employee, and is therefore covered as a dependent by the qualified employee's employer, then the employer of the employee under (b) of this subsection shall not be required to participate in the cost of the uniform benefits package for that employee.

(d) If an employee working on a seasonal basis is a qualified employee of another employer, and therefore has uniform benefits package coverage through that primary employer, then the seasonal employer of the employee shall not be required to participate in the cost of the uniform benefits package for that employee.

(4) By July 1, 1997, every employer shall:

(a) Offer a choice of the uniform benefits package as provided by at least three available certified health plans, one of which shall be the lowest cost available package within

their geographic region, to all qualified employees. The employer shall be required to pay no less than fifty percent of the premium cost of the lowest cost available package within their geographic region. On July 1, 1999, all dependents of qualified employees in all firms shall be offered a choice of packages as provided in this section with the employer paying no less than fifty percent of the premium of the lowest cost package within their geographic region.

(b) For employees who work fewer than thirty hours during a week or one hundred twenty hours during a calendar month, three hundred sixty hours during a calendar quarter or one thousand four hundred forty hours during a calendar year, and their dependents, pay, for the period of time adopted by the employer under this subsection, the amount resulting from application of the following formula: The number of hours worked by the employee in a month is multiplied by the amount of a qualified employee's premium, and that amount is then divided by one hundred twenty.

(c) If an employee under (b) of this subsection is the dependent of a qualified employee, and is therefore covered as a dependent by the qualified employee's employer, then the employer of the employee under (b) of this subsection shall not be required to participate in the cost of the uniform benefits package for that employee.

(d) If an employee working on a seasonal basis is a qualified employee of another employer, and therefore has uniform benefits package coverage through that primary employer, then the seasonal employer of the employee shall not be required to participate in the cost of the uniform benefits package for that employee.

(5) This employer participation requirement shall be waived if imposition of the requirement would constitute a violation of the freedom of religion provisions of the First Amendment of the United States Constitution or Article I, section 11, of the state Constitution. In such case the employer shall, pursuant to commission rules, set aside an amount equal to the applicable employer contribution level in a manner that would permit his or her employee to fully comply with the requirements of this chapter.

(6) In lieu of offering the uniform benefits package to employees and their dependents through direct contracts with certified health plans, an employer may combine the employer contribution with that of the employee's contribution and enroll in the basic health plan as provided in chapter 70.47 RCW or a health insurance purchasing cooperative established under RCW 43.72.080 and 48.43.160. Any subsidy that may be provided according to the provisions of chapter 70.47 RCW shall not lessen the employer's obligation to pay a minimum of fifty percent of the premium and the full amount of the direct subsidy shall be for the benefit of the employee or the dependent.

(7) For purposes of determining the financial obligation of an employer who enrolls employees or employees and their adult dependents in the basic health plan, the premium shall be the per adult, per month, cost of coverage in the plan, including administration. [1993 c 494 § 3; 1993 c 492 § 464.]

43.72.230 Depository. (1) The health care authority shall establish a depository where payments under RCW 43.72.220 can be made and held in safekeeping for the benefit of employees working less than the number of hours worked by a qualified employee.

(2) The authority shall adopt appropriate rules for operation of the depository, in consultation with representatives of employees and employers, especially those that are seasonal or employ large numbers of part-time workers. The rules shall address the means through which payments will be properly deposited to the credit of employees and the means through which employees can access payments made on their behalf. On and after July 1, 1995, payments deposited by employers on behalf of employees may be used by employees only for purchase of the uniform benefits package. Prior to July 1, 1995, payments may be used for purchase of any health insurance coverage. [1993 c 492 § 465.]

43.72.240 Small firm financial assistance. (1) Beginning July 1, 1997, firms with fewer than twenty-five workers that face barriers to providing health insurance for their employees may, upon application, be eligible to receive financial assistance with funds set aside from the health services account. Firms with the following characteristics shall be given preference in the distribution of funds: (a) New firms, (b) employers with low average wages, (c) employers with low profits, and (d) firms in economically distressed areas.

(2) All employers in existence on or before July 1, 1997, who meet the criteria set forth in this section, and rules adopted under this section, may apply to the health services commission for assistance. Such employers may not receive premium assistance beyond July 1, 2001. New employers, who come into existence after July 1, 1997, may apply for and receive premium assistance for a limited period of time, as determined by the commission.

(3) The total funds available for small business assistance shall be the lesser of (a) one hundred fifty million dollars or (b) twenty-five percent of the cost of the uniform benefits package per the eligible applicants' insured employee or dependents as the case may be, for the biennium beginning July 1, 1997. Thereafter, the amount of total funds available for premium assistance shall be determined by the office of financial management, based on a forecast of inflation, employment, and the number of eligible firms.

(4) By July 1, 1997, the health services commission, with assistance from the small business advisory committee established in RCW 43.72.060, shall develop specific definitions, rules, and procedures governing all aspects of the small business assistance program, including application procedures, thresholds regarding firm size, wages, profits, and age of firm, and rules governing duration of assistance. The health services commission will endeavor to design a system for the distribution of assistance that will create minimal burdens on businesses seeking financial assistance.

(5) Final determination of the amount of the premium assistance to be dispensed to an employer shall be made by the commission based on rules, definitions, and procedures developed under this section. If total claims for assistance are above the amount of total funds available for such purposes, the commission shall have the authority to prorate employer claims so that the amount of available funds is not exceeded.

(6) The office of financial management, in consultation with the commission, shall establish appropriate criteria for monitoring and evaluating the economic and labor market impacts of the premium assistance program and report its findings to the commission annually through July 1, 2001. [1993 c 494 § 4; 1993 c 492 § 466.]

43.72.300 Managed competition—Findings and intent. (1) The legislature recognizes that competition among health care providers, facilities, payers, and purchasers will yield the best allocation of health care resources, the lowest prices for health care, and the highest quality of health care when there exists a large number of buyers and sellers, easily comparable health care plans and services, minimal barriers to entry and exit into the health care market, and adequate information for buyers and sellers to base purchasing and production decisions. However, the legislature finds that purchasers of health care services and health care coverage do not have adequate information upon which to base purchasing decisions; that health care facilities and providers of health care services face legal and market disincentives to develop economies of scale or to provide the most cost-efficient and efficacious service; that health insurers, contractors, and health maintenance organizations face market disincentives in providing health care coverage to those Washington residents with the most need for health care coverage; and that potential competitors in the provision of health care coverage bear unequal burdens in entering the market for health care coverage.

(2) The legislature therefore intends to exempt from state anti-trust laws, and to provide immunity from federal anti-trust laws through the state action doctrine for activities approved under this chapter that might otherwise be constrained by such laws and intends to displace competition in the health care market: To contain the aggregate cost of health care services; to promote the development of comprehensive, integrated, and cost-effective health care delivery systems through cooperative activities among health care providers and facilities; to promote comparability of health care coverage; to improve the cost-effectiveness in providing health care coverage relative to health promotion, disease prevention, and the amelioration or cure of illness; to assure universal access to a publicly determined, uniform package of health care benefits; and to create reasonable equity in the distribution of funds, treatment, and medical risk among purchasers of health care coverage, payers of health care services, providers of health care services, health care facilities, and Washington residents. To these ends, any lawful action taken pursuant to chapter 492, Laws of 1993 by any person or entity created or regulated by chapter 492, Laws of 1993 are declared to be taken pursuant to state statute and in furtherance of the public purposes of the state of Washington.

(3) The legislature does not intend and unless explicitly permitted in accordance with RCW 43.72.310 or under rules adopted pursuant to chapter 492, Laws of 1993, does not authorize any person or entity to engage in activities or to conspire to engage in activities that would constitute per se violations of state and federal anti-trust laws including but not limited to conspiracies or agreements:

(a) Among competing health care providers not to grant discounts, not to provide services, or to fix the price of their services;

(b) Among certified health plans as to the price or level of reimbursement for health care services;

(c) Among certified health plans to boycott a group or class of health care service providers;

(d) Among purchasers of certified health plan coverage to boycott a particular plan or class of plans;

(e) Among certified health plans to divide the market for health care coverage; or

(f) Among certified health plans and purchasers to attract or discourage enrollment of any Washington resident or groups of residents in a certified health plan based upon the perceived or actual risk of loss in including such resident or group of residents in a certified health plan or purchasing group. [1993 c 492 § 447.]

43.72.310 Managed competition—Competitive oversight—Attorney general duties—Anti-trust immunity. (1) A certified health plan, health care facility, health care provider, or other person involved in the development, delivery, or marketing of health care or certified health plans may request, in writing, that the commission obtain an informal opinion from the attorney general as to whether particular conduct is authorized by chapter 492, Laws of 1993. The attorney general shall issue such opinion within thirty days of receipt of a written request for an opinion or within thirty days of receipt of any additional information requested by the attorney general necessary for rendering an opinion unless extended by the attorney general for good cause shown. If the attorney general concludes that such conduct is not authorized by chapter 492, Laws of 1993, the person or organization making the request may petition the commission for review and approval of such conduct in accordance with subsection (3) of this section.

(2) After obtaining the written opinion of the attorney general and consistent with such opinion, the health services commission:

(a) May authorize conduct by a certified health plan, health care facility, health care provider, or any other person that could tend to lessen competition in the relevant market upon a strong showing that the conduct is likely to achieve the policy goals of chapter 492, Laws of 1993 and a more competitive alternative is impractical;

(b) Shall adopt rules governing conduct among providers, health care facilities, and certified health plans including rules governing provider and facility contracts with certified health plans, rules governing the use of "most favored nation" clauses and exclusive dealing clauses in such contracts, and rules providing that certified health plans in rural areas contract with a sufficient number and type of health care providers and facilities to ensure consumer access to local health care services;

(c) Shall adopt rules permitting health care providers within the service area of a plan to collectively negotiate the terms and conditions of contracts with a certified health plan including the ability of providers to meet and communicate for the purposes of these negotiations; and

(d) Shall adopt rules governing cooperative activities among health care facilities and providers.

(3) A certified health plan, health care facility, health care provider, or any other person involved in the development, delivery, and marketing of health services or certified health plans may file a written petition with the commission requesting approval of conduct that could tend to lessen competition in the relevant market. Such petition shall be filed in a form and manner prescribed by rule of the commission.

The commission shall issue a written decision approving or denying a petition filed under this section within ninety days of receipt of a properly completed written petition unless extended by the commission for good cause shown. The decision shall set forth findings as to benefits and disadvantages and conclusions as to whether the benefits outweigh the disadvantages.

(4) In authorizing conduct and adopting rules of conduct under this section, the commission with the advice of the attorney general, shall consider the benefits of such conduct in furthering the goals of health care reform including but not limited to:

(a) Enhancement of the quality of health services to consumers;

(b) Gains in cost efficiency of health services;

(c) Improvements in utilization of health services and equipment;

(d) Avoidance of duplication of health services resources; or

(e) And as to (b) and (c) of this subsection: (i) Facilitates the exchange of information relating to performance expectations; (ii) simplifies the negotiation of delivery arrangements and relationships; and (iii) reduces the transactions costs on the part of certified health plans and providers in negotiating more cost-effective delivery arrangements.

These benefits must outweigh disadvantages including and not limited to:

(i) Reduced competition among certified health plans, health care providers, or health care facilities;

(ii) Adverse impact on quality, availability, or price of health care services to consumers; or

(iii) The availability of arrangements less restrictive to competition that achieve the same benefits.

(5) Conduct authorized by the commission shall be deemed taken pursuant to state statute and in the furtherance of the public purposes of the state of Washington.

(6) With the assistance of the attorney general's office, the commission shall actively supervise any conduct authorized under this section to determine whether such conduct or rules permitting certain conduct should be continued and whether a more competitive alternative is practical. The commission shall periodically review petitioned conduct through, at least, annual progress reports from petitioners, annual or more frequent reviews by the commission that evaluate whether the conduct is consistent with the petition, and whether the benefits continue to outweigh any disadvantages. If the commission determines that the likely benefits of any conduct approved through rule, petition, or otherwise by the commission no longer outweigh the disadvantages attributable to potential reduction in competition, the commission shall order a modification or discontinuance of such conduct. Conduct ordered discontinued by the commission shall no longer be deemed to be taken pursuant to state statute and in the furtherance of the public purposes of the state of Washington.

(7) Nothing contained in chapter 492, Laws of 1993 is intended to in any way limit the ability of rural hospital districts to enter into cooperative agreements and contracts pursuant to RCW 70.44.450 and chapter 39.34 RCW. [1993 c 492 § 448.]

43.72.800 Long-term care integration plan. (1) To meet the health needs of the residents of Washington state, it is critical to finance and provide long-term care and support services through an integrated, comprehensive system that promotes human dignity and recognizes the individuality of all functionally disabled persons. This system shall be available, accessible, and responsive to all residents based upon an assessment of their functional disabilities. The governor and the legislature recognize that families, volunteers, and community organizations are essential for the delivery of effective and efficient long-term care and support services, and that this private and public service infrastructure should be supported and strengthened. Further, it is important to provide benefits without requiring family or program beneficiary impoverishment for service eligibility.

(2) To realize the need for a strong long-term care system and to carry out the November 30, 1992, final recommendations of the Washington health care cost control and access commission, established under House Concurrent Resolution No. 4443 adopted by the legislature in 1990, related to long-term care, the commission shall:

(a) Engage in a planning process, in conjunction with an advisory committee appointed for this purpose, for the inclusion of long-term care services in the uniform benefits package established under RCW 43.72.130 by July 1999;

(b) Include in its planning process consideration of the scope of services to be covered, the cost of and financing of such coverage, the means through which existing long-term care programs and delivery systems can be coordinated and integrated, and the means through which family members can be supported in their role as informal caregivers for their parents, spouses, or other relatives.

(3) The commission shall submit recommendations concerning any necessary statutory changes or modifications of public policy to the governor and the legislature by January 1, 1995.

(4) The departments of health, retirement systems, revenue, social and health services, and veterans' affairs, the offices of financial management, insurance commissioner, and state actuary, along with the health care authority, shall participate in the review of the long-term care needs enumerated in this section and provide necessary supporting documentation and staff expertise as requested by the commission.

(5) The commission shall include in its planning process, the development of two social health maintenance organization long-term care pilot projects. The two pilot projects shall be referred to as the Washington life care pilot projects. Each life care pilot program shall be a single-entry system administered by an individual organization that is responsible for bringing together a full range of medical and long-term care services. The commission, in coordination

with the appropriate agencies and departments, shall establish a Washington life care benefits package that shall include the uniform benefits package established in chapter 492, Laws of 1993 and long-term care services. The Washington life care benefits package shall include, but not be limited to, the following long-term care services: Case management, intake and assessment, nursing home care, adult family home care, home health and home health aide care, hospice, chore services/homemaker/personal care, adult day care, respite care, and appropriate social services. The pilot project shall develop assessment and case management protocol that emphasize home and community-based care long-term care options.

(a) In designing the pilot projects, the commission shall address the following issues: Costs for the long-term care benefits, a projected case-mix based upon disability, the required federal waiver package, reimbursement, capitation methodology, marketing and enrollment, management information systems, identification of the most appropriate case management models, provider contracts, and the preferred organizational design that will serve as a functioning model for efficiently and effectively transitioning long-term care services into the uniform benefits package established in chapter 492, Laws of 1993. The commission shall also be responsible for establishing the size of the two membership pools.

(b) Each program shall enroll applicants based on their level of functional disability and personal care needs. The distribution of these functional level categories and ethnicity within the enrolled program population shall be representative of their distribution within the community, using the best available data to estimate the community distributions.

(c) The two sites selected for the Washington life care pilot program[s] shall be drawn from the largest urban areas and include one site in the eastern part of the state and one site in the western part of the state. The two organizations selected to manage and coordinate the life care services shall have the proven ability to provide ambulatory care, personal care/chore services, dental care, case management and referral services, must be accredited and licensed to provide long-term care for home health services, and may be licensed to provide nursing home care.

(d) The report on the development and establishment date of the two social health maintenance organizations shall be submitted to the governor and appropriate committees of the legislature by September 16, 1994. If the necessary federal waivers cannot be secured by January 1, 1995, the commission may elect to not establish the two pilot programs. [1993 c 492 § 457.]

43.72.810 Code revisions and waivers. (1) The commission shall determine the state and federal laws that would need to be repealed, amended, or waived to implement chapter 492, Laws of 1993, and report its recommendations, with proposed revisions to the Revised Code of Washington, to the governor, and appropriate committees of the legislature by July 1, 1994.

(2) The governor, in consultation with the commission, shall take the following steps in an effort to receive waivers or exemptions from federal statutes necessary to fully implement chapter 492, Laws of 1993 to include, but not be limited to:

(a) Negotiate with the United States congress and the federal department of health and human services, health care financing administration to obtain a statutory or regulatory waiver of provisions of the medical assistance statute, Title XIX of the federal social security act that currently constitute barriers to full implementation of provisions of chapter 492, Laws of 1993 related to access to health services for low-income residents of Washington state. Such waivers shall include any waiver needed to require that: (i) Medical assistance recipients enroll in managed care systems, as defined in chapter 492, Laws of 1993; and (ii) enrollee point of service, cost-sharing levels adopted pursuant to RCW 43.72.130 be applied to medical assistance recipients. In negotiating the waiver, consideration shall be given to the degree to which supplemental benefits should be offered to medicaid recipients, if at all. Waived provisions may include and are not limited to: Categorical eligibility restrictions related to age, disability, blindness, or family structure; income and resource limitations tied to financial eligibility requirements of the federal aid to families with dependent children and supplemental security income programs; administrative requirements regarding single state agencies, choice of providers, and fee for service reimbursement; and other limitations on health services provider payment methods.

(b) Negotiate with the United States congress and the federal department of health and human services, health care financing administration to obtain a statutory or regulatory waiver of provisions of the medicare statute, Title XVIII of the federal social security act that currently constitute barriers to full implementation of provisions of chapter 492, Laws of 1993 related to access to health services for elderly and disabled residents of Washington state. Such waivers shall include any waivers needed to implement managed care programs. Waived provisions include and are not limited to: Beneficiary cost-sharing requirements; restrictions on scope of services; and limitations on health services provider payment methods.

(c) Negotiate with the United States congress and the federal department of health and human services to obtain any statutory or regulatory waivers of provisions of the United States public health services act necessary to ensure integration of federally funded community and migrant health clinics and other health services funded through the public health services act into the health services system established pursuant to chapter 492, Laws of 1993. The commission shall request in the waiver that funds from these sources continue to be allocated to federally funded community and migrant health clinics to the extent that such clinics' patients are not yet enrolled in certified health plans.

(d) Negotiate with the United States congress to obtain a statutory exemption from provisions of the employee retirement income security act that limit the state's ability to ensure that all employees and their dependents in the state comply with the requirement to enroll in certified health plans, and have their employers participate in financing their enrollment in such plans.

(e) Request that the United States congress amend the internal revenue code to treat employee premium contribu-

tions to plans, such as the basic health plan or the uniform benefits package offered through a certified health plan, as fully deductible from adjusted gross income.

(3) On or before December 1, 1995, the commission shall report the following to the appropriate committees of the legislature:

(a) The status of its efforts to obtain the waivers provided in subsection (2) of this section;

(b) If all federal statutory or regulatory waivers necessary to fully implement chapter 492, Laws of 1993 have not been obtained:

(i) The extent to which chapter 492, Laws of 1993 can be implemented without receipt of all of such waivers; and

(ii) Changes in chapter 492, Laws of 1993 necessary to implement a residency-based health services system using one or a limited number of sponsors, or an alternative system that will ensure access to care and control health services costs. [1993 c 492 § 474.]

43.72.820 Reports of health care cost control and access commission. In carrying out its powers and duties under chapter 492, Laws of 1993, the design of the uniform benefits package, and the development of guidelines and standards, the commission shall consider the reports of the health care cost control and access commission established under House Concurrent Resolution No. 4443 adopted by the legislature in 1990. Nothing in chapter 492, Laws of 1993 requires the commission to follow any specific recommendation contained in those reports except as it may also be included in chapter 492, Laws of 1993 or other law. [1993 c 492 § 475.]

43.72.830 Legislative budget committee evaluations, plans, and studies. (1) By July 1, 1997, the legislative budget committee either directly or by contract shall conduct the following study:

A study to determine the desirability and feasibility of consolidating the following programs, services, and funding sources into the delivery and financing of uniform benefits package services through certified health plans:

(a) State and federal veterans' health services;

(b) Civilian health and medical program of the uniformed services (CHAMPUS) of the federal department of defense and other federal agencies; and

(c) Federal employee health benefits.

(2) The legislative budget committee shall evaluate the implementation of the provisions of chapter 492, Laws of 1993. The study shall determine to what extent chapter 492, Laws of 1993 has been implemented consistent with the principles and elements set forth in chapter 492, Laws of 1993 and shall report its findings to the governor and appropriate committees of the legislature by July 1, 2003. [1993 c 492 § 476.]

43.72.840 Reform effort evaluation. The office of financial management may undertake or facilitate evaluations of health care reform, including analysis of fiscal and economic impacts, the effectiveness of managed care and managed competition, and effects of reform on access and quality of service. [1993 c 492 § 478.]

43.72.850 Workers' compensation medical benefits. On or before January 1, 1995, the health services commission, in coordination with the department of labor and industries and the workers' compensation advisory committee, shall study and make an interim report, and on or before January 1, 1996, a final report, to the governor and appropriate committees of the legislature on the provision of medical benefits for injured workers under a consolidated health care system. The study shall include a review of options and recommendations for modifying the industrial insurance system to provide medical services for injured workers in a more cost-effective manner under a consolidated system, and may include consideration of the purchase of industrial insurance medical benefits through the health care authority or the inclusion of industrial insurance medical benefits in the services offered by certified health plans or other appropriate options. The commission should also give consideration to at least the following issues: The use of managed care and the effect of managed care options on the injured workers' choice of health services provider; the potential cost savings or other impacts of various consolidation options; the benefit structure required under industrial insurance; the potential for consolidation to meet or exceed existing medical cost management of the medical aid fund; the impact of separating the medical management of claims from the disability management of claims; the relationship between return-to-work efforts, medical services, and disability prevention; the relationship between medical services and rehabilitation services; and the effects of the quasi-judicial system that determines industrial insurance rights and obligations. In addition, the final report shall include a proposed plan and timeline for including the medical benefits of the industrial insurance system in the services offered by certified health plans. The proposed plan shall assure that:

(1) The plan shall not take effect until at least ninety-seven percent of state residents have access to the uniform benefits package as required in chapter 492, Laws of 1993;

(2) The uniform benefits package of the certified health plan will provide benefits for injured workers that are at least equivalent to the medical benefits provided to injured workers under Title 51 RCW as determined by the department of labor and industries as of the effective date of the plan, including payments for services that are ancillary to industrial insurance medical benefits, such as but not limited to medical examinations for permanent disabilities;

(3) Other nonmedical benefits required to be provided under Title 51 RCW, such as but not limited to total or partial disability benefits or vocational rehabilitation benefits, are not affected;

(4) Employers who do not choose to become certified health plans under chapter 492, Laws of 1993, will continue to be required to provide industrial insurance medical benefits under Title 51 RCW;

(5) Employees participating in the plan shall not be required to pay deductibles, copayments, or other point of service charges for services related to industrial insurance injuries or diseases, such costs to be paid by the department of labor and industries or self-insured employer, as applicable;

(6) The plan includes a mechanism to return to workers and employers, in equal shares, any savings that are realized

in the costs of medical services for injured workers, as identified by the department of labor and industries;

(7) The majority of the employer's employees or, if the employees are represented for collective bargaining purposes, the exclusive bargaining representative voluntarily agree to the employer's participation in the plan. [1993 c 492 § 485.]

Crime victims' compensation medical benefits—1993 c 492: "(1) On or before January 1, 1995, the department of labor and industries in coordination with the [health services] commission, shall complete a study related to the medical services component of the crime victims' compensation program of the department of labor and industries. The goal of the study shall be to determine whether and how the medical services component of the crime victims' compensation program can be modified to provide appropriate medical services to crime victims in a more cost-effective manner. In conducting the study, consideration shall be given to at least the following factors: Required benefit design, necessary statutory changes, and the use of managed care to provide services to crime victims. The study shall evaluate at least the following options:

(a) Whether the medical services component of the crime victims' compensation program should be maintained within the department of labor and industries, and its purchasing and other practices modified to control costs and increase efficacy of health services provided to crime victims;

(b) Whether the medical services component of the crime victims' compensation program should be administered by the health care authority as the state health care purchasing agent;

(c) Whether the medical services component of the crime victims' compensation program should be included in the services offered by certified health plans.

(2) The department of labor and industries shall present the recommendations to the governor and the appropriate conunittees of the legislature by January 1, 1995." [1993 c 492 § 483.]

43.72.860 Managed care pilot projects. (1) The department of labor and industries, in consultation with the workers' compensation advisory committee, may conduct pilot projects to purchase medical services for injured workers through managed care arrangements. The projects shall assess the effects of managed care on the cost and quality of, and employer and employee satisfaction with, medical services provided to injured workers.

(2) The pilot projects may be limited to specific employers. The implementation of a pilot project shall be conditioned upon a participating employer and a majority of its employees, or, if the employees are represented for collective bargaining purposes, the exclusive bargaining representative, voluntarily agreeing to the terms of the pilot. Unless the project is terminated by the department, both the employer and employees are bound by the project agreements for the duration of the project.

(3) Solely for the purpose and duration of a pilot project, the specific requirements of Title 51 RCW that are identified by the department as otherwise prohibiting implementation of the pilot project shall not apply to the participating employers and employees to the extent necessary for conducting the project. Managed care arrangements for the pilot projects may include the designation of doctors responsible for the care delivered to injured workers participating in the projects.

(4) The projects shall conclude no later than January 1, 1996. The department shall present the results of the pilot projects and any recommendations related to the projects to the governor and appropriate committees of the legislature on or before October 1, 1996. [1993 c 492 § 486.]

43.72.870 Tax credits—Recommend legislation. No later than January 1, 1997, the commission shall recommend legislation establishing a program for tax credits under chapter 82.04 RCW for employers with fewer than five hundred full-time equivalent employees, that provides a credit against the amount of employer tax. The credit shall be in an amount equal to a proportion of the cost of premium contributions made by such employer on behalf of dependents of employees under chapter 492, Laws of 1993. The proposed legislation shall limit the tax credit based on the criteria set forth in RCW 43.72.240. The tax credit shall not exceed forty percent of the employer's actual premium paid on behalf of dependents of employees. [1993 c 494 § 5.]

43.72.900 Health services account. The health services account is created in the state treasury. Moneys in the account may be spent only after appropriation. Moneys in the account may be expended only for maintaining and expanding health services access for low-income residents, maintaining and expanding the public health system, maintaining and improving the capacity of the health care system, containing health care costs, and the regulation, planning, and administering of the health care system. [1993 c 492 § 469.]

43.72.902 Public health services account. The public health services account is created in the state treasury. Moneys in the account may be spent only after appropriation. Moneys in the account may be expended only for maintaining and improving the health of Washington residents through the public health system. For purposes of this section, the public health system shall consist of the state board of health, the state department of health, and local health departments and districts. Funds appropriated from this account to local health departments and districts shall be distributed ratably based on county population as last determined by the office of financial management. [1993 c 492 § 470.]

43.72.904 Health system capacity account. The health system capacity account is created in the state treasury. Moneys in the account may be spent only after appropriation. Moneys in the account may be expended for the following purposes: Health data systems; health systems and public health research; health system regulation; health system planning, development, and administration; and improving the supply and geographic distribution of primary health service providers. [1993 c 492 § 471.]

43.72.906 Personal health services account. The personal health services account is created in the [state] treasury. Moneys in the account may be spent only after appropriation. Moneys in the account may be expended for the support of subsidized personal health services for low-income Washington residents. [1993 c 492 § 472.]

43.72.910 Short title—1993 c 492. This act may be known and cited as the Washington health services act of 1993. [1993 c 492 § 487.]

43.72.911 Severability—1993 c 492. 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. [1993 c 492 § 490.]

43.72.912 Savings—1993 c 492. The enactment of this act does not have the effect of terminating, or in any way modifying, any obligation or any liability, civil or criminal, which was already in existence on the effective date of this act. [1993 c 492 § 491.]

43.72.913 Captions not law—1993 c 492. Captions used in this act do not constitute any part of the law. [1993 c 492 § 492.]

43.72.914 Reservation of legislative power—1993 c 492. The legislature reserves the right to amend or repeal all or any part of this act at any time and there shall be no vested private right of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by this act or any acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal this act at any time. [1993 c 492 § 494.]

43.72.915 Effective dates—1993 1st sp.s. c 25; 1993 c 492 §§ 301-303. 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, 1993, except for:

(1) Sections 234 through 257 of this act, which shall take effect July 1, 1995; and

(2) Sections 301 through 303 of this act, which shall take effect January 1, 1994. [1993 1st sp.s. c 25 § 603; 1993 c 492 § 495.]

Severability—Effective dates—Part headings, captions not law—1993 1st sp.s. c 25: See notes following RCW 82.04.230.

43.72.916 Effective date—1993 c 494. 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, 1993. [1993 c 494 § 8.]

Chapter 43.78
PUBLIC PRINTER—PUBLIC PRINTING

Sections

43.78.030 Duties—Exceptions. The public printer shall print and bind the session laws, the journals of the two houses of the legislature, all bills, resolutions, documents, and other printing and binding of either the senate or house, as the same may be ordered by the legislature; and such forms, blanks, record books, and printing and binding of every description as may be ordered by all state officers, boards, commissions, and institutions, and the supreme court, and the court of appeals and officers thereof, as the same may be ordered on requisition, from time to time, by the proper authorities. This section shall not apply to the printing of the supreme court and the court of appeals reports, to the printing of bond certificates or bond offering disclosure documents, or to any printing done or contracted for by institutions of higher education: PROVIDED, That institutions of higher education, in consultation with the public printer, develop vendor selection procedures comparable to those used by the public printer for contracted printing jobs. Where any institution or institution of higher learning of the state is or may become equipped with facilities for doing such work, it may do any printing: (1) For itself, or (2) for any other state institution when such printing is done as part of a course of study relative to the profession of printer. Any printing and binding of whatever description as may be needed by any institution or agency of the state department of social and health services not at Olympia, or the supreme court or the court of appeals or any officer thereof, the estimated cost of which shall not exceed one thousand dollars, may be done by any private printing company in the general vicinity within the state of Washington so ordering, if in the judgment of the officer of the agency so ordering, the saving in time and processing justifies the award to such local private printing concern.

Beginning on July 1, 1989, and on July 1 of each succeeding odd-numbered year, the dollar limit specified in this section shall be adjusted as follows: The office of financial management shall calculate such limit by adjusting the previous biennium's limit by an appropriate federal inflationary index reflecting the rate of inflation for the previous biennium. Such amounts shall be rounded to the nearest fifty dollars. [1993 c 379 § 104; 1988 c 102 § 1; 1987 c 72 § 1; 1982 c 164 § 2; 1971 c 81 § 114; 1965 c 8 § 43.78.030. Prior: 1959 c 88 § 1; 1917 c 129 § 1; 1915 c 27 § 2; 1905 c 168 § 3; RRS § 10325.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

Commission on supreme court reports, member: RCW 2.32.160.

Promotional printing for
state beef commission, exemption: RCW 16.67.170.
state honey bee commission, exemption: RCW 15.62.190.

Session laws, legislative journals, delivery to law librarian: RCW 40.04.030.

43.78.100 Stock to be furnished. The public printer shall furnish all paper, stock, and binding materials required in all public work, and shall charge the same to the state, as it is actually used, at the actual price at which it was purchased plus five percent for waste, insurance, storage, and handling. This section does not apply to institutions of higher education. [1993 c 379 § 106; 1965 c 8 § 43.78.100. Prior: 1917 c 129 § 5; 1905 c 168 § 9; RRS § 10333.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

43.78.105 Printing for institutions of higher education—Interlocal agreements. The public printer may use the state printing plant for the purposes of printing or furnishing materials under RCW 43.78.100 if an interlocal agreement under chapter 39.34 RCW has been executed

between an institution of higher education and the public printer. [1993 c 379 § 105.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

43.78.110 Securing printing from private sources—Farming out. Whenever in the judgment of the public printer certain printing, ruling, binding, or supplies can be secured from private sources more economically than by doing the work or preparing the supplies in the state printing plant, the public printer may obtain such work or supplies from such private sources.

In event any work or supplies are secured on behalf of the state under this section the state printing plant shall be entitled to add up to five percent to the cost thereof to cover the handling of the orders which shall be added to the bills and charged to the respective authorities ordering the work or supplies. The five percent handling charge shall not apply to contracts with institutions of higher education. [1993 c 379 § 107; 1982 c 164 § 3; 1969 c 79 § 1; 1965 c 8 § 43.78.110. Prior: 1935 c 130 § 3; RRS § 10333-1.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

Chapter 43.79
STATE FUNDS

Sections

43.79.150 Normal school grant to former state colleges of education and The Evergreen State College. The one hundred thousand acres of land granted by the United States government to the state for state normal schools in section 17 of the enabling act are assigned to the support of the regional universities, which were formerly the state colleges of education and to The Evergreen State College. [1993 c 411 § 3; 1977 ex.s. c 169 § 104; 1965 c 8 § 43.79.150.]

Finding—1993 c 411: See note following RCW 28B.35.751.

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Chapter 43.79A
TREASURER'S TRUST FUND

Sections

43.79A.040 Management—Income—Investment income account—Distribution (as amended by 1993 c 500). (1) Money in the treasurer's trust fund may be deposited, invested and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The American Indian scholarship endowment fund, the energy account, the game farm alternative account, and the self-insurance revolving fund. However, the earnings to be distributed 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 advanced right of way revolving fund, the federal narcotics asset forfeitures account, the ferry system account, the ferry system insurance claim reserve account, the ferry system operation and maintenance account, the ferry system revenue account, the ferry system revenue bond account, the high occupancy vehicle account, and the local rail service assistance account.

((~~(3)~~)) (5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section. [1993 c 500 § 5; 1991 sp.s. c 13 § 82; 1973 1st ex.s. c 15 § 4.]

Finding—Severability—Effective date—1993 c 500: See notes following RCW 43.41.180.

43.79A.040 Management—Income—Distribution (as amended by 1993 1st sp.s. c 8). (1) Money in the treasurer's trust fund may be deposited, invested and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2)(a) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account. Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except((~~:~~)) under (b) of this subsection.

((~~(a)~~)) (b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The American Indian scholarship endowment fund, the energy account, the game farm alternative account, and the self-insurance revolving fund. However, the earnings to be distributed 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 advanced right of way revolving fund, the federal narcotics asset forfeitures account, the ferry system account, the ferry system insurance claim reserve account, the ferry system operation and maintenance account, the ferry system revenue account, the ferry system revenue bond account, the high occupancy vehicle account, and the local rail service assistance account.~~))

(3) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section. [1993 1st sp.s. c 8 § 2; 1991 sp.s. c 13 § 82; 1973 1st ex.s. c 15 § 4.]

Reviser's note: RCW 43.79A.040 was amended twice during the 1993 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Effective date—Application—1993 1st sp.s. c 8: See note following RCW 43.84.092.

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Chapter 43.82
STATE AGENCY HOUSING

Sections

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

43.82.150 Inventory of state-owned or leased facilities. (1) The office of financial management shall develop and maintain an inventory system to account for all owned or leased facilities utilized by state government. At a minimum, the inventory system must include the location, type, and size of each facility. In addition, for owned facilities, the inventory system must include the date and cost of original construction and the cost of any major remodelling or renovation. The system must be developed by January 1, 1994, and the initial inventory must be completed by June 30, 1994. The inventory must be updated by June 30 of each subsequent year.

(2) All agencies, departments, boards, commissions, and institutions of the state of Washington shall provide to the office of financial management a complete inventory of owned and leased facilities by May 30, 1994. The inventory must be updated and submitted to the office of financial management by May 30 of each subsequent year. The inventories required under this subsection must be submitted in a standard format prescribed by the office of financial management.

(3) For the purposes of this section, "facilities" means buildings and other structures with walls and a roof. "Facilities" does not mean roads, bridges, parking areas, utility systems, and other similar improvements to real property. [1993 c 325 § 1.]

Historic properties: RCW 27.34.310.

Chapter 43.84
INVESTMENTS AND INTERFUND LOANS

Sections

43.84.092 Deposit of surplus balance investment earnings—Treasury income account—Accounts and funds credited (as amended by 1993 c 4). (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 administrative 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 1 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 1 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 1 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 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 marine operating fund, 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. [1993 c 4 § 9; 1992 c 235 § 4; 1991 sp.s. c 13 § 57; 1990 2nd ex.s. c 1 § 204; 1989 c 419 § 12; 1985 c 57 § 51.]

Legislative declaration—Effective date—1993 c 4: See notes following RCW 47.56.770.

43.84.092 Deposit of surplus balance investment earnings—Treasury income account—Accounts and funds credited (as amended by 1993 c 329). (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 administrative 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, the water pollution control revolving 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 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. [1993 c 329 § 2; 1992 c 235 § 4; 1991 sp.s. c 13 § 57; 1990 2nd ex.s. c 1 § 204; 1989 c 419 § 12; 1985 c 57 § 51.]

Effective date—1993 c 329: See note following RCW 90.50A.020.

43.84.092 Deposit of surplus balance investment earnings—Treasury income account—Accounts and funds credited (as amended by 1993 c 445). (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 administrative 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 tuition recovery trust fund, 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 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. [1993 c 445 § 4; 1992 c 235 § 4; 1991 sp.s. c 13 § 57; 1990 2nd ex.s. c 1 § 204; 1989 c 419 § 12; 1985 c 57 § 51.]

43.84.092 Deposit of surplus balance investment earnings—Treasury income account—Accounts and funds credited (as amended

by 1993 c 492). (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 administrative 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 health services account, the public health services account, the health system capacity account, the personal health services 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 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 marine operating fund, 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. [1993 c 492 § 473; 1993 c 4 § 9; 1992 c 235 § 4; 1991 sp.s. c 13 § 57; 1990 2nd ex.s. c 1 § 204; 1989 c 419 § 12; 1985 c 57 § 51.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Legislative declaration—Effective date—1993 c 4: See notes following RCW 47.56.770.

43.84.092 Deposit of surplus balance investment earnings—Treasury income account—Accounts and funds credited (as amended by 1993 c 500). (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) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) 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 administrative 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)~~)) (4)(a) shall first be reduced by the allocation to the state treasurer's service 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)~~)) (5) 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. [1993 c 500 § 6; 1992 c 235 § 4; 1991 sp.s. c 13 § 57; 1990 2nd ex.s. c 1 § 204; 1989 c 419 § 12; 1985 c 57 § 51.]

Finding—Severability—Effective date—1993 c 500: See notes following RCW 43.41.180.

43.84.092 Deposit of surplus balance investment earnings—Treasury income account—Accounts and funds credited (as amended by 1993 1st sp.s. c 8). (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 administrative 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 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,~~)) and 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. [1993 1st sp.s. c 8 § 1; 1992 c 235 § 4; 1991 sp.s. c 13 § 57; 1990 2nd ex.s. c 1 § 204; 1989 c 419 § 12; 1985 c 57 § 51.]

Effective date—Application—1993 1st sp.s. c 8: "This act shall take effect July 1, 1993, but shall not be effective for earnings on balances prior to July 1, 1993." [1993 1st sp.s. c 8 § 3.]

43.84.092 Deposit of surplus balance investment earnings—Treasury income account—Accounts and funds credited (as amended by 1993 1st sp.s. c 25). (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 administrative 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 real estate 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 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 marine operating fund, 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. [1993 1st sp.s. c 25 § 511; 1993 c 4 § 9; 1992 c 235 § 4; 1991 sp.s. c 13 § 57; 1990 2nd ex.s. c 1 § 204; 1989 c 419 § 12; 1985 c 57 § 51.]

Reviser's note: RCW 43.84.092 was amended seven times during the 1993 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Severability—Effective dates—Part headings, captions not law—1993 1st sp.s. c 25: See notes following RCW 82.04.230.

Findings—Intent—1993 1st sp.s. c 25: See note following RCW 82.45.010.

Legislative declaration—Effective date—1993 c 4: See notes following RCW 47.56.770.

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Applicability—1990 2nd ex.s. c 1: See note following RCW 82.14.050.

Severability—1990 2nd ex.s. c 1: See note following RCW 82.14.300.

Intent—Effective date—1989 c 419: See notes following RCW 4.92.006.

Effective date—1985 c 57: See note following RCW 18.04.105.

Chapter 43.85
STATE DEPOSITARIES

Sections

43.85.230 Investment deposits and rate of interest—Term deposit basis. The state treasurer may deposit moneys not required to meet current demands upon a term deposit basis not to exceed five years at such interest rates and upon such conditions as to withdrawals of such moneys as may be agreed upon between the state treasurer and any qualified public depositary. [1993 c 512 § 32; 1984 c 177 § 20; 1983 c 66 § 19; 1965 c 8 § 43.85.230. Prior: 1955 c 198 § 5.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

Severability—1983 c 66: See note following RCW 39.58.010.

Chapter 43.86A
SURPLUS FUNDS—INVESTMENT PROGRAM

Sections

43.86A.030 Time certificate of deposit investment program—Funds available for—Allocation. (1) Funds held in public depositaries not as demand deposits as provided in RCW 43.86A.020 and 43.86A.030, shall be available for a time certificate of deposit investment program according to the following formula: The state treasurer shall apportion to all participating depositaries an amount equal to five percent of the three year average mean of general state revenues as certified in accordance with Article VIII, section 1(b) of the state Constitution, or fifty percent of the total surplus treasury investment availability, whichever is less. Within thirty days after certification, those funds determined to be available according to this formula for the time certificate of deposit investment program shall be deposited in qualified public depositaries. These deposits shall be allocated among the participating depositaries on a basis to be determined by the state treasurer.

(2) The state treasurer may use up to fifty million dollars per year of all funds available under this section for the purposes of RCW 43.86A.060. The amounts made available to these public depositaries shall be equal to the amounts of outstanding loans made under RCW 43.86A.060.

(3) The formula so devised shall be a matter of public record giving consideration to, but not limited to deposits, assets, loans, capital structure, investments or some combination of these factors. However, if in the judgment of the state treasurer the amount of allocation for certificates of deposit as determined by this section will impair the cash flow needs of the state treasury, the state treasurer may adjust the amount of the allocation accordingly. [1993 c 512 § 33; 1982 c 74 § 1; 1973 c 123 § 3.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

43.86A.060 Linked deposit program—Minority and women's business enterprises. (1) The state treasurer shall establish a linked deposit program for investment of deposits in qualified public depositaries. As a condition of participating in the program, qualified public depositaries must make qualifying loans as provided in this section. The state treasurer may purchase a certificate of deposit that is equal to the amount of the qualifying loan made by the qualified public depositary or may purchase a certificate of deposit that is equal to the aggregate amount of two or more qualifying loans made by one or more qualified public depositaries.

(2) Qualifying loans made under this section are those that:

(a) Are loans that have terms that do not exceed ten years;

(b) Are made to a minority or women's business enterprise that has received state certification under chapter 39.19 RCW;

(c) Are made to minority or women's business enterprises that are considered a small business as defined in *RCW 43.31.025;

(d) Are made where the interest rate on the loan to the minority or women's business enterprise does not exceed an interest rate that is two hundred basis points below the interest rate the qualified public depositary would charge for a loan for a similar purpose and a similar term; and

(e) Are made where the points or fees charged at loan closing do not exceed one percent of the loan amount.

(3) In setting interest rates of time certificate of deposits, the state treasurer shall offer rates so that a two hundred basis point preference will be given to the qualified public depositary. [1993 c 512 § 30.]

Reviser's note—Sunset Act application: (1) The linked deposit program is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.381. RCW 46.86A.060, 43.63A.690, and 43.86A.070 are scheduled for future repeal under RCW 43.131.382.

*(2) RCW 43.31.025 was repealed by 1993 c 280 § 82, effective July 1, 1994.

Finding—Intent—1993 c 512: "The legislature finds that minority and women's business enterprises have been historically excluded from access to capital in the marketplace. The lack of capital has been a major barrier to the development and expansion of business by various minority groups and women. There has been a significant amount of attention on the capital needs of minority and women's business enterprises. It is the intent of the legislature to remedy the problem of a lack of access to capital by minority and women's business enterprises, and other small businesses by authorizing the state treasurer to operate a program that links state deposits to business loans by financial institutions to minority and women's business enterprises." [1993 c 512 § 29.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

43.86A.070 Linked deposit program—Liability. The state and those acting as its agents are not liable in any manner for payment of the principal or interest on qualifying loans made under RCW 43.86A.060. Any delay in payments or defaults on the part of the borrower does not in any manner affect the deposit agreement between the qualified public depositary and the state treasurer. [1993 c 512 § 34.]

Sunset Act application: See note following RCW 43.86A.060.

Finding—Intent—1993 c 512: See note following RCW 43.86A.060.

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

Chapter 43.88

STATE BUDGETING, ACCOUNTING, AND REPORTING SYSTEM

(Formerly: Budget and accounting)

Sections

43.88.020 Definitions. (1) "Budget" means a proposed plan of expenditures for a given period or purpose and the proposed means for financing these expenditures.

(2) "Budget document" means a formal, written statement offered by the governor to the legislature, as provided in RCW 43.88.030.

(3) "Director of financial management" means the official appointed by the governor to serve at the governor's pleasure and to whom the governor may delegate necessary authority to carry out the governor's duties as provided in this chapter. The director of financial management shall be head of the office of financial management which shall be in the office of the governor.

(4) "Agency" means and includes every state office, officer, each institution, whether educational, correctional or other, and every department, division, board and commission, except as otherwise provided in this chapter.

(5) "Public funds", for purposes of this chapter, means all moneys, including cash, checks, bills, notes, drafts, stocks, and bonds, whether held in trust, for operating purposes, or for capital purposes, and collected or disbursed under law, whether or not such funds are otherwise subject to legislative appropriation, including funds maintained outside the state treasury.

(6) "Regulations" means the policies, standards, and requirements, stated in writing, designed to carry out the purposes of this chapter, as issued by the governor or the governor's designated agent, and which shall have the force and effect of law.

(7) "Ensuing biennium" means the fiscal biennium beginning on July 1st of the same year in which a regular session of the legislature is held during an odd-numbered year pursuant to Article II, section 12 of the Constitution and which biennium next succeeds the current biennium.

(8) "Dedicated fund" means a fund in the state treasury, or a separate account or fund in the general fund in the state treasury, that by law is dedicated, appropriated or set aside for a limited object or purpose; but "dedicated fund" does not include a revolving fund or a trust fund.

(9) "Revolving fund" means a fund in the state treasury, established by law, from which is paid the cost of goods or services furnished to or by a state agency, and which is replenished through charges made for such goods or services or through transfers from other accounts or funds.

(10) "Trust fund" means a fund in the state treasury in which designated persons or classes of persons have a vested beneficial interest or equitable ownership, or which was created or established by a gift, grant, contribution, devise, or bequest that limits the use of the fund to designated objects or purposes.

(11) "Administrative expenses" means expenditures for: (a) Salaries, wages, and related costs of personnel and (b) operations and maintenance including but not limited to costs of supplies, materials, services, and equipment.

(12) "Fiscal year" means the year beginning July 1st and ending the following June 30th.

(13) "Lapse" means the termination of authority to expend an appropriation.

(14) "Legislative fiscal committees" means the legislative budget committee, the legislative evaluation and accountability program committee, the ways and means committees of the senate and house of representatives, and, where appropriate, the legislative transportation committee.

(15) "Fiscal period" means the period for which an appropriation is made as specified within the act making the appropriation.

(16) "Primary budget driver" means the primary determinant of a budget level, other than a price variable, which causes or is associated with the major expenditure of an agency or budget unit within an agency, such as a caseload, enrollment, workload, or population statistic.

(17) "Stabilization account" means the budget stabilization account created under RCW 43.88.525 as an account in the general fund of the state treasury.

(18) "State tax revenue limit" means the limitation created by chapter 43.135 RCW.

(19) "General state revenues" means the revenues defined by Article VIII, section 1(c) of the state Constitution.

(20) "Annual growth rate in real personal income" means the estimated percentage growth in personal income for the state during the current fiscal year, expressed in constant value dollars, as published by the office of financial management or its successor agency.

(21) "Estimated revenues" means estimates of revenue in the most recent official economic and revenue forecast prepared under RCW 82.33.020, and prepared by the office of financial management for those funds, accounts, and sources for which the office of the economic and revenue forecast council does not prepare an official forecast including estimates of revenues to support financial plans under RCW 44.40.070, that are prepared by the office of financial management in consultation with the interagency task force.

(22) "Estimated receipts" means the estimated receipt of cash in the most recent official economic and revenue forecast prepared under RCW 82.33.020, and prepared by the office of financial management for those funds, accounts, and sources for which the office of the economic and revenue forecast council does not prepare an official forecast.

(23) "State budgeting, accounting, and reporting system" means a system that gathers, maintains, and communicates fiscal information. The system links fiscal information beginning with development of agency budget requests through adoption of legislative appropriations to tracking actual receipts and expenditures against approved plans.

(24) "Allotment of appropriation" means the agency's statement of proposed expenditures, the director of financial management's review of that statement, and the placement of the approved statement into the state budgeting, accounting, and reporting system.

(25) "Statement of proposed expenditures" means a plan prepared by each agency that breaks each appropriation out into monthly detail representing the best estimate of how the appropriation will be expended.

(26) "Undesignated fund balance (or deficit)" means unreserved and undesignated current assets or other resources available for expenditure over and above any current liabilities which are expected to be incurred by the close of the fiscal period.

(27) "Internal audit" means an independent appraisal activity within an agency for the review of operations as a service to management, including a systematic examination of accounting and fiscal controls to assure that human and material resources are guarded against waste, loss, or misuse; and that reliable data are gathered, maintained, and fairly disclosed in a written report of the audit findings.

(28) "Performance audit" means an audit that determines the following: (a) Whether a government entity is acquiring, protecting, and using its resources economically and efficiently; (b) the causes of inefficiencies or uneconomical practices; (c) whether the entity has complied with laws and rules applicable to the program; (d) the extent to which the desired results or benefits established by the legislature are being achieved; and (e) the effectiveness of organizations, programs, activities, or functions.

(29) "Program evaluation" means the use of a variety of policy and fiscal research methods to (a) determine the extent to which a program is achieving its legislative intent in terms of producing the effects expected, and (b) make an objective judgment of the implementation, outcomes, and net cost or benefit impact of programs in the context of their goals and objectives. It includes the application of systematic methods to measure the results, intended or unintended, of program activities. [1993 c 406 § 2; 1991 c 358 § 6; 1990 c 229 § 4; 1987 c 502 § 1; 1986 c 215 § 2; 1984 c 138 § 6; 1982 1st ex.s. c 36 § 1. Prior: 1981 c 280 § 6; 1981 c 270 § 2; 1980 c 87 § 25; 1979 c 151 § 135; 1975-'76 2nd ex.s. c 83 § 4; 1973 1st ex.s. c 100 § 2; 1969 ex.s. c 239 § 9; 1965 c 8 § 43.88.020; prior: 1959 c 328 § 2.]

Finding—Intent—1993 c 406: "The legislature finds that many of the systems currently in place for assuring accountability in state government programs are not operated comprehensively, do not take advantage of modern management techniques, and do not contribute adequately to the optimum use of scarce resources. Critical variables that are not always taken into account include whether stated goals and objectives are being achieved, and whether desired results are being accomplished.

Agency executives need more accurate information for setting policy, determining whether new or existing programs are effective, and improving internal controls for agency management. These needs must be met at all levels of operation, and must be clearly communicated to the legislature and all interested parties.

Ensuring accountability in government involves a long-term commitment to policy planning, quality management, and results-oriented evaluation. It is the intent of the legislature to facilitate program evaluations and performance audits of selected state agencies and programs through the coordinated resources of the executive and legislative branches of state government." [1993 c 406 § 1.]

Short title—1993 c 406: "This act may be known and cited as the performance-based government act of 1993." [1993 c 406 § 7.]

Effective date—1991 c 358: See note following RCW 43.88.030.

Effective date—1990 c 229: See note following RCW 41.06.087.

Effective date—Severability—1981 c 280: See notes following RCW 43.88.520.

Effective date—Severability—1981 c 270: See notes following RCW 43.88.010.

Office of financial management: Chapter 43.41 RCW.

43.88.090 Development of budget—Agencies to establish goals and objectives—Performance and accountability. (1) For purposes of developing budget proposals to the legislature, the governor shall have the power, and it shall be the governor's duty, to require from proper agency

officials such detailed estimates and other information in such form and at such times as the governor shall direct. The estimates for the legislature and the judiciary shall be transmitted to the governor and shall be included in the budget without revision. The estimates for state pension contributions shall be based on the rates provided in chapter 41.45 RCW. Copies of all such estimates shall be transmitted to the standing committees on ways and means of the house and senate at the same time as they are filed with the governor and the office of financial management.

The estimates shall include statements or tables which indicate, by agency, the state funds which are required for the receipt of federal matching revenues. The estimates shall be revised as necessary to reflect legislative enactments and adopted appropriations and shall be included with the initial biennial allotment submitted under RCW 43.88.110.

(2) It is the policy of the state that each state agency define its mission and establish measurable goals for achieving desirable results for those who receive its services. This section shall not be construed to require an agency to develop a new mission or goals in place of identifiable missions or goals that meet the intent of this section. State agencies should involve affected groups and individuals in developing their missions and goals.

(3) For the purpose of assessing program performance, each state agency shall establish program objectives for each major program in its budget. The objectives shall be consistent with the missions and goals developed under this section. The objectives shall be expressed to the extent practicable in outcome-based, objective, and measurable form unless permitted by the office of financial management to adopt a different standard.

(4) In concert with legislative and executive agencies, the office of financial management shall develop a plan for using these outcome-based objectives in the evaluation of agency performance for improved accountability of state government. Any elements of the plan requiring legislation shall be submitted to the legislature no later than November 30, 1994.

(5) In the year of the gubernatorial election, the governor shall invite the governor-elect or the governor-elect's designee to attend all hearings provided in RCW 43.88.100; and the governor shall furnish the governor-elect or the governor-elect's designee with such information as will enable the governor-elect or the governor-elect's designee to gain an understanding of the state's budget requirements. The governor-elect or the governor-elect's designee may ask such questions during the hearings and require such information as the governor-elect or the governor-elect's designee deems necessary and may make recommendations in connection with any item of the budget which, with the governor-elect's reasons therefor, shall be presented to the legislature in writing with the budget document. Copies of all such estimates and other required information shall also be submitted to the standing committees on ways and means of the house and senate. [1993 c 406 § 3; 1989 c 273 § 26; 1987 c 505 § 35; 1984 c 247 § 3; 1981 c 270 § 4; 1979 c 151 § 137; 1975 1st ex.s. c 293 § 5; 1973 1st ex.s. c 100 § 6; 1965 c 8 § 43.88.090. Prior: 1959 c 328 § 9.]

Finding—Intent—Short title—1993 c 406: See notes following RCW 43.88.020.

Severability—Effective dates—1989 c 273: See RCW 41.45.900 and 41.45.901.

Effective date—Severability—1981 c 270: See notes following RCW 43.88.010.

43.88.160 Fiscal management—Powers and duties of officers and agencies. This section sets forth the major fiscal duties and responsibilities of officers and agencies of the executive branch. The regulations issued by the governor pursuant to this chapter shall provide for a comprehensive, orderly basis for fiscal management and control, including efficient accounting and reporting therefor, for the executive branch of the state government and may include, in addition, such requirements as will generally promote more efficient public management in the state.

(1) Governor; director of financial management. The governor, through the director of financial management, shall devise and supervise a modern and complete accounting system for each agency to the end that all revenues, expenditures, receipts, disbursements, resources, and obligations of the state shall be properly and systematically accounted for. The accounting system shall include the development of accurate, timely records and reports of all financial affairs of the state. The system shall also provide for 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) Develop and maintain a system of internal controls and internal audits comprising methods and procedures to be adopted by each agency that will safeguard its assets, check the accuracy and reliability of its accounting data, promote operational efficiency, and encourage adherence to prescribed managerial policies for accounting and financial controls. The system developed by the director shall include criteria for determining the scope and comprehensiveness of internal controls required by classes of agencies, depending on the level of resources at risk.

Each agency head or authorized designee shall be assigned the responsibility and authority for establishing and maintaining internal audits following the standards of internal auditing of the institute of internal auditors;

(b) 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;

(c) Establish policies for allowing the contracting of child care services;

(d) Report to the governor with regard to duplication of effort or lack of coordination among agencies;

(e) 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;

(f) 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;

(g) 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;

(h) Adopt rules to effectuate provisions contained in (a) through (g) 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) Receive, disburse, or transfer public funds under the treasurer's supervision or custody;

(c) Keep a correct and current account of all moneys received and disbursed by the treasurer, classified by fund or account;

(d) Coordinate agencies' acceptance and use of credit cards and other payment methods, if the agencies have received authorization under RCW 43.41.180;

(e) 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 disburse public funds in the treasury except upon forms or by alternative means duly prescribed by the director of financial management. These forms or alternative means 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. 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. 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. Where feasible in conducting examinations, the auditor shall utilize data and findings from the internal control system prescribed by the office of financial management. 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 determinations as to whether agencies, in making expenditures, complied with the laws of this state. The state auditor is authorized to perform or participate in performance audits only as expressly authorized by the legislature in the omnibus biennial appropriations acts. 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 state auditor, upon completing an audit for legal and financial compliance under chapter 43.09 RCW, may report to the legislative budget committee or other appropriate committees of the legislature, in a manner prescribed by the legislative budget committee, on facts relating to the management or performance of governmental programs where such facts are discovered incidental to the legal and financial audit. The auditor may make such a report to a legislative committee only if the auditor has determined that the agency has been given an opportunity and has failed to resolve the management or performance issues raised by the auditor. If the auditor makes a report to a legislative committee, the agency may submit to the committee a response to the report. This subsection (6) shall not be construed to authorize the auditor to allocate other than de minimis resources to performance audits except as expressly authorized in the appropriations acts.

(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 as well as performance audits and program evaluations. 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. [1993 c 500 § 7; 1993 c 406 § 4; 1993 c 194 § 6; 1992 c 118 § 8; 1992 c 118 § 7; 1991 c 358 § 4. Prior: 1987 c 505 § 36; 1987 c 436 § 1; 1986 c 215 § 5; 1982 c 10 § 11; prior: 1981 c 280 § 7; 1981 c 270 § 11; 1979 c 151 § 139; 1975 1st ex.s. c 293 § 8; 1975 c 40 § 11; 1973 c 104 § 1; 1971 ex.s. c 170 § 4; 1967 ex.s. c 8 § 49; 1965 c 8 § 43.88.160; prior: 1959 c 328 § 16.]

Reviser's note: This section was amended by 1993 c 194 § 6, 1993 c 406 § 4, and by 1993 c 500 § 7, each without reference to the other. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Finding—Severability—Effective date—1993 c 500: See notes following RCW 43.41.180.

Finding—Intent—Short title—1993 c 406: See notes following RCW 43.88.020.

Expiration date—1992 c 118 § 7: "Section 7 of this act shall expire April 1, 1992." [1992 c 118 § 9.]

Effective date—1992 c 118 § 8: "Section 8 of this act shall take effect April 1, 1992." [1992 c 118 § 10.]

Effective date—1991 c 358: See note following RCW 43.88.030.

Severability—1982 c 10: See note following RCW 6.13.080.

Effective date—Severability—1981 c 280: See notes following RCW 43.88.520.

Effective date—Severability—1981 c 270: See notes following RCW 43.88.010.

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

Director of financial management: Chapter 43.41 RCW.

Legislative budget committee: Chapter 44.28 RCW.

Post-audit: RCW 43.09.290 through 43.09.330.

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

State auditor, duties: Chapter 43.09 RCW.

State treasurer, duties: Chapter 43.08 RCW.

43.88.195 Establishment of accounts or funds outside treasury without permission of director of financial management prohibited. After August 11, 1969, no state agency, state institution, state institution of higher education, which shall include all state universities, regional universities, The Evergreen State College, and community colleges, shall establish any new accounts or funds which are to be located outside of the state treasury: PROVIDED, That the office of financial management shall be authorized to grant permission for the establishment of such an account or fund outside of the state treasury only when the requesting agency presents compelling reasons of economy and efficiency which could not be achieved by placing such funds in the state treasury. When the director of financial management authorizes the creation of such fund or account, the director shall forthwith give written notice of the fact to the standing committees on ways and means of the house and senate: PROVIDED FURTHER, That the office of financial management may grant permission for the establishment of accounts outside of the state treasury for the purposes of RCW 39.35C.120. Agencies authorized to

create local accounts will utilize the services of the state treasurer's office to ensure that new or ongoing relationships with financial institutions are in concert with state-wide policies and procedures pursuant to RCW 43.88.160(1). [1993 c 500 § 8; 1991 c 201 § 19; 1979 c 151 § 140; 1977 ex.s. c 169 § 109; 1975 1st ex.s. c 293 § 9; 1969 ex.s. c 248 § 1.]

Finding—Severability—Effective date—1993 c 500: See notes following RCW 43.41.180.

Captions not law—Severability—1991 c 201: See RCW 39.35C.900 and 39.35C.901.

43.88.310 Fiscal responsibilities of state officers and employees—Duties of legislative auditor, attorney general. (1) The legislative auditor, with the concurrence of the legislative budget committee, may file with the attorney general any audit exceptions or other findings of any performance audit, management study, or special report prepared for the legislative budget committee, any standing or special committees of the house or senate, or the entire legislature which indicate a violation of RCW 43.88.290, or any other act of malfeasance, misfeasance, or nonfeasance on the part of any state officer or employee.

(2) The attorney general shall promptly review each filing received from the legislative auditor and may act thereon as provided in RCW 43.88.300, or any other applicable statute authorizing enforcement proceedings by the attorney general. The attorney general shall advise the legislative budget committee of the status of exceptions or findings referred under this section. [1993 c 157 § 1; 1977 ex.s. c 320 § 4.]

Effective date—1977 ex.s. c 320: See note following RCW 43.88.280.

43.88.535 Budget stabilization account—Appropriation for certain purposes—Waiver of deposits. (1) Money in the budget stabilization account may be appropriated by a favorable vote of sixty percent of the members elected to each house of the legislature for the following purposes:

(a) To provide for the continuation of agency programs at or near levels of existing appropriations when state revenues decline below projections;

(b) To provide the governor with reserve expenditure authority for the purpose specified in subsection (1)(a) of this section;

(c) For labor force training; and

(d) For any other purpose which the legislature finds would reduce unemployment caused by the state's economic cycle.

(2) By January 1, 1994, the state treasurer shall transfer twenty-five million dollars from the state general fund to the budget stabilization account. In addition to the purposes specified in subsection (1) of this section, the moneys deposited in the budget stabilization account under this subsection may be appropriated for the continuing costs of any state retirement system benefits in effect on July 1, 1993.

(3) The legislature by appropriation may provide for, or the governor may authorize, the waiver of deposits in any fiscal quarter to the stabilization account in the event of an expenditure from the account during such quarter. [1993 1st sp.s. c 24 § 919; 1982 1st ex.s. c 36 § 3; 1981 c 280 § 4.]

Severability—Effective dates—1993 1st sp.s. c 24: See notes following RCW 28A.165.070.

Effective date—Severability—1981 c 280: See notes following RCW 43.88.520.

Chapter 43.89

TELETYPEWRITER COMMUNICATIONS NETWORK

Sections

43.89.010 Teletypewriter communications network—Establishment—Use—Charges—Duties of chief of state patrol. The chief of the Washington state patrol is hereby authorized to establish a teletypewriter communications network which will inter-connect the law enforcement agencies of the state and its political subdivisions into a unified written communications system. The chief of the Washington state patrol is authorized to lease or purchase such facilities and equipment as may be necessary to establish and maintain such teletypewriter communications network.

(1) The communications network shall be used exclusively for the official business of the state, and the official business of any city, county, city and county, or other public agency.

(2) This section does not prohibit the occasional use of the state's communications network by any other state or public agency thereof when the messages transmitted relate to the enforcement of the criminal laws of the state.

(3) The chief of the Washington state patrol shall fix the monthly operational charge to be paid by any department or agency of state government, or any city, county, city and county, or other public agency participating in the communications network: PROVIDED, That in computing charges to be made against a city, county, or city and county the state shall bear at least fifty percent of the costs of such service as its share in providing a modern unified communications network to the law enforcement agencies of the state. Of the fees collected pursuant to this section, one-half shall be deposited in the motor vehicle fund and one-half shall be deposited in the transportation fund.

(4) The chief of the Washington state patrol is authorized to arrange for the connection of the communications network with the law enforcement communications system of any adjacent state, or the Province of British Columbia, Canada. [1993 1st sp.s. c 23 § 63; 1965 ex.s. c 60 § 2; 1965 c 8 § 43.89.010. Prior: 1963 c 160 § 1.]

Effective dates—1993 1st sp.s. c 23: See note following RCW 47.86.030.

Effective date—1965 ex.s. c 60: "This 1965 amendatory act shall take effect on July 1, 1965." [1965 ex.s. c 60 § 6.]

Chapter 43.99J

FINANCING FOR CAPITAL AND OPERATING OPERATIONS—1993-1995 FISCAL BIENNIUM

Sections

43.99J.010 1993-1995 fiscal biennium—General obligation bonds for capital and operating appropriations acts. For the purpose of providing funds to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 1993-95 fiscal biennium, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of nine hundred twenty-six million seven hundred thirty-seven thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [1993 1st sp.s. c 12 § 1.]

43.99J.020 Conditions and limitations. The proceeds from the sale of the bonds authorized in RCW 43.99J.010 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(1) Nine hundred three million dollars to remain in the state building construction account created by RCW 43.83.020; and

(2) One million five hundred thousand dollars to the fruit commission facility account.

These proceeds shall be used exclusively for the purposes specified in this section, 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. [1993 1st sp.s. c 12 § 2.]

43.99J.030 Retirement of bonds—Pledge and promise—Remedies. (1) The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99J.020.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. On the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

(3) Bonds issued under RCW 43.99J.010 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(4) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1993 1st sp.s. c 12 § 3.]

43.99J.040 Additional means for payment of principal and interest. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99J.010, and RCW 43.99J.030 shall not be deemed to provide an exclusive method for the payment. [1993 1st sp.s. c 12 § 7.]

43.99J.050 Legal investment. The bonds authorized in RCW 43.99J.010 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1993 1st sp.s. c 12 § 8.]

43.99J.060 Washington state fruit commission—Reimbursement of general fund. On each date on which any interest or principal and interest payment is due for the purposes of RCW 43.99J.020(2), the Washington state fruit commission shall cause the amount computed by the state finance committee in RCW 43.99J.030 for the purposes of RCW 43.99J.020(2) 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. [1993 1st sp.s. c 12 § 4.]

43.99J.070 Washington state fruit commission—Bond conditions and limitations. The bonds authorized in RCW 43.99J.020(2) may be issued only after the director of financial management has: (1) Certified that, based on the future income from assessments levied under this chapter and other revenues collected by the 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 43.99J.060 for the life of the bonds; and (2) approved the plans for facility. [1993 1st sp.s. c 12 § 5.]

43.99J.080 Fruit commission facility account. The fruit commission facility account is created in the state treasury. Moneys in the account may be spent only after appropriation. [1993 1st sp.s. c 12 § 6.]

43.99J.900 Severability—1993 1st sp.s. c 12. 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. [1993 1st sp.s. c 12 § 10.]

Chapter 43.101

CRIMINAL JUSTICE TRAINING COMMISSION—EDUCATION AND TRAINING STANDARDS BOARDS

Sections

43.101.200 Law enforcement personnel—Basic law enforcement training required—Commission to provide. (Effective until January 1, 1994.) (1) All law enforcement personnel, except volunteers, and reserve officers whether paid or unpaid, initially employed on or after January 1, 1978, shall engage in basic law enforcement training which complies with standards adopted by the commission pursuant to RCW 43.101.080. For personnel initially employed before January 1, 1990, such training shall be successfully completed during the first fifteen months of employment of such personnel unless otherwise extended or waived by the commission and shall be requisite to the continuation of such employment. Personnel initially employed on or after January 1, 1990, shall commence basic training during the first six months of employment unless the basic training requirement is otherwise waived or extended by the commission. Successful completion of basic training is requisite to the continuation of employment of such personnel initially employed on or after January 1, 1990.

(2) The commission shall provide the aforementioned training together with necessary facilities, supplies, materials, and the board and room of noncommuting attendees for seven days per week. Additionally, to the extent funds are provided for this purpose, the commission shall reimburse to participating law enforcement agencies with ten or less full-time commissioned patrol officers the cost of temporary replacement of each officer who is enrolled in basic law enforcement training: PROVIDED, That such reimbursement shall include only the actual cost of temporary replacement not to exceed the total amount of salary and benefits received by the replaced officer during his or her training period. [1993 1st sp.s. c 24 § 920; 1989 c 299 § 2; 1977 ex.s. c 212 § 2.]

Severability—Effective dates—1993 1st sp.s. c 24: See notes following RCW 28A.165.070.

43.101.200 Law enforcement personnel—Basic law enforcement training required—Commission to provide. (Effective January 1, 1994.) (1) All law enforcement personnel, except volunteers, and reserve officers whether paid or unpaid, initially employed on or after January 1, 1978, shall engage in basic law enforcement training which complies with standards adopted by the commission pursuant to RCW 43.101.080. For personnel initially employed before January 1, 1990, such training shall be successfully completed during the first fifteen months of employment of such personnel unless otherwise extended or waived by the commission and shall be requisite to the continuation of such employment. Personnel initially employed on or after January 1, 1990, shall commence basic training during the first six months of employment unless the basic training requirement is otherwise waived or extended by the commission. Successful completion of basic training is requisite to the continuation of employment of such personnel initially employed on or after January 1, 1990.

(2) The commission shall provide the aforementioned training together with necessary facilities, supplies, materials, and the board and room of noncommuting attendees for seven days per week. Additionally, to the extent funds are provided for this purpose, the commission shall reimburse to participating law enforcement agencies with ten or less full-time commissioned patrol officers the cost of temporary replacement of each officer who is enrolled in basic law enforcement training: PROVIDED, That such reimbursement shall include only the actual cost of temporary replacement not to exceed the total amount of salary and benefits received by the replaced officer during his or her training period. [1993 1st sp.s. c 24 § 920; 1993 1st sp.s. c 21 § 5; 1989 c 299 § 2; 1977 ex.s. c 212 § 2.]

Reviser's note: This section was amended by 1993 1st sp.s. c 21 § 5 and by 1993 1st sp.s. c 24 § 920, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—Effective dates—1993 1st sp.s. c 24: See notes following RCW 28A.165.070.

Effective dates—1993 1st sp.s. c 21: See note following RCW 82.14.310.

43.101.280 Ethnic and cultural diversity—Development of curriculum for understanding—Training. The criminal justice training commission shall develop, in consultation with the administrator for the courts and the commissions established under chapters 43.113, 43.115, and 43.117 RCW, a curriculum for a general understanding of ethnic and cultural diversity and its implications for working with youth of color and their families. The curriculum shall be developed by October 1, 1993. The commission shall ensure that ethnic and diversity training becomes an integral part of the training of law enforcement personnel so as to incorporate cultural sensitivity and awareness into the daily activities of law enforcement personnel. [1993 c 415 § 4.]

Intent—1993 c 415: See note following RCW 2.56.031.

Ethnic and cultural diversity—Development of curriculum for understanding: RCW 2.56.030.

43.101.290 Training in crimes of malicious harassment. The criminal justice training commission shall provide training for law enforcement officers in identifying, responding to, and reporting all violations of RCW 9A.36.080 and any other crimes of bigotry or bias. [1993 c 127 § 5.]

Severability—1993 c 127: See note following RCW 9A.36.078.

Chapter 43.105
DEPARTMENT OF INFORMATION SERVICES
(Formerly: Data processing and communications systems)

Sections

Reviser's note—Sunset Act application: The information services board and the department of information services are subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.353. Chapter 43.105 RCW and RCW 41.06.094 and 43.88.560 are scheduled for future repeal under RCW 43.131.354.

43.105.020 Definitions. (Effective July 1, 1994.) As used in this chapter, unless the context indicates otherwise, the following definitions shall apply:

(1) "Department" means the department of information services;

(2) "Board" means the information services board;

(3) "Local governments" includes all municipal and quasi municipal corporations and political subdivisions, and all agencies of such corporations and subdivisions authorized to contract separately;

(4) "Director" means the director of the department;

(5) "Purchased services" means services provided by a vendor to accomplish routine, continuing, and necessary functions. This term includes, but is not limited to, services acquired for equipment maintenance and repair, operation of a physical plant, security, computer hardware and software installation and maintenance, data entry, keypunch services, programming services, and computer time-sharing;

(6) "Backbone network" means the shared high-density portions of the state's telecommunications transmission facilities. It includes specially conditioned high-speed communications carrier lines, multiplexors, switches associated with such communications lines, and any equipment and software components necessary for management and control of the backbone network;

(7) "Telecommunications" means the transmission of information by wire, radio, optical cable, electromagnetic, or other means;

(8) "Information processing" means the electronic capture, collection, storage, manipulation, transmission, retrieval, and presentation of information in the form of data, text, voice, or image and includes telecommunications and office automation functions;

(9) "Information services" means data processing, telecommunications, and office automation;

(10) "Equipment" means the machines, devices, and transmission facilities used in information processing, such as computers, word processors, terminals, telephones, and cables;

(11) "Proprietary software" means that software offered for sale or license;

(12) "Video telecommunications" means the electronic interconnection of two or more sites for the purpose of transmitting and/or receiving visual and associated audio information. Video telecommunications shall not include existing public television broadcast stations as currently designated by the department of community, trade, and economic development under chapter 43.330 RCW. [1993 c 280 § 78; 1990 c 208 § 3; 1987 c 504 § 3; 1973 1st ex.s. c 219 § 3; 1967 ex.s. c 115 § 2.]

Sunset Act application: See note following chapter digest.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Effective date—1967 ex.s. c 115: "This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1967." [1967 ex.s. c 115 § 8.]

43.105.052 Powers and duties of department. 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) 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 a state strategic information technology plan and performance reports as required under RCW 43.105.160;

(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 RCW 43.105.160. 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, 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 communication commission on March 27, 1990; and

(13) Perform all other matters and things necessary to carry out the purposes and provisions of this chapter. [1993 c 281 § 53; 1992 c 20 § 10; 1990 c 208 § 7; 1987 c 504 § 8.]

Sunset Act application: See note following chapter digest.

Effective date—1993 c 281: See note following RCW 41.06.022.

Severability—Captions not law—1992 c 20: See notes following RCW 43.105.160.

43.105.210 Data processing expenditures—Authorization—Penalties. No state agency may expend any moneys for major information technology projects subject to review by the department of information services under RCW 43.105.190 unless specifically authorized by the legislature. An intentional or negligent violation of this section constitutes a violation of RCW 43.88.290 and shall subject the head of the agency to forfeiture of office and other civil penalties as provided under RCW 43.88.300.

If the director of information services intentionally or negligently approved an expenditure in violation of this section, then all sanctions described in this section and RCW 43.88.300 shall also apply to the director of information services. [1993 1st sp.s. c 1 § 903.]

Severability—1993 1st sp.s. c 1: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 1st sp.s. c 1 § 904.]

Effective date—1993 1st sp.s. c 1: "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 [May 18, 1993]." [1993 1st sp.s. c 1 § 905.]

Chapter 43.115
STATE COMMISSION ON HISPANIC AFFAIRS

Sections

Reviser's note—Sunset Act application: The Washington state commission on Hispanic affairs is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.341. RCW 43.115.010 through 43.115.060 and 43.115.900 are scheduled for future repeal under RCW 43.131.342.

43.115.010 Legislative declaration. The legislature declares that the public policy of this state is to insure equal opportunity for all of its citizens. The legislature believes that it is the duty of the state to improve the well-being of Hispanics by enabling them to participate fully in all fields of endeavor and 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 Hispanics can be improved by establishing a focal point in state government for the interests of Hispanics. Therefore the legislature deems it necessary to create a commission to carry out the purposes of this chapter. [1993 c 261 § 1; 1987 c 249 § 1; 1971 ex.s. c 34 § 1.]

Sunset Act application: See note following chapter digest.

43.115.030 Membership—Terms—Vacancies—Travel expenses—Quorum. (1) The commission shall consist of eleven members of Hispanic origin appointed by the governor. To the extent practicable, appointments to the commission shall be made to achieve a balanced representation based on the Hispanic population distribution within the state, geographic considerations, sex, age, and occupation. Members shall serve three-year terms. No member shall serve more than two full consecutive terms. Vacancies shall be filled in the same manner as the original appointments.

(2) Members shall receive reimbursement for travel expenses incurred in the performance of their duties in

accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(3) Six members of the commission shall constitute a quorum for the purpose of conducting business. [1993 c 261 § 2; 1987 c 249 § 3; 1981 c 338 § 15; 1975-'76 2nd ex.s. c 34 § 130; 1971 ex.s. c 34 § 3.]

Sunset Act application: See note following chapter digest.

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

43.115.040 Officers and employees—Rules and regulations. The commission shall have the following powers and duties:

(1) Elect one of its members to serve as chairman;

(2) Adopt rules and regulations pursuant to chapter 34.05 RCW;

(3) Examine and define issues pertaining to the rights and needs of Hispanics, and make recommendations to the governor and state agencies for changes in programs and laws;

(4) Advise the governor and state agencies on the development and implementation of policies, plans, and programs that relate to the special needs of Hispanics;

(5) Advise the legislature on issues of concern to the Hispanic community;

(6) Establish relationships with state agencies, local governments, and private sector organizations that promote equal opportunity and benefits for Hispanics; and

(7) 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. [1993 c 261 § 3; 1987 c 249 § 4; 1971 ex.s. c 34 § 4.]

Sunset Act application: See note following chapter digest.

43.115.045 Executive director. (1) 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 base the appointment of the executive director on recommendations of the commission. The salary of the executive director shall be set by the governor.

(2) The executive director shall employ a staff, who shall be state employees pursuant to Title 41 RCW. The executive director shall prescribe the duties of the staff as may be necessary to implement the purposes of this chapter. [1993 c 261 § 4.]

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

Chapter 43.121
COUNCIL FOR THE PREVENTION OF CHILD ABUSE AND NEGLECT

Sections

43.121.140 Shaken baby syndrome—Outreach campaign. The council shall conduct a proactive, public information and communication outreach campaign regarding the dangers of shaking infants and young children, and the causes and prevention of shaken baby syndrome.

The public information campaign shall include production and distribution of a readily understandable brochure regarding shaken baby syndrome, explaining its medical effects upon infants and emphasizing preventive measures.

The brochure shall be distributed free of charge to the parents or guardians of each newborn, upon discharge from a hospital or other health facility. In the event of home birth attended by a licensed midwife, the midwife shall be responsible for presenting the brochure to the parents of the newborn.

The public information campaign may, within available funds, also include communication by electronic media, telephone hotlines, and existing parenting education events funded by the council. [1993 c 107 § 2.]

Finding—1993 c 107: "The legislature finds that shaken baby syndrome is a medically serious, sometimes fatal, usually unintentional matter affecting newborns and very young children.

Vigorous shaking of an infant can result in bleeding inside the head, causing irreversible brain damage, blindness, cerebral palsy, hearing loss, spinal cord injury, seizures, learning disabilities, or death. Many healthy, intelligent infants suffer from shaken baby syndrome because their caregivers were unaware of the dangers. The damage is preventable through education and awareness." [1993 c 107 § 1.]

Chapter 43.131
WASHINGTON SUNSET ACT OF 1977

Sections

43.131.090 Termination of state agency—Procedures—Employee transfers—Property disposition—Funds and moneys—Rules—Contracts. Unless the legislature specifies a shorter period of time, a terminated state agency shall continue in existence until June 30th of the next succeeding year for the purpose of concluding its affairs: PROVIDED, That the powers and authority of the state agency shall not be reduced or otherwise limited during this period. Unless otherwise provided:

(1) All employees of terminated state agencies classified under chapter 41.06 RCW, the state civil service law, shall be transferred as appropriate or as otherwise provided in the

procedures adopted by the Washington personnel resources board pursuant to RCW 41.06.150;

(2) All documents and papers, equipment, or other tangible property in the possession of the terminated state agency shall be delivered to the custody of the agency assuming the responsibilities of the terminated agency or if such responsibilities have been eliminated, documents and papers shall be delivered to the state archivist and equipment or other tangible property to the department of general administration;

(3) All funds held by, or other moneys due to, the terminated state agency shall revert to the fund from which they were appropriated, or if that fund is abolished to the general fund;

(4) Notwithstanding the provisions of RCW 34.05.020, all rules made by a terminated state agency shall be repealed, without further action by the state agency, at the end of the period provided in this section, unless assumed and reaffirmed by the agency assuming the related legal responsibilities of the terminated state agency;

(5) All contractual rights and duties of a state agency shall be assigned or delegated to the agency assuming the responsibilities of the terminated state agency, or if there is none to such agency as the governor shall direct. [1993 c 281 § 54; 1983 1st ex.s. c 27 § 4; 1977 ex.s. c 289 § 9.]

Effective date—1993 c 281: See note following RCW 41.06.022.

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

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

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

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

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

43.131.341 Washington state commission on Hispanic affairs—Termination. The Washington state commission on Hispanic affairs and its powers and duties shall be terminated on June 30, 2021, as provided in RCW 43.131.342. [1993 c 261 § 5; 1987 c 249 § 8.]

43.131.342 Washington state commission on Hispanic affairs—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2022:

(1) Section 1, chapter 34, Laws of 1971 ex. sess., section 1, chapter 249, Laws of 1987, section 1, chapter 261, Laws of 1993 and RCW 43.115.010;

(2) Section 2, chapter 34, Laws of 1971 ex. sess., section 2, chapter 249, Laws of 1987 and RCW 43.115.020;

(3) Section 3, chapter 34, Laws of 1971 ex. sess., section 130, chapter 34, Laws of 1975-'76 2nd ex. sess., section 15, chapter 338, Laws of 1981, section 3, chapter 249, Laws of 1987, section 2, chapter 261, Laws of 1993, and RCW 43.115.030;

(4) Section 4, chapter 34, Laws of 1971 ex. sess., section 4, chapter 249, Laws of 1987, section 3, chapter 261, Laws of 1993 and RCW 43.115.040;

(5) Section 6, chapter 34, Laws of 1971 ex. sess., section 6, chapter 249, Laws of 1987 and RCW 43.115.060;

(6) Section 7, chapter 34, Laws of 1971 ex. sess. and RCW 43.115.900; and

(7) Section 4, chapter 261, Laws of 1993 and RCW 43.115.045. [1993 c 261 § 6; 1987 c 249 § 9.]

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

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

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

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

43.131.377 Work force employment and training program—Termination. The work force employment and training program created in chapter 226, Laws of 1993 shall expire June 30, 1998. [1993 c 226 § 18.]

Findings—Purpose, intent—Conflict with federal requirements—Severability—Application—1993 c 226: See notes following RCW 50.24.018.

43.131.378 Work force employment and training program—Repeal. The following acts or parts of acts are each repealed, effective June 30, 1999:

(1) 1993 c 226 § 1 (uncodified);

(2) 1993 c 226 § 2 (uncodified);

(3) RCW 50.24.018 and 1993 c 226 § 3;

(4) RCW 50.16.090 and 1993 c 226 § 4;

(5) RCW 50.16.092 and 1993 c 226 § 5;

(6) RCW 50.16.094 and 1993 c 226 § 6;

(7) RCW 50.16.096 and 1993 c 226 § 8;

(8) RCW 50.29.085 and 1993 c 226 § 15; and

(9) RCW 50.12.261 and 1993 c 226 § 17. [1993 c 226 § 19.]

Findings—Purpose, intent—Conflict with federal requirements—Severability—Application—1993 c 226: See notes following RCW 50.24.018.

43.131.381 Linked deposit program—Termination. The linked deposit program shall be terminated on June 30, 1996, as provided in RCW 43.131.382. [1993 c 512 § 35.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

43.131.382 Linked deposit program—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1997:

(1) RCW 43.86A.060 and 1993 c 512 § 30;

(2) RCW 43.63A.690 and 1993 c 512 § 31; and

(3) RCW 43.86A.070 and 1993 c 512 § 34. [1993 c 512 § 36.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

43.131.383 Conservation corps—Termination. The Washington conservation corps and its powers and duties shall be terminated on June 30, 1999, as provided in RCW 43.131.384. [1993 c 516 § 13.]

Short title—Sections captions and part headings—Severability—Conflict with federal requirements—Effective date—1993 c 516: See RCW 43.21J.900 through 43.21J.904.

43.131.384 Conservation corps—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2000:

(1) RCW 43.220.010 and 1983 1st ex.s. c 40 § 2;

(2) RCW 43.220.020 and 1988 c 36 § 23 & 1983 1st ex.s. c 40 § 1;

(3) RCW 43.220.030 and 1987 c 367 § 1 & 1983 1st ex.s. c 40 § 3;

(4) RCW 43.220.040 and 1987 c 367 § 2 & 1983 1st ex.s. c 40 § 4;

(5) RCW 43.220.050 and 1983 1st ex.s. c 40 § 5;

(6) RCW 43.220.060 and 1987 c 505 § 44 & 1983 1st ex.s. c 40 § 6;

(7) RCW 43.220.070 and 1990 c 71 § 2, 1988 c 78 § 1, & 1986 c 266 § 48;

(8) RCW 43.220.080 and 1983 1st ex.s. c 40 § 8;

(9) RCW 43.220.090 and 1983 1st ex.s. c 40 § 9;

(10) RCW 43.220.120 and 1988 c 36 § 24 & 1983 1st ex.s. c 40 § 12;

(11) RCW 43.220.130 and 1983 1st ex.s. c 40 § 13;

(12) RCW 43.220.140 and 1983 1st ex.s. c 40 § 14;

(13) RCW 43.220.150 and 1983 1st ex.s. c 40 § 15;

(14) RCW 43.220.160 and 1983 1st ex.s. c 40 § 16;

(15) RCW 43.220.170 and 1983 1st ex.s. c 40 § 17;

(16) RCW 43.220.180 and 1983 1st ex.s. c 40 § 18;

(17) RCW 43.220.190 and 1987 c 367 § 3 & 1983 1st ex.s. c 40 § 20;

(18) RCW 43.220.210 and 1987 c 367 § 4 & 1985 c 230 § 1;

(19) RCW 43.220.220 and 1985 c 230 § 2;

(20) RCW 43.220.230 and 1990 c 71 § 3 & 1985 c 230 § 3;

(21) RCW 43.220.240 and 1985 c 230 § 4; and

(22) RCW 43.220.250 and 1985 c 230 § 5. [1993 c 516 § 14.]

Short title—Section captions and part headings—Severability—Conflict with federal requirements—Effective date—1993 c 516: See RCW 43.21J.900 through 43.21J.904.

Chapter 43.136
TERMINATION OF TAX PREFERENCES

Sections

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

Chapter 43.147
PACIFIC NORTHWEST ECONOMIC REGION AGREEMENT

Sections

43.147.010 Terms of agreement. The Pacific Northwest Economic Region is hereby enacted into law and entered into by the state of Washington as a party, and is in full force and effect in accordance with the terms of this agreement.

THE PACIFIC NORTHWEST ECONOMIC REGION

ARTICLE I—Policy and Purpose

States and provinces participating in the Pacific Northwest Economic Region shall seek to develop and establish policies that: Promote greater regional collaboration among the seven entities; enhance the overall competitiveness of the region in international and domestic markets; increase the economic well-being of all citizens in the region; and improve the quality of life of the citizens of the Pacific Northwest.

States and provinces recognize that there are many public policy areas in which cooperation and joint efforts would be mutually beneficial. These areas include, but are not limited to: International trade; economic development; human resources; the environment and natural resources; energy; and education. Parties to this agreement shall work diligently to establish collaborative activity in these and other appropriate policy areas where such cooperation is deemed worthwhile and of benefit to the participating entities. Participating states and provinces also agree that there are areas in which cooperation may not be feasible.

The substantive actions of the Pacific Northwest Economic Region may take the form of uniform legislation enacted by two or more states and/or provinces or policy initiatives endorsed as appropriate by participating entities. It shall not be necessary for all states and provinces to participate in each initiative.

ARTICLE II—Eligible Parties and Effective Date

Each of the following states and provinces is eligible to become a party to this agreement: Alaska, Alberta, British Columbia, Idaho, Montana, Oregon, and Washington. This agreement establishing the Pacific Northwest Economic Region shall become effective when it is executed by one state, one province, and one additional state and/or province in a form deemed appropriate by each entity. This agreement shall continue in force and remain binding upon each state and province until renounced by it. Renunciation of this agreement must be preceded by sending one year's notice in writing of intention to withdraw from the agreement to the other parties to the agreement.

ARTICLE III—Organizational Structure

Each state and province participating in this agreement shall appoint representatives to the Pacific Northwest Economic Region. The organizational structure of the Pacific Northwest Economic Region shall consist of the following: A delegate council consisting of four legislators and the governor or governor's designee from each participating state and four representatives and the premier or the premier's designee from each participating province and an executive committee consisting of one legislator from each participating state and/or province who is a member of the delegate council and four of the seven governors/premiers or their designees who are members of the delegate council. The legislator members of the executive committee from each state or province shall be chosen by the legislator members of that state or province. The four governor or premier members of the executive committee shall be chosen by the governors and premiers from among the governors and premiers on the delegate council. At least one of four members representing the governors and premiers on the executive committee must be the premier of a Canadian province. Policy committees may be established to carry out further duties and responsibilities of the Pacific Northwest Economic Region.

ARTICLE IV—Duties and Responsibilities

The delegate council shall have the following duties and responsibilities: Facilitate the involvement of other government officials in the development and implementation of specific collaborative initiatives; work with policy-making committees in the development and implementation of specific initiatives; approve general organizational policies developed by the executive committee; provide final approval of the annual budget and staffing structure for the Pacific Northwest Economic Region developed by the executive committee; and other duties and responsibilities as may be established in the rules and regulations of the Pacific Northwest Economic Region. The executive committee shall perform the following duties and responsibilities: Elect the president and vice-president of the Pacific Northwest Economic Region; approve and implement general organizational policies; develop the annual budget; devise the annual action plan; act as liaison with other public and private sector entities; review the availability of, and if appropriate apply for, (1) tax exempt status under the laws and regulations of the United States or any state or subdivision thereof and (2) similar status under the laws and regulations of Canada or any province or subdivision thereof, and approve such rules, regulations, organizational policies, and staffing structure for the Pacific Northwest Economic Region and take such further actions on behalf of the Pacific Northwest Economic Region as may be deemed by the executive committee to be necessary or appropriate to qualify for and maintain such tax exempt or similar status under the applicable laws or regulations; and other duties and responsibilities established in the rules and regulations of the Pacific Northwest Economic Region. The rules and regulations of the Pacific Northwest Economic Region shall establish the procedure for voting.

ARTICLE V—Membership of Policy Committees

Policy committees dealing with specific subject matter may be established by the executive committee.

Each participating state and province shall appoint legislators and governors or premiers to sit on these committees in accordance with its own rules and regulations concerning such appointments.

ARTICLE VI—General Provisions

This agreement shall not be construed to limit the powers of any state or province or to amend or repeal or prevent the enactment of any legislation. [1993 c 108 § 1; 1991 c 251 § 2.]

43.147.040 Interlibrary sharing—Finding. In chapter 251, Laws of 1991, the legislature enacted into law the Pacific Northwest economic region agreement and made the state of Washington a party along with member states Alaska, Idaho, Montana, and Oregon, and member Canadian provinces Alberta and British Columbia. The legislature recognized that the member states and provinces of the Pacific Northwest economic region are in a strategic position to act together, as a region, thus increasing the overall competitiveness of the members and providing substantial economic benefits for all of their citizens.

For those reasons, in chapter 251, Laws of 1991, the legislature also encouraged the establishment of cooperative activities between the seven legislative bodies of the Pacific Northwest economic region. The member states and provinces now desire to engage in such cooperation by electronically sharing twenty-two million volumes from certain of their respective universities. The member states and provinces have determined that such interlibrary sharing will provide substantial economic benefit for their citizens. The legislature agrees, specifically also finding that such interlibrary sharing furthers a major component of education strategy in the 1990's and twenty-first century, namely providing increased access to knowledge via technology. [1993 c 485 § 1.]

43.147.050 Interlibrary sharing—Definition—Member libraries. Unless the context clearly requires otherwise, as used in RCW 43.147.040 through 43.147.080 "PNWER-Net" means the technology network to be created by the member states and provinces of the Pacific Northwest economic region that will be capable of electronically linking the following undergraduate university libraries of the member states and provinces:

(1) Alaska:
(a) University of Alaska, Anchorage;
(b) University of Alaska, Juneau;
(2) Alberta:
(a) University of Alberta, Calgary;
(b) University of Alberta, Edmonton;
(3) British Columbia:
(a) University of British Columbia, Vancouver;
(b) University of Victoria, Victoria;
(4) Idaho:
(a) Boise State University, Boise;
(b) University of Idaho, Moscow;
(5) Montana:

(a) Montana State University, Bozeman;
(b) University of Montana, Missoula;
(6) Oregon:
(a) Oregon State University, Corvallis;
(b) University of Oregon, Eugene;
(7) Washington:
(a) University of Washington, Seattle; and
(b) Washington State University, Pullman. [1993 c 485 § 2.]

43.147.060 PNWER-Net working subgroup—Generally. (1) The PNWER-Net working subgroup is hereby created for the member state of Washington. The working subgroup shall be composed of seven members as follows: Two members of the senate, one from each of the major caucuses, appointed by the president of the senate; two members of the house of representatives, appointed by the speaker of the house of representatives; the state librarian; and the primary undergraduate academic librarian from each of the state's two research institutions of higher education.

(2) The staff support shall be provided by the senate committee services and, to the extent authorized by the chief clerk of the house of representatives, by the house of representatives office of program research as mutually agreed by the legislators on the working group.

(3) Legislative members shall be reimbursed for expenses in accordance with RCW 44.04.120. Nonlegislative members shall be reimbursed for expenses in accordance with RCW 43.03.050 and 43.03.060. [1993 c 485 § 3.]

43.147.070 PNWER-Net working subgroup—Duties. The PNWER-Net working subgroup shall have the following duties:

(1) To work with working subgroups from other member states and provinces in an entity known as the PNWER-Net working group to develop PNWER-Net;

(2) To assist the PNWER-Net working group in developing criteria to ensure that designated member libraries use existing telecommunications infrastructure including the internet; and

(3) To report to the legislature by December 1, 1994, concerning the status of PNWER-Net. [1993 c 485 § 4.]

43.147.080 PNWER-Net working subgroup—Gifts, grants, donations. The PNWER-Net working group may accept gifts, grants, and donations from private individuals and entities made for the purposes of RCW 43.147.040 through 43.147.070. [1993 c 485 § 5.]

Chapter 43.150
CENTER FOR VOLUNTEERISM AND CITIZEN SERVICE

Sections

43.150.080 At-risk children—Collaborative program. A volunteer organization or individual volunteer may assist a public agency, with the agency's approval, in a collaborative program designed to serve the needs of at-risk children. The center, with the advice and counsel of the attorney general, shall develop guidelines defining at-risk children and establish reasonable safety standards to protect the safety of program participants and volunteers, including but not limited to background checks as appropriate as provided in RCW 43.43.830 through 43.43.834. In carrying out the volunteer activity, the individual volunteer or member of the volunteer organization shall not be considered to be an employee or agent of any public agency involved in the collaborative program. The public agency shall have no liability for any acts of the individual volunteer or volunteer organization. Prior to participation, a volunteer and the public agency administering the collaborative program shall sign a written master agreement, approved in form by the attorney general, that includes provisions defining the scope of the volunteer activities and waiving any claims against each other. A volunteer organization or individual volunteer shall not be liable for civil damages resulting from any act or omission arising from volunteer activities which comply with safety standards issued by the center for volunteerism and citizen service, other than acts or omissions constituting gross negligence or willful or wanton misconduct. [1993 c 365 § 1.]

Chapter 43.155
PUBLIC WORKS PROJECTS

Sections

43.155.050 Public works assistance account. The public works assistance account is hereby established in the state treasury. Money may be placed in the public works assistance account from the proceeds of bonds when authorized by the legislature or from any other lawful source. Money in the public works assistance account shall be used to make loans and to give financial guarantees to local governments for public works projects. During the 1993-95 fiscal biennium, moneys in the public works assistance account may be appropriated for flood control assistance including grants under chapter 86.26 RCW. To the extent that moneys in the public works assistance account are not appropriated during the 1993-95 fiscal biennium for public works or flood control assistance, the legislature may direct their transfer to the state general fund. In awarding grants under chapter 86.26 RCW, the department of ecology shall give strong preference to local governments that have: (1) Implemented, or are in the process of implementing, an ordinance that establishes a flood plain policy that is substantially more stringent than minimum federal requirements; (2) completed a comprehensive flood control plan meeting the requirements of RCW 86.12.200; or (3) constructed, or are in the process of constructing, a system of overtopping dikes or levees that allow public access. [1993 1st sp.s. c 24 § 921; 1985 c 471 § 8.]

Severability—Effective dates—1993 1st sp.s. c 24: See notes following RCW 28A.165.070.

Severability—Effective date—1985 c 471: See notes following RCW 82.04.260.

43.155.070 Eligibility, priority, limitations, and exceptions. (1) To qualify for loans or pledges under this chapter the board must determine that a local government meets all of the following conditions:

(a) The city or county must be imposing a tax under chapter 82.46 RCW at a rate of at least one-quarter of one percent;

(b) The local government must have developed a long-term plan for financing public works needs;

(c) The local government must be using all local revenue sources which are reasonably available for funding public works, taking into consideration local employment and economic factors; and

(d) A county, city, or town that is required or chooses to plan under RCW 36.70A.040 must have adopted a comprehensive plan in conformance with the requirements of chapter 36.70A RCW, after it is required that the comprehensive plan be adopted, and must have adopted development regulations in conformance with the requirements of chapter 36.70A RCW, after it is required that development regulations be adopted.

(2) The board shall develop a priority process for public works projects as provided in this section. The intent of the priority process is to maximize the value of public works projects accomplished with assistance under this chapter. The board shall attempt to assure a geographical balance in assigning priorities to projects. The board shall consider at least the following factors in assigning a priority to a project:

(a) Whether the local government receiving assistance has experienced severe fiscal distress resulting from natural disaster or emergency public works needs;

(b) Whether the project is critical in nature and would affect the health and safety of a great number of citizens;

(c) The cost of the project compared to the size of the local government and amount of loan money available;

(d) The number of communities served by or funding the project;

(e) Whether the project is located in an area of high unemployment, compared to the average state unemployment;

(f) Whether the project is the acquisition, expansion, improvement, or renovation by a local government of a public water system that is in violation of health and safety standards, including the cost of extending existing service to such a system;

(g) The relative benefit of the project to the community, considering the present level of economic activity in the community and the existing local capacity to increase local economic activity in communities that have low economic growth; and

(h) Other criteria that the board considers advisable.

(3) Existing debt or financial obligations of local governments shall not be refinanced under this chapter. Each local government applicant shall provide documentation of attempts to secure additional local or other sources of funding for each public works project for which financial assistance is sought under this chapter.

(4) Before November 1 of each year, the board shall develop and submit to the chairs of the ways and means committees of the senate and house of representatives a description of the emergency loans made under RCW 43.155.065 during the preceding fiscal year and a prioritized list of projects which are recommended for funding by the legislature, including one copy to the staff of each of the committees. The list shall include, but not be limited to, a description of each project and recommended financing, the terms and conditions of the loan or financial guarantee, the local government jurisdiction and unemployment rate, demonstration of the jurisdiction's critical need for the project and documentation of local funds being used to finance the public works project. The list shall also include measures of fiscal capacity for each jurisdiction recommended for financial assistance, compared to authorized limits and state averages, including local government sales taxes; real estate excise taxes; property taxes; and charges for or taxes on sewerage, water, garbage, and other utilities.

(5) The board shall not sign contracts or otherwise financially obligate funds from the public works assistance account before the legislature has appropriated funds for a specific list of public works projects. The legislature may remove projects from the list recommended by the board. The legislature shall not change the order of the priorities recommended for funding by the board.

(6) Subsections (4) and (5) of this section do not apply to loans made for emergency public works projects under RCW 43.155.065.

(7)(a) Loans made for the purpose of capital facilities plans shall be exempted from subsections (4) and (5) of this section. In no case shall the total amount of funds utilized for capital facilities plans and emergency loans exceed the limitation in RCW 43.155.065.

(b) For the purposes of this section "capital facilities plans" means those plans required by the growth management act, chapter 36.70A RCW, and plans required by the public works board for local governments not subject to the growth management act. [1993 c 39 § 1; 1991 sp.s. c 32 § 23; 1990 1st ex.s. c 17 § 82; 1990 c 133 § 6; 1988 c 93 § 3; 1987 c 505 § 40; 1985 c 446 § 12.]

Effective date—1993 c 39: "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, 1993." [1993 c 39 § 2.]

Section headings not law—1991 sp.s. c 32: See RCW 36.70A.902.

Intent—1990 1st ex.s. c 17: See note following RCW 43.210.010.

Severability—Part, section headings not law—1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

Findings—Severability—1990 c 133: See notes following RCW 36.94.140.

Chapter 43.160

ECONOMIC DEVELOPMENT—PUBLIC FACILITIES LOANS AND GRANTS

Sections

Public disclosure: RCW 42.17.310.

43.160.020 Definitions. (Effective until July 1, 1994.) 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" or "political subdivision" means any port district, county, city, town, or special utility district.

(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: (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. [1993 c 320 § 1; 1992 c 21 § 3; 1991 c 314 § 22; 1985 c 466 § 58; 1985 c 6 § 12; 1984 c 257 § 2; 1983 1st ex.s. c 60 § 1; 1982 1st ex.s. c 40 § 2.]

Findings—1991 c 314: See note following RCW 43.31.601.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.005.

43.160.020 Definitions. (Effective July 1, 1994.) 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 community, trade, and economic development.

(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" or "political subdivision" means any port district, county, city, town, or special utility district.

(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: (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. [1993 c 320 § 1; 1993 c 280 § 55; 1992 c 21 § 3; 1991 c 314 § 22; 1985 c 466 § 58; 1985 c 6 § 12; 1984 c 257 § 2; 1983 1st ex.s. c 60 § 1; 1982 1st ex.s. c 40 § 2.]

Reviser's note: This section was amended by 1993 c 280 § 55 and by 1993 c 320 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Findings—1991 c 314: See note following RCW 43.31.601.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.005.

43.160.030 Community economic revitalization board—Members—Terms—Chair, vice-chair—Staff support—Compensation and travel expenses—Vacancies—Removal. (1) The community economic revitalization board is hereby created to exercise the powers granted under this chapter.

(2) The board shall consist of the chairman of and one minority member appointed by the speaker of the house of representatives from the committee on trade, economic development, and housing of the house of representatives, the chairman of and one minority member appointed by the president of the senate from the committee on trade, technology, and economic development of the senate, and the following members appointed by the governor: A recognized private or public sector economist; one port district official; one county official; one city official; one representative of the public; one representative of small businesses each from: (a) The area west of Puget Sound, (b) the area east of Puget Sound and west of the Cascade range, (c) the area east of the Cascade range and west of the Columbia river, and (d) the area east of the Columbia river; one executive from large businesses each from the area west of the Cascades and the area east of the Cascades. The appointive members shall initially be appointed to terms as follows: Three members for one-year terms, three members for two-year terms, and three members for three-year terms which shall include the chair. Thereafter each succeeding term shall be for three years. The chair of the board shall be selected by the governor. The members of the board shall elect one of their members to serve as vice-chair. The director of trade and economic development, the director of community development, the director of revenue, the commissioner of employment security, and the secretary of transportation shall serve as nonvoting advisory members of the board.

(3) Staff support shall be provided by the department of trade and economic development to assist the board in implementing this chapter and the allocation of private activity bonds.

(4) All appointive members of the board 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.

(5) If a vacancy occurs by death, resignation, or otherwise of appointive members of the board, the governor shall fill the same for the unexpired term. Any members of the board, appointive or otherwise, may be removed for malfeasance or misfeasance in office, upon specific written charges by the governor, under chapter 34.05 RCW. [1993 c 320 § 2. Prior: 1987 c 422 § 2; 1987 c 195 § 11; prior: 1985 c 446 § 2; 1985 c 6 § 13; prior: 1985 c 446 § 1; 1984 c 287 § 89; 1983 1st ex.s. c 60 § 2; 1982 1st ex.s. c 40 § 3.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

43.160.035 Designees for board members. Each member of the house of representatives who is appointed to the community economic revitalization board under RCW 43.160.030 may designate another member of the trade, economic development, and housing committee of the house of representatives to take his or her place on the board for meetings at which the member will be absent. The designee shall have all powers to vote and participate in board deliberations as have the other board members. Each member of the senate who is appointed to the community economic revitalization board under RCW 43.160.030 may designate another member of the trade, technology, and economic development committee of the senate to take his or her place on the board for meetings at which the member will be absent. The designee shall have all powers to vote and participate in board deliberations as have the other board members. Each agency head of an executive agency who is appointed to serve as a nonvoting advisory member of the community economic revitalization board under RCW 43.160.030 may designate an agency employee to take his or her place on the board for meetings at which the agency head will be absent. The designee will have all powers to participate in board deliberations as have the other board members but shall not have voting powers. [1993 c 320 § 3; 1987 c 422 § 3; 1985 c 446 § 4.]

43.160.060 Loans and grants to political subdivisions for public facilities authorized—Application—Requirements for grants and loans. The board is authorized to make direct loans to political subdivisions of the state for the purposes of assisting the political subdivisions in financing the cost of public facilities, including development of land and improvements for public facilities, as well as the construction, rehabilitation, alteration, expansion, or improvement of the facilities. A grant may also be authorized for purposes designated in this chapter, but only when, and to the extent that, a loan is not reasonably possible, given the limited resources of the political subdivision.

Application for funds shall be made in the form and manner as the board may prescribe. In making grants or loans the board shall conform to the following requirements:

(1) The board shall not make a grant or loan:

(a) For a project the primary purpose of which is to facilitate or promote a retail shopping development or expansion.

(b) For any project that evidence exists would result in a development or expansion that would displace existing jobs in any other community in the state.

(c) For the acquisition of real property, including buildings and other fixtures which are a part of real property.

(2) The board shall only make grants or loans:

(a) For those projects which would result in specific private developments or expansions (i) in manufacturing, production, food processing, assembly, warehousing, and industrial distribution; (ii) for processing recyclable materials or for facilities that support recycling, including processes not currently provided in the state, including but not limited to, de-inking facilities, mixed waste paper, plastics, yard waste, and problem-waste processing; (iii) for manufacturing facilities that rely significantly on recyclable materials, including but not limited to waste tires and mixed waste paper; (iv) which support the relocation of businesses from nondistressed urban areas to distressed rural areas; or (v) which substantially support the trading of goods or services outside of the state's borders.

(b) For projects which it finds will improve the opportunities for the successful maintenance, establishment, or expansion of industrial or commercial plants or will otherwise assist in the creation or retention of long-term economic opportunities.

(c) When the application includes convincing evidence that a specific private development or expansion is ready to occur and will occur only if the grant or loan is made.

(3) The board shall prioritize each proposed project according to the relative benefits provided to the community by the jobs the project would create, not just the total number of jobs it would create after the project is completed and according to the unemployment rate in the area in which the jobs would be located. As long as there is more demand for loans or grants than there are funds available for loans or grants, the board is instructed to fund projects in order of their priority.

(4) A responsible official of the political subdivision shall be present during board deliberations and provide information that the board requests.

Before any loan or grant application is approved, the political subdivision seeking the loan or grant must demonstrate to the community economic revitalization board that no other timely source of funding is available to it at costs reasonably similar to financing available from the community economic revitalization board. [1993 c 320 § 4; 1990 1st ex.s. c 17 § 73; 1989 c 431 § 62; 1987 c 422 § 5; 1985 c 446 § 3; 1983 1st ex.s. c 60 § 3; 1982 1st ex.s. c 40 § 6.]

Intent—1990 1st ex.s. c 17: See note following RCW 43.210.010.

Severability—Part, section headings not law—1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

Severability—Section captions not law—1989 c 431: See RCW 70.95.901 and 70.95.902.

43.160.076 Grants and loans in distressed counties. (Effective until June 30, 1995.) (1) Except as authorized to the contrary under subsection (2) of this section, from all funds available to the board for loans and grants in a biennium, the board shall spend at least fifty percent for grants and loans for projects in distressed counties or timber impact areas. For purposes of this section, the term "distressed counties" includes any county, in which the average level of unemployment for the three years before the year in which an application for a loan or grant is filed, exceeds the average state employment for those years by twenty percent.

(2) If at any time during the last six months of a biennium the board finds that the actual and anticipated applications for qualified projects in distressed counties or timber impact areas are clearly insufficient to use up the fifty percent allocation, then the board shall estimate the amount of the insufficiency and during the remainder of the biennium may use that amount of the allocation for loans and grants for projects not located in distressed counties or timber impact areas. [1993 c 320 § 5; 1991 c 314 § 24; 1985 c 446 § 6.]

Findings—1991 c 314: See note following RCW 43.31.601.

43.160.077 Applications—Processing of recyclable materials—Department of ecology notice. (1) When the board receives an application from a political subdivision that includes a request for assistance in financing the cost of public facilities to encourage the development of a private facility to process recyclable materials, a copy of the application shall be sent by the board to the department of ecology.

(2) The board shall notify the department of ecology of its decision regarding any application made under this section. [1993 c 320 § 6; 1989 c 431 § 63.]

Severability—Section captions not law—1989 c 431: See RCW 70.95.901 and 70.95.902.

43.160.200 Economic development account—Timber impact areas. (Expires June 30, 1995.) (1) The economic development account is created within the public facilities construction loan revolving fund under RCW 43.160.080. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the purposes of RCW 43.160.010(4) and this section. The account is subject to allotment procedures under chapter 43.88 RCW.

(2) Applications under this section for assistance from the economic development account are subject to all of the applicable criteria set forth under this chapter, as well as procedures and criteria established by the board, except as otherwise provided.

(3) Eligible applicants under this section are limited to political subdivisions of the state in timber impact areas that demonstrate, to the satisfaction of the board, the local economy's dependence on the forest products industry.

(4) Applicants must demonstrate that their request is part of an economic development plan consistent with applicable state planning requirements. Applicants must demonstrate that tourism projects have been approved by the local government. Industrial projects must be approved by the local government and the associate development organization.

(5) Publicly owned projects may be financed under this section upon proof by the applicant that the public project is

a necessary component of, or constitutes in whole, a tourism project.

(6) Applications must demonstrate local match and participation. Such match may include: Land donation, other public or private funds or both, or other means of local commitment to the project.

(7) Board financing for feasibility studies shall not exceed twenty-five thousand dollars per study. Board funds for feasibility studies may be provided as a grant and require a dollar for dollar match with up to one-half in-kind match allowed.

(8) Board financing for tourism projects shall not exceed two hundred fifty thousand dollars. Other public facility projects under this section shall not exceed five hundred thousand dollars. Loans with flexible terms and conditions to meet the needs of the applicants shall be provided. Grants may also be authorized, but only when, and to the extent that, a loan is not reasonably possible, given the limited resources of the political subdivision.

(9) The board shall develop guidelines for allowable local match and feasibility studies.

(10) Applications under this section need not demonstrate evidence that specific private development or expansion is ready to occur or will occur if funds are provided.

(11) The board shall establish guidelines for making grants and loans under this section to ensure that the requirements of this chapter are complied with. The guidelines shall include:

(a) A process to equitably compare and evaluate applications from competing communities.

(b) Criteria to ensure that approved projects will have a high probability of success and are likely to provide long-term economic benefits to the community. The criteria shall include: (i) A minimum amount of local participation, determined by the board per application, to verify community support for the project; (ii) an analysis that establishes the project is feasible using standard economic principles; and (iii) an explanation from the applicant regarding how the project is consistent with the communities' economic strategy and goals.

(c) A method of evaluating the impact of the loans or grants on the economy of the community and whether the loans or grants achieved their purpose.

(12) Cities and counties otherwise eligible under and in compliance with this section are authorized to use the loans or grants for buildings and structures. [1993 c 320 § 7; 1993 c 316 § 4; 1991 c 314 § 23.]

Reviser's note: This section was amended by 1993 c 316 § 4 and by 1993 c 320 § 7, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Expiration date—1993 c 316; 1991 c 314: "RCW 43.160.200 expires June 30, 1995." [1993 c 316 § 7; 1991 c 314 § 33.]

Effective date—1993 c 316: See note following RCW 43.31.611.

Findings—1991 c 314: See note following RCW 43.31.601.

43.160.210 Distressed counties—Twenty percent of loans and grants. (Effective July 1, 1995.)

Effective date—1993 c 320; 1993 c 316; 1991 c 314: "RCW 43.160.210 shall take effect July 1, 1995." [1993 c 320 § 11; 1993 c 316 § 8; 1991 c 314 § 34.]

Findings—1991 c 314: See note following RCW 43.31.601.

43.160.900 Community economic revitalization board—Implementation of chapter—Report to legislature. The community economic revitalization board shall report to the appropriate standing committees of the legislature biennially on the implementation of this chapter. The report shall include information on the number of applications for community economic revitalization board assistance, the number and types of projects approved, the grant or loan amount awarded each project, the projected number of jobs created or retained by each project, the actual number of jobs created or retained by each project, the number of delinquent loans, and the number of project terminations. The report may also include additional performance measures and recommendations for programmatic changes. The first report shall be submitted by December 1, 1994. [1993 c 320 § 8; 1987 c 422 § 10; 1985 c 446 § 25; 1982 1st ex.s. c 40 § 10.]

Effective date—1993 c 320 § 8: "Section 8 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 [May 12, 1993]." [1993 c 320 § 12.]

Chapter 43.165
COMMUNITY REVITALIZATION TEAM—ASSISTANCE TO DISTRESSED AREAS

Sections

43.165.020 through 43.165.100 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.165.900 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.165.901 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 43.168
WASHINGTON STATE DEVELOPMENT LOAN FUND COMMITTEE

Sections

Public disclosure: RCW 42.17.310.

43.168.020 Definitions. (Effective July 1, 1994.) Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Committee" means the Washington state development loan fund committee.

(2) "Department" means the department of community, trade, and economic development.

(3) "Director" means the director of community, trade, and economic development.

(4) "Distressed area" means: (a) A county which has an unemployment rate which is twenty percent above the state average for the immediately previous three years; (b) a metropolitan statistical area, as defined by the office of federal statistical policy and standards, United States department of commerce, in which the average level of unemployment for the calendar year immediately preceding the year in which an application is filed under this chapter exceeds the average state unemployment for such calendar year by twenty percent. Applications under this subsection (4)(b) shall be filed by April 30, 1989; (c) an area within a county, which area: (i) Is composed of contiguous census tracts; (ii) has a minimum population of five thousand persons; (iii) has at least seventy percent of its families and unrelated individuals with incomes below eighty percent of the county's median income for families and unrelated individuals; and (iv) has an unemployment rate which is at least forty percent higher than the county's unemployment rate; or (d) a county designated as a timber impact area under RCW 43.31.601 if an application is filed by July 1, 1993. For purposes of this definition, "families and unrelated individuals" has the same meaning that is ascribed to that term by the federal department of housing and urban development in its regulations authorizing action grants for economic development and neighborhood revitalization projects.

(5) "Fund" means the Washington state development loan fund.

(6) "Local development organization" means a nonprofit organization which is organized to operate within an area, demonstrates a commitment to a long-standing effort for an economic development program, and makes a demonstrable effort to assist in the employment of unemployed or underemployed residents in an area.

(7) "Project" means the establishment of a new or expanded business in an area which when completed will provide employment opportunities. "Project" also means the retention of an existing business in an area which when completed will provide employment opportunities. [1993 c 280 § 56; 1991 c 314 § 19; 1988 c 42 § 18; 1987 c 461 § 2; 1985 c 164 § 2.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Findings—1991 c 314: See note following RCW 43.31.601.

Severability—1988 c 42: See note following RCW 4.24.480.

43.168.030 State development loan fund committee established—Membership—Terms—Officers—Expenses—Liability. (Effective until June 30, 1994.) (1) The Washington state development loan fund committee is established as an entity within the department of community development. The committee shall have eight members. The director shall appoint the members, subject to the following requirements: (a) Three members shall be experienced in investment finance and have skills in providing capital to new and innovative businesses, in starting and operating businesses and providing professional services to small or expanding businesses; (b) two members shall be residents of distressed areas; (c) one member shall represent organized labor; (d) one member shall represent a minority business; and (e) one member shall represent a women-owned business. Careful consideration in making these appointments shall be taken to ensure that the various geographic regions of the state are represented, that members will be available for meetings on a regular basis, and will have a commitment to working with local governments and local development organizations.

(2) Each member appointed by the director shall serve a term of three years, except that of the members first appointed, two shall serve two-year terms and two shall serve one-year terms. A person appointed to fill a vacancy of a member shall be appointed in a like manner and shall serve for only the unexpired term. A member is eligible for reappointment. A member may be removed by the director only for cause.

(3) The director shall designate a member of the board as its chairperson. The committee may elect such other officers as it deems appropriate. Five members of the committee constitute a quorum and five affirmative votes are necessary for the transaction of business or the exercise of any power or function of the committee.

(4) The members of the committee shall serve without compensation, but are entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties in accordance with RCW 43.03.050 and 43.03.060.

(5) Members shall not be liable to the state, to the fund, or to any other person as a result of their activities, whether ministerial or discretionary, as members except for wilful dishonesty or intentional violations of law. The department may purchase liability insurance for members and may indemnify these persons against the claims of others. [1993 c 512 § 11; 1985 c 164 § 3.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

43.168.050 Application approval—Conditions and limitations. (1) The committee may only approve an application providing a loan for a project which the committee finds:

(a) Will result in the creation of employment opportunities, the maintenance of threatened employment, or development or expansion of business ownership by minorities and women;

(b) Has been approved by the director as conforming to federal rules and regulations governing the spending of federal community development block grant funds;

(c) Will be of public benefit and for a public purpose, and that the benefits, including increased or maintained employment, improved standard of living, the employment of disadvantaged workers, and development or expansion of business ownership by minorities and women, will primarily accrue to residents of the area;

(d) Will probably be successful;

(e) Would probably not be completed without the loan because other capital or financing at feasible terms is unavailable or the return on investment is inadequate.

(2) The committee shall, subject to federal block grant criteria, give higher priority to economic development projects that contain provisions for child care.

(3) The committee may not approve an application if it fails to provide for adequate reporting or disclosure of financial data to the committee. The committee may require an annual or other periodic audit of the project books.

(4) The committee may require that the project be managed in whole or in part by a local development organization and may prescribe a management fee to be paid to such organization by the recipient of the loan or grant.

(5)(a) Except as provided in (b) of this subsection, the committee shall not approve any application which would result in a loan or grant in excess of three hundred fifty thousand dollars.

(b) The committee may approve an application which results in a loan or grant of up to seven hundred thousand dollars if the application has been approved by the director.

(6) The committee shall fix the terms and rates pertaining to its loans.

(7) Should there be more demand for loans than funds available for lending, the committee shall provide loans for those projects which will lead to the greatest amount of employment or benefit to a community. In determining the "greatest amount of employment or benefit" the committee shall also consider the employment which would be saved by its loan and the benefit relative to the community, not just the total number of new jobs or jobs saved.

(8) To the extent permitted under federal law the committee shall require applicants to provide for the transfer of all payments of principal and interest on loans to the Washington state development loan fund created under this chapter. Under circumstances where the federal law does not permit the committee to require such transfer, the committee shall give priority to applications where the applicants on their own volition make commitments to provide for the transfer.

(9) The committee shall not approve any application to finance or help finance a shopping mall.

(10) For loans not made to minority and women-owned businesses, the committee shall make at least eighty percent of the appropriated funds available to projects located in distressed areas, and may make up to twenty percent available to projects located in areas not designated as distressed. For loans not made to minority and women-owned businesses, the committee shall not make funds available to projects located in areas not designated as distressed if the fund's net worth is less than seven million one hundred thousand dollars.

(11) If an objection is raised to a project on the basis of unfair business competition, the committee shall evaluate the potential impact of a project on similar businesses located in the local market area. A grant may be denied by the committee if a project is not likely to result in a net increase in employment within a local market area.

(12) For loans to minority and women-owned businesses who do not meet the credit criteria, the committee may consider nontraditional credit standards to offset past discrimination that has precluded full participation of minority or women-owned businesses in the economy. For applicants with high potential who do not meet the credit criteria, the committee shall consider developing alternative borrowing methods. For applicants denied loans due to credit problems, the committee shall provide financial counseling within available resources and provide referrals to credit rehabilitation services. In circumstances of competing applications, priority shall be given to members of eligible groups which previously have been least served by this fund. [1993 c 512 § 12; 1990 1st ex.s. c 17 § 74; 1989 c 430 § 9; 1987 c 461 § 4; 1986 c 204 § 2; 1985 c 164 § 5.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

Intent—1990 1st ex.s. c 17: See note following RCW 43.210.010.

Severability—Part, section headings not law—1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

Legislative findings—Severability—1989 c 430: See notes following RCW 43.31.502.

43.168.070 Processing of applications—Contents of applications. The committee may receive and approve applications on a monthly basis but shall receive and approve applications on at least a quarterly basis for each fiscal year. The committee shall make every effort to simplify the loan process for applicants. Department staff shall process and assist in the preparation of applications. Each application shall show in detail the nature of the project, the types and numbers of jobs to be created, wages to be paid to new employees, and methods to hire unemployed persons from the area. Each application shall contain a credit analysis of the business to receive the loan. The chairperson of the committee may convene the committee on short notice to respond to applications of a serious or immediate nature. [1993 c 512 § 14; 1987 c 461 § 5; 1985 c 164 § 7.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

43.168.100 Entitlement community grants—Conditions. The committee may make grants of state funds to local governments which qualify as "entitlement communities" under the federal law authorizing community development block grants. These grants may only be made on the condition that the entitlement community provide the committee with assurances that it will: (1) Spend the grant moneys for purposes and in a manner which satisfies state constitutional requirements; (2) spend the grant moneys for purposes and in a manner which would satisfy federal requirements; and (3) spend at least the same amount of the grant for loans to businesses from the federal funds received by the entitlement community. [1993 c 512 § 15; 1986 c 204 § 1; 1985 c 164 § 10.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

43.168.150 Minority and women-owned businesses—Application process—Joint loan guarantee program. Subject to the restrictions contained in this chapter, the committee is authorized to approve applications of minority and women-owned businesses for loans or loan guarantees from the fund. Applications approved by the committee under this chapter shall conform to applicable federal requirements. The committee shall prioritize available funds for loan guarantees rather than loans when possible. The committee may enter into agreements with other public or

private lending institutions to develop a joint loan guarantee program for minority and women-owned businesses. If such a program is developed, the committee may provide funds, in conjunction with the other organizations, to operate the program. This section does not preclude the committee from making individual loan guarantees.

To the maximum extent practicable, the funds available under this section shall be made available on an equal basis to minority and women-owned businesses. The committee shall submit to the appropriate committees of the senate and house of representatives quarterly reports that detail the number of loans approved and the characteristics of the recipients by ethnic and gender groups. [1993 c 512 § 13.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

Chapter 43.172

MINORITY AND WOMEN-OWNED BUSINESSES—SMALL BUSINESS BONDING ASSISTANCE PROGRAM

Sections

43.172.005 Intent. It is the intent of the legislature to combat discrimination in the economy.

(1) The legislature finds that discrimination is in part responsible for:

(a) The disproportionately small percentage of the state's businesses that are owned by minorities and women;

(b) The limited and unequal opportunity minority and women entrepreneurs and business owners have to procure small business financing; and

(c) The difficulty many minority and women-owned contracting businesses have in securing bonds and contract work.

(2) The legislature further finds that:

(a) Many minority and women entrepreneurs and business owners lack training in how to establish and operate a business. This lack of training inhibits their competitiveness when they apply for business loans, bonds, and contracts;

(b) Minorities and women are an increasingly expanding portion of the population and work force. In order for these individuals to fully contribute to the society and economy it is necessary to ensure that minority and women entrepreneurs and business owners are provided an equal opportunity to procure small business financing, bonds, and contracts; and

(c) The growth of small businesses will have a favorable impact on the Washington economy by creating jobs, increasing competition in the marketplace, and expanding tax revenues. Access to financial markets, bonds, and contracts by entrepreneurs and small business owners is vital to this process. Without reasonable access to financing, bonds, and contracts, talented and aggressive entrepreneurs and small business owners are cut out of the economic system and the state's economy suffers.

(3) Therefore, the legislature declares there to be a substantial public purpose in providing technical assistance in the areas of marketing, finance, and management, and access to capital resources, bonds, and contracts, to help start or expand a minority or women-owned business, and specifically to encourage and make possible greater participation by minorities and women in international trade, public works and construction, and public facility concessions. To accomplish these purposes, it is the intent of the legislature to:

(a) Develop or contract for training courses in financing, marketing, managing, accounting, and recordkeeping for a small business and to make these programs available to minority and women entrepreneurs and small business owners;

(b) Make public works and construction projects, public facility concessions, and purchase of goods and services accessible to a greater number of minority and women-owned businesses;

(c) Provide for the lending of nonstate funds to qualified minority and women entrepreneurs and business owners in order to provide the maximum practicable opportunity for innovative minority and women entrepreneurs and business owners to compete for small business financing; and

(d) Provide professional services assistance grants and bond guarantees on behalf of qualified contractors in order to provide the maximum practicable opportunity for minority and women-owned contracting businesses to participate in the Washington state economy by bidding and completing various public and private contracting jobs. [1993 c 512 § 1.]

Linked deposit program: RCW 43.86A.060.

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

(1) "Minority" means persons of color, including African-Americans, Hispanic/Latino Americans, Native Americans, and Asian/Pacific Islanders Americans;

(2) "Minority and women-owned business" means any resident minority business enterprise or women's business enterprise, certified as such by the office of minority and women's business enterprises under chapter 39.19 RCW and consistent with subsection (1) of this section. [1993 c 512 § 2.]

43.172.011 Definitions—Bonding program. Unless the context clearly requires otherwise, the definitions in this

section apply throughout RCW 43.172.020 through 43.172.110.

(1) "Approved surety company" means a surety company approved by the department for participation in providing direct bonding assistance to qualified contractors.

(2) "Bond" means any bond or security required for bid, payment, or performance of contracts.

(3) "Department" means the department of trade and economic development.

(4) "Program" means the Washington state small business bonding assistance program provided for in this chapter.

(5) "Qualified contractor" means any resident minority business enterprise or women's business enterprise, as determined by the department to be consistent with the requirements of chapter 39.19 RCW and engaged in the contracting business, which has obtained a certificate of accreditation from the Washington state small business bonding assistance program. [1993 c 512 § 16.]

43.172.020 Small business bonding assistance program—Implementation—Rules. There is established within the department of trade and economic development the Washington state small business bonding assistance program to assist resident minority and women-owned small contracting businesses to acquire the managerial and financial skills, standards, and assistance necessary to enable them to obtain bid, payment, and performance bonds from surety companies for either advertised or designated contracts. The department shall implement the program by establishing a course of instruction as set forth in RCW 43.172.040. The department shall encourage surety companies and other private interests to help implement this course of instruction to assist minority and women-owned small contracting businesses. The department shall adopt rules to ensure the proper implementation of the program set forth in this chapter. [1993 c 512 § 17.]

43.172.030 Assistance from other agencies. The department shall seek information, advice, and assistance from regional minority contractor organizations, and the United States small business administration and any other appropriate organization or agency.

The following departments, offices, and agencies shall, at the request of the department, provide information, advice, and assistance to the department:

(1) The department of general administration;

(2) The Washington state business assistance center;

(3) The office of the insurance commissioner;

(4) The Washington state economic development finance authority; and

(5) The office of minority and women's business enterprises. [1993 c 512 § 18.]

43.172.040 Entrepreneurial training course. The business assistance center shall modify the entrepreneurial training course established in RCW 43.31.093 in order to provide instruction which is appropriate to the specific needs of contracting businesses. This course of instruction shall be available to resident minority and women-owned small business contractors. The instruction shall be intensive, practical training courses in financing, bidding for contracts, managing, accounting, and recordkeeping for a contracting business, with an emphasis on federal, state, local, or private programs available to assist small contractors. The business assistance center shall appoint professional instructors, with practical knowledge and experience in the field of small business contracting, to teach those courses developed to meet the specific needs of contracting businesses. Instruction shall be offered in major population centers throughout the state at times and locations which are convenient for people in the contracting business. [1993 c 512 § 19.]

43.172.050 Entrepreneurial accreditation of small contracting businesses. Any resident minority or women-owned small business contractor may select a key management employee or employees to attend any course of instruction established under RCW 43.31.093. When the records, maintained by the business assistance center, indicate that a key management employee of a small contracting business has attended all the courses offered, and has successfully completed any tests required, the department shall award the small contracting business a certificate of accreditation which acknowledges successful completion of the courses. The department may also award a certificate of accreditation if a review of the key management employee's education, experience, and business history indicates that the business already possesses the knowledge and skills offered through the course of instruction, or if the key management employee successfully completes all tests required of those who attend the entrepreneurial training course. [1993 c 512 § 20.]

43.172.060 Professional services assistance—One-time grants. Any qualified contractor seeking a grant for professional services assistance may apply to the department. If approved, the department may enter into an agreement to provide a grant of up to two thousand five hundred dollars on behalf of a qualified contractor for the acquisition of the professional services of certified public accountants, construction management companies, or any other technical, surety, financial, or managerial professionals. This assistance is only available to a qualified contractor on a one-time basis. [1993 c 512 § 21.]

43.172.070 Grant administration. The department shall administer all grants issued to assist qualified contractors and shall monitor the performance of all grant recipients in order to provide such further assistance as is necessary to ensure that all program requirements are met and that the program's purpose is fulfilled. However, nothing in this chapter should be construed to restrict the rendering of program services to any qualified contractor over and above the services provided by the grant. [1993 c 512 § 22.]

43.172.080 Bond guarantees—Generally. If a qualified contractor makes a bond application to an approved surety company for a public or private contracting job, but fails to obtain the bond because the contractor is unable to meet the requirements of the surety company on such bonding contracts, for reasons other than nonperformance, and if the approved surety company applies to the depart-

ment to have the bond guaranteed by the program, then the department may provide a bond guarantee of up to seventy-five thousand dollars on behalf of the qualified contractor. [1993 c 512 § 23.]

43.172.090 Bond guarantees—Approval process. Upon receipt of an approved surety company's application for a bond guarantee, the program supervisor shall review the application in order to verify that:

(1) The bond being sought by the qualified contractor is needed;

(2) The contracting job is within the qualified contractor's capability to perform; and

(3) The qualified contractor has not been denied a bond due to nonperformance.

Based upon subsections (1) through (3) of this section, the department shall either approve or disapprove the application. If the application is approved, the department has the authority to enter into a contract with the approved surety company. Under the terms of this contract the approved surety company shall enter into a contract with, and issue the required bond to, the qualified contractor at the standard fees and charges usually made by the company for the type and amount of the bond issued. The bond issued by the approved surety company shall be guaranteed by money in the program fund. The approved surety company shall also agree to make a reasonable, good faith effort to pursue and collect any claims it may have against a qualified contractor who defaults on a bond guaranteed by the program, including, but not limited to, the institution of legal proceedings against the defaulting contractor, prior to collecting on the guarantee. [1993 c 512 § 24.]

43.172.100 Small business bonding assistance program fund—Expenditures. The Washington state small business bonding assistance program fund is created in the state treasury. Any amounts appropriated, donated, or granted to the program shall be deposited and credited to the program fund. Moneys in the program fund may be spent only after appropriation. Expenditures from the program fund shall only be used as follows:

(1) To pay the implementation costs of the program provided for in this chapter;

(2) To be disbursed by the department to enable qualified contractors to obtain services provided for in this chapter; and

(3) To guarantee bonds issued pursuant to RCW 43.172.080 and 43.172.090 and to pay such bonds in the event of default by a qualified contractor.

However, the full faith and credit of the state of Washington shall not be used to secure the bonds and the state's liability shall be limited to the money appropriated by the legislature. [1993 c 512 § 25.]

43.172.110 Small business bonding assistance program fund—Support. The department shall solicit funds and support from surety companies and other public and private entities with an interest in assisting Washington's small business contractors and may enter into agreements with such companies and interests by which they provide funds to the program fund to be matched with funds from nonstate sources. [1993 c 512 § 26.]

43.172.120 Gifts, grants, endowments. The department may receive gifts, grants, and endowments from public or private sources that may be made from time to time, in trust or otherwise, for the use and benefit of the Washington state small business bonding assistance program and spend gifts, grants, endowments or any income from the public or private sources according to their terms. [1993 c 512 § 27.]

43.172.900 Short title—1993 c 512. This act may be known and cited as the omnibus minority and women-owned businesses assistance act. [1993 c 512 § 38.]

43.172.901 Part headings and section captions—1993 c 512. Part headings and section captions as used in this act do not constitute part of the law. [1993 c 512 § 40.]

43.172.902 Severability—1993 c 512. 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. [1993 c 512 § 41.]

43.172.903 Effective date—1993 c 512. 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, 1993. [1993 c 512 § 42.]

Chapter 43.185
HOUSING ASSISTANCE PROGRAM

Sections

43.185.110 Affordable housing advisory board—State housing needs. The affordable housing advisory board established in RCW 43.185B.020 shall advise the director on housing needs in this state, including housing needs for persons who are mentally ill or developmentally disabled or youth who are blind or deaf or otherwise disabled, operational aspects of the grant and loan program or revenue collection programs established by this chapter, and implementation of the policy and goals of this chapter. Such advice shall be consistent with policies and plans developed by regional support networks according to chapter 71.24 RCW for the mentally ill and the developmental disabilities planning council for the developmentally disabled. [1993 c 478 § 15; 1991 c 204 § 4; 1987 c 513 § 3.]

Effective date—Severability—1987 c 513: See notes following RCW 18.85.310.

Chapter 43.185A
AFFORDABLE HOUSING PROGRAM

Sections

43.185A.020 Affordable housing program—Purpose—Input. The affordable housing program is created in the department of community development for the purpose of developing and coordinating public and private resources targeted to meet the affordable housing needs of low-income households in the state of Washington. The program shall be developed and administered by the department with advice and input from the affordable housing advisory board established in RCW 43.185B.020. [1993 c 478 § 16; 1991 c 356 § 11.]

Chapter 43.185B
WASHINGTON HOUSING POLICY ACT

Sections

43.185B.005 Finding. (1) The legislature finds that:

(a) Housing is of vital state-wide importance to the health, safety, and welfare of the residents of the state;

(b) Safe, affordable housing is an essential factor in stabilizing communities;

(c) Residents must have a choice of housing opportunities within the community where they choose to live;

(d) Housing markets are linked to a healthy economy and can contribute to the state's economy;

(e) Land supply is a major contributor to the cost of housing;

(f) Housing must be an integral component of any comprehensive community and economic development strategy;

(g) State and local government must continue working cooperatively toward the enhancement of increased housing units by reviewing, updating, and removing conflicting regulatory language;

(h) State and local government should work together in developing creative ways to reduce the shortage of housing;

(i) The lack of a coordinated state housing policy inhibits the effective delivery of housing for some of the state's most vulnerable citizens and those with limited incomes; and

(j) It is in the public interest to adopt a statement of housing policy objectives.

(2) The legislature declares that the purposes of the Washington housing policy act are to:

(a) Provide policy direction to the public and private sectors in their attempt to meet the shelter needs of Washington residents;

(b) Reevaluate housing and housing-related programs and policies in order to ensure proper coordination of those programs and policies to meet the housing needs of Washington residents;

(c) Improve the delivery of state services and assistance to very low-income and low-income households and special needs populations;

(d) Strengthen partnerships among all levels of government, and the public and private sectors, including for-profit and nonprofit organizations, in the production and operation of housing to targeted populations including low-income and moderate-income households;

(e) Increase the supply of housing for persons with special needs;

(f) Encourage collaborative planning with social service providers;

(g) Encourage financial institutions to increase residential mortgage lending; and

(h) Coordinate housing into comprehensive community and economic development strategies at the state and local level. [1993 c 478 § 1.]

Persons with handicaps: RCW 35.63.220, 35A.63.240, 36.70.990, 36.70A.410.

43.185B.007 Goal. It is the goal of the state of Washington to coordinate, encourage, and direct, when necessary, the efforts of the public and private sectors of the state and to cooperate and participate, when necessary, in the attainment of a decent home in a healthy, safe environment for every resident of the state. The legislature declares that attainment of that goal is a state priority. [1993 c 478 § 2.]

43.185B.009 Objectives. The objectives of the Washington housing policy act shall be to attain the state's goal of a decent home in a healthy, safe environment for every resident of the state by strengthening public and private institutions that are able to:

(1) Develop an adequate and affordable supply of housing for all economic segments of the population;

(2) Assist very low-income and special needs households who cannot obtain affordable, safe, and adequate housing in the private market;

(3) Encourage and maintain home ownership opportunities;

(4) Reduce life-cycle housing costs while preserving public health and safety;

(5) Preserve the supply of existing affordable housing;

(6) Provide housing for special needs populations;

(7) Ensure fair and equal access to the housing market;

(8) Increase the availability of mortgage credit at low interest rates; and

(9) Coordinate and be consistent with the goals, objectives, and required housing element of the comprehensive plan in the state's growth management act in RCW 36.70A.070. [1993 c 478 § 3.]

43.185B.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Affordable housing" means residential housing that is rented or owned by a person or household whose monthly housing costs, including utilities other than telephone, do not exceed thirty percent of the household's monthly income.

(2) "Department" means the department of community development.

(3) "Director" means the director of community development.

(4) "Nonprofit organization" means any public or private nonprofit organization that: (a) Is organized under federal, state, or local laws; (b) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual; and (c) has among its purposes significant activities related to the provision of decent housing that is affordable to very low-income, low-income, or moderate-income households and special needs populations.

(5) "Regulatory barriers to affordable housing" and "regulatory barriers" mean any public policies (including those embodied in statutes, ordinances, regulations, or administrative procedures or processes) required to be identified by the state or local government in connection with its strategy under section 105(b)(4) of the Cranston-Gonzalez national affordable housing act (42 U.S.C. 12701 et seq.).

(6) "Tenant-based organization" means a nonprofit organization whose governing body includes a majority of members who reside in the housing development and are considered low-income households. [1993 c 478 § 4.]

43.185B.020 Affordable housing advisory board—Generally. (1) The department shall establish the affordable housing advisory board to consist of twenty-one members.

(a) The following eighteen members shall be appointed by the governor:

(i) Two representatives of the residential construction industry;

(ii) Two representatives of the home mortgage lending profession;

(iii) One representative of the real estate sales profession;

(iv) One representative of the apartment management and operation industry;

(v) One representative of the for-profit housing development industry;

(vi) One representative of the nonprofit housing development industry;

(vii) One representative of homeless shelter operators;

(viii) One representative of lower-income persons;

(ix) One representative of special needs populations;

(x) One representative of public housing authorities as created under chapter 35.82 RCW;

(xi) Two representatives of the Washington association of counties, one representative shall be from a county that is located east of the crest of the Cascade mountains;

(xii) Two representatives of the association of Washington cities, one representative shall be from a city that is located east of the crest of the Cascade mountains;

(xiii) One representative to serve as chair of the affordable housing advisory board;

(xiv) One representative at large.

(b) The following three members shall serve as ex officio, nonvoting members:

(i) The director or the director's designee;

(ii) The executive director of the Washington state housing finance commission or the executive director's designee; and

(iii) The secretary of social and health services or the secretary's designee.

(2)(a) The members of the affordable housing advisory board appointed by the governor shall be appointed for four-year terms, except that the chair shall be appointed to serve a two-year term. The terms of five of the initial appointees shall be for two years from the date of appointment and the terms of six of the initial appointees shall be for three years from the date of appointment. The governor shall designate the appointees who will serve the two-year and three-year terms. The members of the advisory board shall serve without compensation, but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(b) The governor, when making appointments to the affordable housing advisory board, shall make appointments that reflect the cultural diversity of the state of Washington.

(3) The affordable housing advisory board shall serve as the department's principal advisory body on housing and housing-related issues, and replaces the department's existing boards and task forces on housing and housing-related issues.

(4) The affordable housing advisory board shall meet regularly and may appoint technical advisory committees, which may include members of the affordable housing advisory board, as needed to address specific issues and concerns.

(5) The department, in conjunction with the Washington state housing finance commission and the department of social and health services, shall supply such information and assistance as are deemed necessary for the advisory board to carry out its duties under this section.

(6) The department shall provide administrative and clerical assistance to the affordable housing advisory board. [1993 c 478 § 5.]

43.185B.030 Affordable housing advisory board—Duties. The affordable housing advisory board shall:

(1) Analyze those solutions and programs that could begin to address the state's need for housing that is affordable for all economic segments of the state, and special needs populations, including but not limited to programs or proposals which provide for:

(a) Financing for the acquisition, rehabilitation, preservation, or construction of housing;

(b) Use of publicly owned land and buildings as sites for affordable housing;

(c) Coordination of state initiatives with federal initiatives and financing programs that are referenced in the Cranston-Gonzalez national affordable housing act (42 U.S.C. Sec. 12701 et seq.), as amended, and development of an approved housing strategy as required in the Cranston-Gonzalez national affordable housing act (42 U.S.C. Sec. 12701 et seq.), as amended;

(d) Identification and removal, where appropriate and not detrimental to the public health and safety, or environment, of state and local regulatory barriers to the development and placement of affordable housing;

(e) Stimulating public and private sector cooperation in the development of affordable housing; and

(f) Development of solutions and programs affecting housing, including the equitable geographic distribution of housing for all economic segments, as the advisory board deems necessary;

(2) Consider both homeownership and rental housing as viable options for the provision of housing. The advisory board shall give consideration to various types of residential construction and innovative housing options, including but not limited to manufactured housing;

(3) Review, evaluate, and make recommendations regarding existing and proposed housing programs and initiatives including but not limited to tax policies, land use policies, and financing programs. The advisory board shall provide recommendations to the director, along with the department's response in the annual housing report to the legislature required in RCW 43.185B.040; and

(4) Prepare and submit to the director, by each December 1st, beginning December 1, 1993, a report detailing its findings and make specific program, legislative, and funding recommendations and any other recommendations it deems appropriate. [1993 c 478 § 6.]

43.185B.040 Housing advisory plan—Report to legislature. (1) The department shall, in consultation with the affordable housing advisory board created in RCW 43.185B.020, prepare and from time to time amend a five-year housing advisory plan. The purpose of the plan is to document the need for affordable housing in the state and the extent to which that need is being met through public and private sector programs, to facilitate planning to meet the affordable housing needs of the state, and to enable the development of sound strategies and programs for affordable housing. The information in the five-year housing advisory plan must include:

(a) An assessment of the state's housing market trends;

(b) An assessment of the housing needs for all economic segments of the state and special needs populations;

(c) An inventory of the supply and geographic distribution of affordable housing units made available through public and private sector programs;

(d) A status report on the degree of progress made by the public and private sector toward meeting the housing needs of the state;

(e) An identification of state and local regulatory barriers to affordable housing and proposed regulatory and administrative techniques designed to remove barriers to the development and placement of affordable housing; and

(f) Specific recommendations, policies, or proposals for meeting the affordable housing needs of the state.

(2)(a) The five-year housing advisory plan required under subsection (1) of this section must be submitted to the legislature on or before February 1, 1994, and subsequent plans must be submitted every five years thereafter.

(b) Each February 1st, beginning February 1, 1995, the department shall submit an annual progress report, to the legislature, detailing the extent to which the state's affordable housing needs were met during the preceding year and recommendations for meeting those needs. [1993 c 478 § 12.]

43.185B.900 Short title. This chapter may be known and cited as the "Washington housing policy act." [1993 c 478 § 24.]

Chapter 43.210
SMALL BUSINESS EXPORT FINANCE ASSISTANCE CENTER
(Formerly: Export assistance center)

Sections

Reviser's note—Sunset Act application: The Pacific Northwest export assistance project is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.373. RCW 43.210.070, 43.210.100, 43.210.110, and 43.210.120 are scheduled for future repeal under RCW 43.131.374.

43.210.110 Duties of center regarding project. (Effective until July 1, 1994.) (1) The small business export finance assistance center has the following powers and duties when exercising its authority under RCW 43.210.100(3):

(a) Solicit and accept grants, contributions, and any other financial assistance from the federal government, federal agencies, and any other public or private sources to carry out its purposes;

(b) Offer comprehensive export assistance and counseling to manufacturers relatively new to exporting with gross annual revenues less than twenty-five million dollars. As close to seventy-five percent as possible of each year's new cadre of clients must have gross annual revenues of less than five million dollars at the time of their initial contract. At least fifty percent of each year's new cadre of clients shall be from timber impact areas as defined in RCW 43.31.601. Counseling may include, but not be limited to, helping clients obtain debt or equity financing, in constructing competent proposals, and assessing federal guarantee and/or insurance programs that underwrite exporting risk; assisting clients in evaluating their international marketplace by developing marketing materials, assessing and selecting targeted markets; assisting firms in finding foreign customers by conducting foreign market research, evaluating distribution systems, selecting and assisting in identification of and/or negotiations with foreign agents, distributors, retailers, and by promoting products through attending trade shows abroad; advising companies on their products, guarantees, and after sales service requirements necessary to compete effectively in a foreign market; designing a competitive strategy for a firm's products in targeted markets and methods of minimizing their commercial and political risks; securing for clients specific assistance as needed, outside the center's field of expertise, by referrals to other public or private organizations. The Pacific Northwest export assistance project shall focus its efforts on facilitating export transactions for its clients, and in doing so, provide such technical services as are appropriate to accomplish its mission either with staff or outside consultants;

(c) Sign three-year counseling agreements with its clients that provide for termination if adequate funding for the Pacific Northwest export assistance project is not provided in future appropriations. Counseling agreements shall not be renewed unless there are compelling reasons to do so, and under no circumstances shall they be renewed for more than two additional years. A counseling agreement

may not be renewed more than once. The counseling agreements shall have mutual performance clauses, that if not met, will be grounds for releasing each party, without penalty, from the provisions of the agreement. Clients shall be immediately released from a counseling agreement with the Pacific Northwest export assistance project, without penalty, if a client wishes to switch to a private export management service and produces a valid contract signed with a private export management service, or if the president of the small business export finance assistance center determines there are compelling reasons to release a client from the provisions of the counseling agreement;

(d) May contract with private or public international trade education services to provide Pacific Northwest export assistance project clients with training in international business. The president and board of directors shall decide the amount of funding allocated for educational services based on the availability of resources in the operating budget of the Pacific Northwest export assistance project;

(e) May contract with the Washington state international trade fair to provide services for Pacific Northwest export assistance project clients to participate in one trade show annually. The president and board of directors shall decide the amount of funding allocated for trade fair assistance based on the availability of resources in the operating budget of the Pacific Northwest export assistance project;

(f) Provide biennial assessments of its performance. Project personnel shall work with the department of revenue and employment security department to confidentially track the performance of the project's clients in increasing tax revenues to the state, increasing gross sales revenues and volume of products destined to foreign clients, and in creating new jobs for Washington citizens. A biennial report shall be prepared for the governor and legislature to assess the costs and benefits to the state from creating the project. The president of the small business export finance assistance center shall design an appropriate methodology for biennial assessments in consultation with the director of the department of trade and economic development and the director of the Washington state department of agriculture. The department of revenue and the employment security department shall provide data necessary to complete this biennial evaluation, if the data being requested is available from existing data bases. Client-specific information generated from the files of the department of revenue and the employment security department for the purposes of this evaluation shall be kept strictly confidential by each department and the small business export finance assistance center;

(g) Take whatever action may be necessary to accomplish the purposes set forth in RCW 43.210.070 and 43.210.100 through 43.210.120; and

(h) Limit its assistance to promoting the exportation of value-added manufactured goods. The project shall not provide counseling or assistance, under any circumstances, for the importation of foreign made goods into the United States.

(2) The Pacific Northwest export assistance project shall not, under any circumstances, assume ownership or take title to the goods of its clients.

(3) The Pacific Northwest export assistance project may not use any Washington state funds which come from the public treasury of the state of Washington to make loans or to make any payment under a loan guarantee agreement. Under no circumstances may the center use any funds received under RCW 43.210.050 to make or assist in making any loan or to pay or assist in paying any amount under a loan guarantee agreement. Debts of the center shall be center debts only and may be satisfied only from the resources of the center. The state of Washington shall not in any way be liable for such debts.

(4) The Pacific Northwest export assistance project shall make every effort to seek nonstate funds to supplement its operations.

(5) The small business export finance assistance center and its Pacific Northwest export assistance project shall take whatever steps are necessary to provide its services, if requested, to the states of Oregon, Idaho, Montana, Alaska, and the Canadian provinces of British Columbia and Alberta. Interstate services shall not be provided by the Pacific Northwest export assistance project during its first biennium of operation. The provision of services may be temporary and subject to the payment of fees, or each state may request permanent services contingent upon a level of permanent funding adequate for services provided. Temporary services and fees may be negotiated by the small business export finance assistance center's president subject to approval of the board of directors. The president of the small business export finance assistance center may enter into negotiations with neighboring states to contract for delivery of the project's services. Final contracts for providing the project's counseling and services outside of the state of Washington on a permanent basis shall be subject to approval of the governor, appropriate legislative oversight committees, and the small business export finance assistance center's board of directors.

(6) The small business export finance assistance center may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the Pacific Northwest export assistance project and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments.

(7) The president of the small business export finance assistance center, in consultation with the board of directors, may use the following formula in determining the number of clients that can be reasonably served by the Pacific Northwest export assistance project relative to its appropriation. Divide the amount appropriated for administration of the Pacific Northwest export assistance project by the marginal cost of adding each additional Pacific Northwest export assistance project client. For the purposes of this calculation, and only for the first biennium of operation, the biennial marginal cost of adding each additional Pacific Northwest export assistance project client shall be fifty-seven thousand ninety-five dollars. The biennial marginal cost of adding each additional client after the first biennium of operation shall be established from the actual operating experience of the Pacific Northwest export assistance project.

(8) All receipts from the Pacific Northwest export assistance project shall be deposited into the general fund. However, during the 1993-95 fiscal biennium, the receipts of the project shall be deposited into the small business export

finance assistance center fund under RCW 43.210.070. [1993 1st sp.s. c 24 § 922; 1993 c 366 § 1; 1991 c 314 § 12.]

Sunset Act application: See note following chapter digest.

Reviser's note: This section was amended by 1993 c 366 § 1 and by 1993 1st sp.s. c 24 § 922, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—Effective dates—1993 1st sp.s. c 24: See notes following RCW 28A.165.070.

Findings—1991 c 314: See note following RCW 43.31.601.

43.210.110 Duties of center regarding project. (Effective July 1, 1994.) (1) The small business export finance assistance center has the following powers and duties when exercising its authority under RCW 43.210.100(3):

(a) Solicit and accept grants, contributions, and any other financial assistance from the federal government, federal agencies, and any other public or private sources to carry out its purposes;

(b) Offer comprehensive export assistance and counseling to manufacturers relatively new to exporting with gross annual revenues less than twenty-five million dollars. As close to seventy-five percent as possible of each year's new cadre of clients must have gross annual revenues of less than five million dollars at the time of their initial contract. At least fifty percent of each year's new cadre of clients shall be from timber impact areas as defined in RCW 43.31.601. Counseling may include, but not be limited to, helping clients obtain debt or equity financing, in constructing competent proposals, and assessing federal guarantee and/or insurance programs that underwrite exporting risk; assisting clients in evaluating their international marketplace by developing marketing materials, assessing and selecting targeted markets; assisting firms in finding foreign customers by conducting foreign market research, evaluating distribution systems, selecting and assisting in identification of and/or negotiations with foreign agents, distributors, retailers, and by promoting products through attending trade shows abroad; advising companies on their products, guarantees, and after sales service requirements necessary to compete effectively in a foreign market; designing a competitive strategy for a firm's products in targeted markets and methods of minimizing their commercial and political risks; securing for clients specific assistance as needed, outside the center's field of expertise, by referrals to other public or private organizations. The Pacific Northwest export assistance project shall focus its efforts on facilitating export transactions for its clients, and in doing so, provide such technical services as are appropriate to accomplish its mission either with staff or outside consultants;

(c) Sign three-year counseling agreements with its clients that provide for termination if adequate funding for the Pacific Northwest export assistance project is not provided in future appropriations. Counseling agreements shall not be renewed unless there are compelling reasons to do so, and under no circumstances shall they be renewed for more than two additional years. A counseling agreement may not be renewed more than once. The counseling agreements shall have mutual performance clauses, that if not met, will be grounds for releasing each party, without penalty, from the provisions of the agreement. Clients shall be immediately released from a counseling agreement with the Pacific Northwest export assistance project, without penalty, if a client wishes to switch to a private export management service and produces a valid contract signed with a private export management service, or if the president of the small business export finance assistance center determines there are compelling reasons to release a client from the provisions of the counseling agreement;

(d) May contract with private or public international trade education services to provide Pacific Northwest export assistance project clients with training in international business. The president and board of directors shall decide the amount of funding allocated for educational services based on the availability of resources in the operating budget of the Pacific Northwest export assistance project;

(e) May contract with the Washington state international trade fair to provide services for Pacific Northwest export assistance project clients to participate in one trade show annually. The president and board of directors shall decide the amount of funding allocated for trade fair assistance based on the availability of resources in the operating budget of the Pacific Northwest export assistance project;

(f) Provide biennial assessments of its performance. Project personnel shall work with the department of revenue and employment security department to confidentially track the performance of the project's clients in increasing tax revenues to the state, increasing gross sales revenues and volume of products destined to foreign clients, and in creating new jobs for Washington citizens. A biennial report shall be prepared for the governor and legislature to assess the costs and benefits to the state from creating the project. The president of the small business export finance assistance center shall design an appropriate methodology for biennial assessments in consultation with the director of community, trade, and economic development and the director of the Washington state department of agriculture. The department of revenue and the employment security department shall provide data necessary to complete this biennial evaluation, if the data being requested is available from existing data bases. Client-specific information generated from the files of the department of revenue and the employment security department for the purposes of this evaluation shall be kept strictly confidential by each department and the small business export finance assistance center;

(g) Take whatever action may be necessary to accomplish the purposes set forth in RCW 43.210.070 and 43.210.100 through 43.210.120; and

(h) Limit its assistance to promoting the exportation of value-added manufactured goods. The project shall not provide counseling or assistance, under any circumstances, for the importation of foreign made goods into the United States.

(2) The Pacific Northwest export assistance project shall not, under any circumstances, assume ownership or take title to the goods of its clients.

(3) The Pacific Northwest export assistance project may not use any Washington state funds which come from the public treasury of the state of Washington to make loans or to make any payment under a loan guarantee agreement. Under no circumstances may the center use any funds received under RCW 43.210.050 to make or assist in making any loan or to pay or assist in paying any amount under a

loan guarantee agreement. Debts of the center shall be center debts only and may be satisfied only from the resources of the center. The state of Washington shall not in any way be liable for such debts.

(4) The Pacific Northwest export assistance project shall make every effort to seek nonstate funds to supplement its operations.

(5) The small business export finance assistance center and its Pacific Northwest export assistance project shall take whatever steps are necessary to provide its services, if requested, to the states of Oregon, Idaho, Montana, Alaska, and the Canadian provinces of British Columbia and Alberta. Interstate services shall not be provided by the Pacific Northwest export assistance project during its first biennium of operation. The provision of services may be temporary and subject to the payment of fees, or each state may request permanent services contingent upon a level of permanent funding adequate for services provided. Temporary services and fees may be negotiated by the small business export finance assistance center's president subject to approval of the board of directors. The president of the small business export finance assistance center may enter into negotiations with neighboring states to contract for delivery of the project's services. Final contracts for providing the project's counseling and services outside of the state of Washington on a permanent basis shall be subject to approval of the governor, appropriate legislative oversight committees, and the small business export finance assistance center's board of directors.

(6) The small business export finance assistance center may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the Pacific Northwest export assistance project and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments.

(7) The president of the small business export finance assistance center, in consultation with the board of directors, may use the following formula in determining the number of clients that can be reasonably served by the Pacific Northwest export assistance project relative to its appropriation. Divide the amount appropriated for administration of the Pacific Northwest export assistance project by the marginal cost of adding each additional Pacific Northwest export assistance project client. For the purposes of this calculation, and only for the first biennium of operation, the biennial marginal cost of adding each additional Pacific Northwest export assistance project client shall be fifty-seven thousand ninety-five dollars. The biennial marginal cost of adding each additional client after the first biennium of operation shall be established from the actual operating experience of the Pacific Northwest export assistance project.

(8) All receipts from the Pacific Northwest export assistance project shall be deposited into the general fund. However, during the 1993-95 fiscal biennium, the receipts of the project shall be deposited into the small business export finance assistance center fund under RCW 43.210.070. [1993 1st sp.s. c 24 § 922; 1993 c 366 § 1; 1993 c 280 § 57; 1991 c 314 § 12.]

Sunset Act application: See note following chapter digest.

Reviser's note: This section was amended by 1993 c 280 § 57, 1993 c 366 § 1, and by 1993 1st sp.s. c 24 § 922, each without reference to the other. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—Effective dates—1993 1st sp.s. c 24: See notes following RCW 28A.165.070.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Findings—1991 c 314: See note following RCW 43.31.601.

43.210.130 Minority business export outreach program. The small business export finance assistance center shall develop a minority business export outreach program. The program shall provide outreach services to minority-owned businesses in Washington to inform them of the importance of and opportunities in international trade, and to inform them of the export assistance programs available to assist these businesses to become exporters. [1993 c 512 § 5.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

Office of minority and women's business enterprises: Chapter 39.19 RCW.

Small business bonding assistance program: Chapter 43.172 RCW.

Chapter 43.220
WASHINGTON CONSERVATION CORPS

Sections

43.220.900 Repealed.

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

Chapter 43.240
ECONOMIC DEVELOPMENT BOARD

Sections

43.240.911 State economic development board—Repeal.

43.240.911 State economic development board—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1993:

(1) Section 9, chapter 467, Laws of 1985 and RCW 43.240.010;

(2) Section 10, chapter 467, Laws of 1985 and RCW 43.240.020;

(3) Section 11, chapter 467, Laws of 1985, section 15, chapter 195, Laws of 1987 and RCW 43.240.030;

(4) Section 12, chapter 467, Laws of 1985 and RCW 43.240.040;

(5) Section 13, chapter 467, Laws of 1985 and RCW 43.240.050;

(6) Section 14, chapter 467, Laws of 1985 and RCW 43.240.060; and

(7) Section 16, chapter 467, Laws of 1985 and RCW 43.240.070. [1993 c 142 § 2; 1988 c 186 § 10. Formerly RCW 43.131.364.]

Chapter 43.300
DEPARTMENT OF FISH AND WILDLIFE

Sections

43.300.005 Purpose. (Effective July 1, 1994.) Perpetuation of fish and wildlife in Washington requires clear, efficient, streamlined, scientific, management from a single state fish and wildlife agency. Such a consolidation will focus existing funds for the greatest protection of species and stocks. It will bring combined resources to bear on securing, managing, and enhancing habitats. It will simplify licensing, amplify research, increase field staff, avoid duplication, and magnify enforcement of laws and rules. It will provide all fishers, hunters, and observers of fish and wildlife with a single source of consistent policies, procedures, and access. [1993 1st sp.s. c 2 § 1.]

43.300.010 Department created—Transfer of powers, duties, and functions. (Effective July 1, 1994.) There is hereby created a department of state government to be known as the department of fish and wildlife. The department shall be vested with all powers and duties transferred to it under this chapter and such other powers and duties as may be authorized by law. All powers, duties, and functions of the department of fisheries and the department of wildlife are transferred to the department of fish and wildlife. All references in the Revised Code of Washington to the director or the department of fisheries or the director or department of wildlife shall be construed to mean the director or department of fish and wildlife. [1993 1st sp.s. c 2 § 2.]

43.300.020 Definitions. (Effective July 1, 1994.) As used in this chapter, unless the context indicates otherwise:

(1) "Department" means the department of fish and wildlife.

(2) "Director" means the director of fish and wildlife.

(3) "Commission" means the fish and wildlife commission. [1993 1st sp.s. c 2 § 3.]

43.300.030 Director. (Effective July 1, 1994.) The executive head and appointing authority of the department shall be the director. The director shall be appointed by the governor, with the consent of the senate, and shall serve at the pleasure of the governor. The director shall be paid a salary to be fixed by the governor in accordance with RCW 43.03.040. [1993 1st sp.s. c 2 § 4.]

43.300.040 Director's duties. (Effective July 1, 1994.) In addition to other powers and duties granted or transferred to the director, the director shall have the following powers and duties:

(1) Supervise and administer the department in accordance with law;

(2) Appoint personnel and prescribe their duties. Except as otherwise provided, personnel of the department are subject to chapter 41.06 RCW, the state civil service law;

(3) Enter into contracts on behalf of the agency;

(4) Adopt rules in accordance with chapter 34.05 RCW, the administrative procedure act;

(5) Delegate powers, duties, and functions as the director deems necessary for efficient administration but the director shall be responsible for the official acts of the officers and employees of the department;

(6) Appoint advisory committees and undertake studies, research, and analysis necessary to support the activities of the department;

(7) Accept and expend grants, gifts, or other funds to further the purposes of the department;

(8) Carry out the policies of the governor and the basic goals and objectives as prescribed by the fish and wildlife commission pursuant to RCW 77.04.055; and

(9) Perform other duties as are necessary and consistent with law. [1993 1st sp.s. c 2 § 5.]

43.300.050 Exempt positions. (Effective July 1, 1994.) The director shall appoint such deputy directors, assistant directors, and up to seven special assistants as may be needed to administer the department. These employees are exempt from the provisions of chapter 41.06 RCW. [1993 1st sp.s. c 2 § 6.]

43.300.900 Effective date—1993 1st sp.s. c 2 §§ 1-6, 8-59, and 61-79. Sections 1 through 6, 8 through 59, and 61 through 79 of this act shall take effect July 1, 1994. [1993 1st sp.s. c 2 § 102.] For codification of 1993 1st sp.s. c 2, see Codification Tables, this volume.

43.300.901 Severability—1993 1st sp.s. c 2. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1993 1st sp.s. c 2 § 106.]

Chapter 43.310
YOUTH GANGS

Sections

43.310.005 Finding. The legislature finds and declares that:

(1) The number of youth who are members and associates of gangs and commit gang violence has significantly increased throughout the entire greater Puget Sound, Spokane, and other areas of the state;

(2) Youth gang violence has caused a tremendous strain on the progress of the communities impacted. The loss of life, property, and positive opportunity for growth caused by youth gang violence has reached intolerable levels. Increased youth gang activity has seriously strained the budgets of many local jurisdictions, as well as threatened the ability of the educational system to educate our youth;

(3) Among youth gang members the high school drop-out rate is significantly higher than among nongang members. Since the economic future of our state depends on a highly educated and skilled work force, this high school drop-out rate threatens the economic welfare of our future work force, as well as the future economic growth of our state;

(4) The unemployment rate among youth gang members is higher than that among the general youth population. The unusual unemployment rate, lack of education and skills, and the increased criminal activity could significantly impact our future prison population;

(5) Most youth gangs are subcultural. This implies that gangs provide the nurturing, discipline, and guidance to gang youth and potential gang youth that is generally provided by communities and other social systems. The subcultural designation means that youth gang participation and violence can be effectively reduced in Washington communities and schools through the involvement of community, educational, criminal justice, and employment systems working in a unified manner with parents and individuals who have a firsthand knowledge of youth gangs and at-risk youth; and

(6) A strong unified effort among parents and community, educational, criminal justice, and employment systems would facilitate: (a) The learning process; (b) the control and reduction of gang violence; (c) the prevention of youth joining negative gangs; and (d) the intervention into youth gangs. [1993 c 497 § 1.]

43.310.007 Intent—Prevention and intervention pilot programs. It is the intent of the legislature to cause the development of positive prevention and intervention pilot programs for elementary and secondary age youth through cooperation between individual schools, local organizations, and government. It is also the intent of the legislature that if the prevention and intervention pilot programs are determined to be effective in reducing problems associated with youth gang violence, that other counties in the state be eligible to receive special state funding to establish similar positive prevention and intervention programs. [1993 c 497 § 2.]

43.310.010 Definitions. Unless the context otherwise requires, the following definitions shall apply throughout RCW 43.310.005 through 43.310.040 and *sections 5 and 7 through 10, chapter 497, Laws of 1993:

(1) "School" means any public school within a school district any portion of which is in a county with a population of over one hundred ninety thousand.

(2) "Community organization" means any organization recognized by a city or county as such, as well as private, nonprofit organizations registered with the secretary of state.

(3) "Gang risk prevention and intervention pilot program" means a community-based positive prevention and intervention program for gang members, potential gang members, at-risk youth, and elementary through high school-aged youth directed at all of the following:

(a) Reducing the probability of youth involvement in gang activities and consequent violence.

(b) Establishing ties, at an early age, between youth and community organizations.

(c) Committing local business and community resources to positive programming for youth.

(d) Committing state resources to assist in creating the gang risk prevention and intervention pilot programs.

(4) "Cultural awareness retreat" means a program that temporarily relocates at-risk youth or gang members and their parents from their usual social environment to a different social environment, with the specific purpose of having them performing activities which will enhance or increase their positive behavior and potential life successes. [1993 c 497 § 3.]

***Reviser's note:** Sections 5 and 7 through 10, chapter 497, Laws of 1993 were vetoed by the governor.

43.310.020 Gang risk prevention and intervention pilot programs—Request for proposals. (1) The department of community development may recommend existing programs or contract with either school districts or community organizations, or both, through a request for proposal process for the development, administration, and implementation in the county of community-based gang risk prevention and intervention pilot programs.

(2) Proposals by the school district for gang risk prevention and intervention pilot program grant funding shall begin with school years no sooner than the 1994-95 session, and last for a duration of two years.

(3) The school district or community organization proposal shall include:

(a) A description of the program goals, activities, and curriculum. The description of the program goals shall include a list of measurable objectives for the purpose of evaluation by the department of community development. To the extent possible, proposals shall contain empirical data on current problems, such as drop-out rates and occurrences of violence on and off campus by school-age individuals.

(b) A description of the individual school or schools and the geographic area to be affected by the program.

(c) A demonstration of broad-based support for the program from business and community organizations.

(d) A clear description of the experience, expertise, and other qualifications of the community organizations to conduct an effective prevention and intervention program in cooperation with a school or a group of schools.

(e) A proposed budget for expenditure of the grant.

(4) Grants awarded under this section may not be used for the administrative costs of the school district or the individual school. [1993 c 497 § 4.]

43.310.030 Gang risk prevention and intervention pilot programs—Scope. Gang risk prevention and intervention pilot programs shall include, but are not limited to:

(1) Counseling for targeted at-risk students, parents, and families, individually and collectively.

(2) Exposure to positive sports and cultural activities, promoting affiliations between youth and the local community.

(3) Job training, which may include apprentice programs in coordination with local businesses, job skills development at the school, or information about vocational opportunities in the community.

(4) Positive interaction with local law enforcement personnel.

(5) The use of local organizations to provide job search training skills.

(6) Cultural awareness retreats.

(7) The use of specified state resources, as requested.

(8) Full service schools under *section 9 of this act.

(9) Community service such as volunteerism and citizenship. [1993 c 497 § 6.]

***Reviser's note:** Section 9, chapter 497, Laws of 1993 was vetoed by the governor.

43.310.040 Cultural awareness retreats. Cultural awareness retreats shall include but are not limited to the following programs:

(1) To develop positive attitudes and self-esteem.

(2) To develop youth decision-making ability.

(3) To assist with career development and educational development.

(4) To help develop respect for the community, and ethnic origin. [1993 c 497 § 11.]

Chapter 43.320

DEPARTMENT OF FINANCIAL INSTITUTIONS

(Effective October 1, 1993)

Sections

43.320.005 Finding. The legislature finds that, given the overlap of powers and products in the companies regulated, the consolidation of the agencies regulating financial institutions and securities into one department will better serve the public interest through more effective use of staff expertise. Therefore, for the convenience of administration and the centralization of control and the more effective use of state resources and expertise, the state desires to combine the regulation of financial institutions and securities into one department. [1993 c 472 § 1.]

43.320.010 Department created. A state department of financial institutions, headed by the director of financial institutions, is created. The department shall be organized and operated in a manner that to the fullest extent permissible under applicable law protects the public interest, protects the safety and soundness of depository institutions and entities under the jurisdiction of the department, ensures access to the regulatory process for all concerned parties, and protects the interests of investors. The department of financial institutions shall be structured to reflect the unique differences in the types of institutions and areas it regulates. [1993 c 472 § 2.]

43.320.011 Department of general administration and department of licensing powers and duties transferred. (1) All powers, duties, and functions of the department of general administration under Titles 30, 31, 32, 33, and 43 RCW and any other title pertaining to duties relating to banks, savings banks, foreign bank branches, savings and loan associations, credit unions, consumer loan companies, check cashers and sellers, trust companies and departments, and other similar institutions are transferred to the department of financial institutions. All references to the director of general administration, supervisor of banking, or the supervisor of savings and loan associations in the Revised Code of Washington are construed to mean the director of the department of financial institutions when referring to the functions transferred in this section. All references to the department of general administration in the Revised Code of Washington are construed to mean the department of financial institutions when referring to the functions transferred in this subsection.

(2) All powers, duties, and functions of the department of licensing under chapters 19.100, 19.110, 21.20, 21.30, and 48.18A RCW and any other statute pertaining to the regulation of securities, franchises, business opportunities, commodities, and any other speculative investments are transferred to the department of financial institutions. All references to the director or department of licensing in the Revised Code of Washington are construed to mean the director or department of financial institutions when referring to the functions transferred in this subsection. [1993 c 472 § 6.]

43.320.012 Department of general administration and department of licensing equipment, records, funds transferred. All reports, documents, surveys, books, records, files, papers, or other written or electronically stored

material in the possession of the department of general administration or the department of licensing and pertaining to the powers, functions, and duties transferred by RCW 43.320.011 shall be delivered to the custody of the department of financial institutions. All cabinets, furniture, office equipment, motor vehicles, and other tangible property purchased by the division of banking and the division of savings and loan in carrying out the powers, functions, and duties transferred by RCW 43.320.011 shall be transferred to the department of financial institutions. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of licensing in carrying out the powers, functions, and duties transferred by RCW 43.320.011 shall be made available to the department of financial institutions. All funds, credits, or other assets held by the department of general administration or the department of licensing in connection with the powers, functions, and duties transferred by RCW 43.320.011 shall be assigned to the department of financial institutions.

Any appropriations made to the department of general administration or the department of licensing for carrying out the powers, functions, and duties transferred by RCW 43.320.011 shall, on October 1, 1993, be transferred and credited to the department of financial institutions.

If a dispute arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned. [1993 c 472 § 7.]

43.320.013 Department of general administration and department of licensing civil service employees transferred. All employees classified under chapter 41.06 RCW, the state civil service law, who are employees of the department of general administration or the department of licensing engaged in performing the powers, functions, and duties transferred by RCW 43.320.011 are transferred to the department of financial institutions. All such employees are assigned to the department of financial institutions to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service. [1993 c 472 § 9.]

43.320.014 Department of general administration or department of licensing rules, business, contracts, and obligations continued. All rules and all pending business before the department of general administration or the department of licensing pertaining to the powers, functions, and duties transferred by RCW 43.320.011 shall be continued and acted upon by the department of financial institutions. All existing contracts and obligations shall remain in full force and shall be performed by the department of financial institutions. [1993 c 472 § 10.]

43.320.015 Department of general administration and department of licensing—Validity of acts. The transfer of the powers, duties, functions, and personnel of the department of general administration or the department of licensing under RCW 43.320.011 through 43.320.014 does not affect the validity of any act performed by such an employee before October 1, 1993. [1993 c 472 § 11.]

43.320.016 Apportionment of budgeted funds. If apportionments of budgeted funds are required because of the transfers directed by RCW 43.320.011 through 43.320.015, the director of financial management shall certify the apportionments to the agencies affected, to the state auditor, and to the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification. [1993 c 472 § 12.]

43.320.017 Collective bargaining agreements. Nothing contained in RCW 43.320.011 through 43.320.015 may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the expiration date of the current agreement or until the bargaining unit has been modified by action of the personnel board as provided by law. [1993 c 472 § 13.]

43.320.020 Director—Salary—Powers and duties—Examiners, assistants, personnel. The director of financial institutions shall be appointed by the governor and shall exercise all powers and perform all of the duties and functions transferred under RCW 43.320.011, and such other powers and duties as may be authorized by law. The director may deputize, appoint, and employ examiners and other such assistants and personnel as may be necessary to carry on the work of the department. The director of financial institutions shall receive a salary in an amount fixed by the governor. [1993 c 472 § 3.]

43.320.030 Director—Qualifications—Conflicts of interest. A person is not eligible for appointment as director of financial institutions unless he or she is, and for the last two years before his or her appointment has been, a citizen of the United States. A person is not eligible for appointment as director of financial institutions if he or she has an interest at the time of appointment, as a director, trustee, officer, or stockholder in any bank, savings bank, savings and loan association, credit union, consumer loan company, trust company, securities broker-dealer or investment advisor, or other institution regulated by the department. [1993 c 472 § 4.]

43.320.040 Director's authority to adopt rules. The director of financial institutions may adopt any rules, under chapter 34.05 RCW, necessary to implement the powers and duties of the director under this chapter. [1993 c 472 § 5.]

43.320.050 Assistant directors—Divisions—"FDIC" defined. The director of financial institutions may appoint assistant directors for each of the divisions of the department and delegate to them the power to perform any act or duty conferred upon the director. The director is responsible for the official acts of these assistant directors.

The department of financial institutions shall consist of at least the following four divisions: The division of FDIC

insured institutions, with regulatory authority over all state-chartered FDIC insured institutions; the division of credit unions, with regulatory authority over all state-chartered credit unions; the division of consumer affairs, with regulatory authority over state-licensed nondepository lending institutions and other regulated entities; and the division of securities, with regulatory authority over securities, franchises, business opportunities, and commodities. The director of financial institutions is granted broad administrative authority to add additional responsibilities to these divisions as necessary and consistent with applicable law.

For purposes of this section, "FDIC" means the Federal Deposit Insurance Corporation. [1993 c 472 § 8.]

43.320.060 Deputization of assistant to exercise powers and duties of director. The director of financial institutions shall appoint, deputize, and employ examiners and such other assistants and personnel as may be necessary to carry on the work of the department of financial institutions.

In the event of the director's absence the director shall have the power to deputize one of the assistants of the director to exercise all the powers and perform all the duties prescribed by law with respect to banks, savings banks, foreign bank branches, savings and loan associations, credit unions, consumer loan companies, check cashers and sellers, trust companies and departments, securities, franchises, business opportunities, commodities, and other similar institutions or areas that are performed by the director so long as the director is absent: PROVIDED, That such deputized assistant shall not have the power to approve or disapprove new charters, licenses, branches, and satellite facilities, unless such action has received the prior written approval of the director. Any person so deputized shall possess the same qualifications as those set out in this section for the director. [1993 c 472 § 20; 1977 ex.s. c 185 § 1; 1965 c 8 § 43.19.020. Prior: 1955 c 285 § 5; prior: (i) 1919 c 209 § 2; 1917 c 80 § 2; RRS § 3209. (ii) 1945 c 123 § 1; 1935 c 176 § 12; Rem. Supp. 1945 § 10786-11. Formerly RCW 43.19.020.]

43.320.070 Oath of examiners—Liability for acts performed in good faith. Before entering office each examiner shall take and subscribe an oath faithfully to discharge the duties of the office.

Oaths shall be filed with the secretary of state.

Neither the director of financial institutions, any deputized assistant of the director, nor any examiner or employee shall be personally liable for any act done in good faith in the performance of his or her duties. [1993 c 472 § 21; 1977 ex.s. c 270 § 8; 1975 c 40 § 7; 1965 c 8 § 43.19.030. Prior: 1943 c 217 § 1; 1919 c 209 § 3; 1917 c 80 § 3; Rem. Supp. 1943 § 3210. Formerly RCW 43.19.030.]

Construction—1977 ex.s. c 270: See RCW 43.19.19364.

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

43.320.080 Director to maintain office in Olympia—Record of receipts and disbursements—Deposit of funds. The director of financial institutions shall maintain an office at the state capitol, but may with the consent of the governor also maintain branch offices at other convenient business centers in this state. The director shall keep books of record of all moneys received or disbursed by the director into or from the banking examination fund, the credit union examination fund, the securities regulation fund, and any other accounts maintained by the department of financial institutions. [1993 c 472 § 22; 1965 c 8 § 43.19.050. Prior: 1917 c 80 § 4; RRS § 3211. Formerly RCW 43.19.050.]

43.320.090 Borrowing money by director, deputy, or employee—Penalty. (1) It shall be unlawful for the director of financial institutions, any deputized assistant of the director, or any employee of the department of financial institutions to borrow money from any bank, consumer loan company, credit union, foreign bank branch, savings bank, savings and loan association, or trust company or department, securities broker-dealer or investment advisor, or similar lending institution under the department's direct jurisdiction unless the extension of credit:

(a) Is made on substantially the same terms (including interest rates and collateral) as, and following credit underwriting procedures that are not less stringent than, those prevailing at the time for comparable transactions by the financial institution with other persons that are not employed by either the department or the institution; and

(b) Does not involve more than the normal risk of repayment or present other unfavorable features.

(2) The director of the office of financial management shall adopt rules, policies, and procedures interpreting and implementing this section.

(3) Every person who knowingly violates this section shall forfeit his or her office or employment and be guilty of a gross misdemeanor. [1993 c 472 § 23; 1965 c 8 § 43.19.080. Prior: 1917 c 80 § 11; RRS § 3218. Formerly RCW 43.19.080.]

43.320.100 Annual report—Contents. The director of financial institutions shall file in his or her office all reports required to be made to the director, prepare and furnish to banks, savings banks, foreign bank branches, savings and loan associations, credit unions, consumer loan companies, check cashers and sellers, and trust companies and departments blank forms for such reports as are required of them, and each year make a report to the governor showing:

(1) A summary of the conditions of the banks, savings banks, foreign bank branches, savings and loan associations, credit unions, consumer loan companies, check cashers and sellers, and trust companies and departments at the date of their last report; and

(2) A list of those organized or closed during the year.

The director may publish such other statements, reports, and pamphlets as he or she deems advisable. [1993 c 472 § 24; 1977 c 75 § 43; 1965 c 8 § 43.19.090. Prior: 1917 c 80 § 13; RRS § 3220. Formerly RCW 43.19.090.]

43.320.110 Banking examination fund. There is created a local fund known as the "banking examination fund" which shall consist of all moneys received by the department of financial institutions from banks, savings

banks, foreign bank branches, savings and loan associations, consumer loan companies, check cashers and sellers, and trust companies and departments, and which shall be used for the purchase of supplies and necessary equipment and the payment of salaries, wages, utilities, and other incidental costs required for the proper regulation of these companies. The state treasurer shall be the custodian of the fund. Disbursements from the fund shall be on authorization of the director of financial institutions or the director's designee. In order to maintain an effective expenditure and revenue control, the fund shall be subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditures and payment of obligations from the fund. [1993 c 472 § 25; 1981 c 241 § 1. Formerly RCW 43.19.095.]

Effective date—1981 c 241: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981." [1981 c 241 § 4.]

43.320.120 Credit unions examination fund. There is created a local fund known as the "credit unions examination fund" which shall consist of all moneys received by the department of financial institutions from credit unions and which shall be used for the purchase of supplies and necessary equipment and the payment of salaries, wages, utilities, and other incidental costs required for the regulation of these institutions. The state treasurer shall be the custodian of the fund. Disbursements from the fund shall be on authorization of the director of financial institutions or the director's designee. In order to maintain an effective expenditure and revenue control, the fund shall be subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditures and payment of obligations from the fund. [1993 c 472 § 26; 1981 c 241 § 2. Formerly RCW 43.19.112.]

Effective date—1981 c 241: See note following RCW 43.19.095.

43.320.130 Securities regulation fund. There is created in the state treasury a fund known as the "securities regulation fund" that shall consist of thirteen percent of all moneys received by the division of securities of the department of financial institutions. Expenditures from the account may be used only for the purchase of supplies and necessary equipment and the payment of salaries, wages, utilities, and other incidental costs required for the regulation of securities, franchises, business opportunities, commodities, and other similar areas regulated by the division. Moneys in the account may be spent only after appropriation. [1993 c 472 § 27.]

43.320.900 Effective date—1993 c 472. This act takes effect October 1, 1993. [1993 c 472 § 31.]

43.320.901 Implementation—1993 c 472. The directors of the department of general administration and the department of licensing shall take such steps as are necessary to ensure that this act is implemented on October 1, 1993. [1993 c 472 § 32.]

Chapter 43.330

DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Sections

43.330.005 Intent. (Effective July 1, 1994.) The legislature finds that the long-term economic health of the state and its citizens depends upon the strength and vitality of its communities and businesses. It is the intent of this chapter to create a merged department of community, trade, and economic development that fosters new partnerships for strong and sustainable communities. The consolidation of the department of trade and economic development and the department of community development into one department will: Streamline access to services by providing a simpler point of entry for state programs; provide focused and flexible responses to changing economic conditions; generate greater local capacity to respond to both economic growth and environmental challenges; and increase accountability to the public, the executive branch, and the legislature.

A new department can bring together a focused effort to: Manage growth and achieve sustainable development; diversify the state's economy and export goods and services; provide greater access to economic opportunity; stimulate private sector investment and entrepreneurship; provide stable family-wage jobs and meet the diverse needs of families; provide affordable housing and housing services; construct public infrastructure; protect our cultural heritage; and promote the health and safety of the state's citizens.

The legislature further finds that as a result of the rapid pace of global social and economic change, the state and local communities will require coordinated and creative responses by every segment of the community. The state can play a role in assisting such local efforts by reorganizing state assistance efforts to promote such partnerships. The department has a primary responsibility to provide financial

and technical assistance to the communities of the state, to assist in improving the delivery of federal, state, and local programs, and to provide communities with opportunities for productive and coordinated development beneficial to the well-being of communities and their residents. It is the intent of the legislature in this consolidation to maximize the use of local expertise and resources in the delivery of community and economic development services. [1993 c 280 § 1.]

43.330.007 Management responsibility. (Effective July 1, 1994.) The purpose of this chapter is to establish the broad outline of the structure of the department of community, trade, and economic development, leaving specific details of its internal organization and management to those charged with its administration. This chapter identifies the broad functions and responsibilities of the new department and is intended to provide flexibility to the director to reorganize these functions and to make recommendations for changes through the implementation plan required in section 8, chapter 280, Laws of 1993. [1993 c 280 § 2.]

Implementation plan—1993 c 280: "(1) The director of the department of trade and economic development and the director of the department of community development shall, by November 15, 1993, jointly submit a plan to the governor for the consolidation and smooth transition of the department of trade and economic development and the department of community development into the department of community, trade, and economic development so that the department will operate as a single entity on July 1, 1994.

(2) The plan shall include, but is not limited to, the following elements:

(a) Strategies for combining the existing functions and responsibilities of both agencies into a coordinated and unified department including a strategic plan for each major program area that includes implementation steps, evaluation measures, and methods for collaboration among programs;

(b) Recommendations for any changes in existing programs and functions of both agencies, including new initiatives and possible transfer of programs and functions to and from other departments;

(c) Implementation steps necessary to bring about operation of the combined department as a single entity;

(d) Benchmarks by which to measure progress and to evaluate the performance and effectiveness of the department's efforts; and

(e) Strategies for coordinating and maximizing federal, state, local, international, and private sector support for community and economic development efforts within the state.

(3) In developing this plan, the directors shall establish an advisory committee of representatives of groups using services and programs of both departments. The advisory committee shall include representatives of cities, counties, port districts, small and large businesses, labor unions, associate development organizations, low-income housing interests, housing industry, Indian tribes, community action programs, public safety groups, nonprofit community and development organizations, international trade organizations, minority and women business organizations, and any other organizations the directors determine should have input to the plan." [1993 c 280 § 8.]

43.330.010 Definitions. (Effective July 1, 1994.) Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Associate development organization" means a local economic development nonprofit corporation that is broadly representative of community interests.

(2) "Department" means the department of community, trade, and economic development.

(3) "Director" means the director of the department of community, trade, and economic development. [1993 c 280 § 3.]

43.330.020 Department created. (Effective July 1, 1994.) A department of community, trade, and economic development is created. The department shall be vested with all powers and duties established or transferred to it under this chapter and such other powers and duties as may be authorized by law. Unless otherwise specifically provided in chapter 280, Laws of 1993, the existing responsibilities and functions of the agency programs will continue to be administered in accordance with their implementing legislation. [1993 c 280 § 4.]

43.330.030 Director—Appointment—Salary. (Effective July 1, 1994.) The executive head of the department shall be the director. The director shall be appointed by the governor with the consent of the senate, and shall serve at the pleasure of the governor. The director shall be paid a salary to be fixed by the governor in accordance with RCW 43.03.040. [1993 c 280 § 5.]

43.330.040 Director powers and duties. (Effective July 1, 1994.) (1) The director shall supervise and administer the activities of the department and shall advise the governor and the legislature with respect to community and economic development matters affecting the state.

(2) In addition to other powers and duties granted to the director, the director shall have the following powers and duties:

(a) Enter into contracts on behalf of the state to carry out the purposes of this chapter;

(b) Act for the state in the initiation of or participation in any multigovernmental program relative to the purpose of this chapter;

(c) Accept and expend gifts and grants, whether such grants be of federal or other funds;

(d) Appoint such deputy directors, assistant directors, and up to seven special assistants as may be needed to administer the department. These employees are exempt from the provisions of chapter 41.06 RCW;

(e) Prepare and submit budgets for the department for executive and legislative action;

(f) Submit recommendations for legislative actions as are deemed necessary to further the purposes of this chapter;

(g) Adopt rules in accordance with chapter 34.05 RCW and perform all other functions necessary and proper to carry out the purposes of this chapter;

(h) Delegate powers, duties, and functions as the director deems necessary for efficient administration, but the director shall be responsible for the official acts of the officers and employees of the department; and

(i) Perform other duties as are necessary and consistent with law.

(3) When federal or other funds are received by the department, they shall be promptly transferred to the state treasurer and thereafter expended only upon the approval of the director.

(4) The director may request information and assistance from all other agencies, departments, and officials of the state, and may reimburse such agencies, departments, or officials if such a request imposes any additional expenses upon any such agency, department, or official.

(5) The director shall, in carrying out the responsibilities of office, consult with governmental officials, private groups, and individuals and with officials of other states. All state agencies and their officials and the officials of any political subdivision of the state shall cooperate with and give such assistance to the department, including the submission of requested information, to allow the department to carry out its purposes under this chapter.

(6) The director may establish additional advisory or coordinating groups with the legislature, within state government, with state and other governmental units, with the private sector and nonprofit entities or in specialized subject areas as may be necessary to carry out the purposes of this chapter.

(7) The internal affairs of the department shall be under the control of the director in order that the director may manage the department in a flexible and intelligent manner as dictated by changing contemporary circumstances. Unless specifically limited by law, the director shall have complete charge and supervisory powers over the department. The director may create such administrative structures as the director deems appropriate, except as otherwise specified by law, and the director may employ such personnel as may be necessary in accordance with chapter 41.06 RCW, except as otherwise provided by law. [1993 c 280 § 6.]

43.330.050 Community and economic development responsibilities. (Effective July 1, 1994.) The department shall be responsible for promoting community and economic development within the state by assisting the state's communities to increase the quality of life of their citizens and their economic vitality, and by assisting the state's businesses to maintain and increase their economic competitiveness, while maintaining a healthy environment. Community and economic development efforts shall include: Efforts to increase economic opportunity; local planning to manage growth; the promotion and provision of affordable housing and housing-related services; providing public infrastructure; business and trade development; assisting firms and industrial sectors to increase their competitiveness; fostering the development of minority and women-owned businesses; facilitating technology development, transfer, and diffusion; community services and advocacy for low-income persons; and public safety efforts. The department shall have the following general functions and responsibilities:

(1) Provide advisory assistance to the governor, other state agencies, and the legislature on community and economic development matters and issues;

(2) Assist the governor in coordinating the activities of state agencies that have an impact on local government and communities;

(3) Cooperate with the legislature and the governor in the development and implementation of strategic plans for the state's community and economic development efforts;

(4) Solicit private and federal grants for economic and community development programs and administer such programs in conjunction with other programs assigned to the department by the governor or the legislature;

(5) Cooperate with and provide technical and financial assistance to local governments, businesses, and community-based organizations 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 additional consideration to local communities and individuals with the greatest relative need and the fewest resources;

(6) 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 and provinces or their subdivisions;

(7) Hold public hearings and meetings to carry out the purposes of this chapter;

(8) Conduct research and analysis in furtherance of the state's economic and community development efforts including maintenance of current information on market, demographic, and economic trends as they affect different industrial sectors, geographic regions, and communities with special economic and social problems in the state; and

(9) Develop a schedule of fees for services where appropriate. [1993 c 280 § 7.]

43.330.060 Trade and business responsibilities. (Effective July 1, 1994.) (1) The department shall assist in expanding the state's role as an international center of trade, culture, and finance. The department shall promote and market the state's products and services internationally in close cooperation with other private and public international trade efforts and act as a centralized location for the assimilation and distribution of trade information.

(2) The department shall identify and work with Washington businesses that can use local, state, and federal assistance to increase domestic and foreign exports of goods and services.

(3) The department shall work generally with small businesses and other employers to facilitate resolution of siting, regulatory, expansion, and retention problems. This assistance shall include but not be limited to assisting in work force training and infrastructure needs, identifying and locating suitable business sites, and resolving problems with government licensing and regulatory requirements. The department shall identify gaps in needed services and develop steps to address them including private sector support and purchase of these services.

(4) The department shall work to increase the availability of capital to small businesses by developing new and flexible investment tools and by assisting in targeting and improving the efficiency of existing investment mechanisms.

(5) The department shall assist women and minority-owned businesses in overcoming barriers to increased investment and employment and becoming full participants in Washington's traded sector economy. [1993 c 280 § 9.]

43.330.070 Local development capacity—Training and technical assistance. (Effective July 1, 1994.) (1) The department shall work closely with local communities to increase their capacity to respond to economic, environmental, and social problems and challenges. The department shall coordinate the delivery of development services and technical assistance to local communities or regional areas. It shall promote partnerships between the public and private sectors and between state and local officials to encourage

appropriate economic growth and opportunity in communities throughout the state. The department shall promote appropriate local development by: Supporting the ability of communities to develop and implement strategic development plans; assisting businesses to start up, maintain, or expand their operations; encouraging public infrastructure investment and private and public capital investment in local communities; supporting efforts to manage growth and provide affordable housing and housing services; providing for the identification and preservation of the state's historical and cultural resources; and expanding employment opportunities.

(2) The department shall define a set of services including training and technical assistance that it will make available to local communities, community-based nonprofit organizations, regional areas, or businesses. The department shall simplify access to these programs by providing more centralized and user-friendly information and referral. The department shall coordinate community and economic development efforts to minimize program redundancy and maximize accessibility. The department shall develop a set of criteria for targeting services to local communities.

(3) The department shall develop a coordinated and systematic approach to providing training to community-based nonprofit organizations, local communities, and businesses. The approach shall be designed to increase the economic and community development skills available in local communities by providing training and funding for training for local citizens, nonprofit organizations, and businesses. The department shall emphasize providing training in those communities most in need of state assistance. [1993 c 280 § 10.]

43.330.080 Coordination of community and economic development services—Contracts with associate development organizations—Targeted sectors. (Effective July 1, 1994.) (1) The department may contract with associate development organizations or other local organizations to increase the support for and coordination of community and economic development services in communities or regional areas. The organizations contracted with in each community or regional area shall be broadly representative of community and economic interests. The organization shall be capable of identifying key economic and community development problems, developing appropriate solutions, and mobilizing broad support for recommended initiatives. The contracting organization shall work with and include local governments, local chambers of commerce, private industry councils, port districts, labor groups, institutions of higher education, community action programs, and other appropriate private, public, or nonprofit community and economic development groups. The department shall be responsible for determining the scope of services delivered under these contracts.

(2) Associate development organizations or other local development organizations contracted with shall promote and coordinate, through local service agreements with local governments, small business development centers, port districts, community and technical colleges, private industry councils, and other development organizations, for the efficient delivery of community and economic development services in their areas.

(3) The department shall consult with associate development organizations, port districts, local governments, and other local development organizations in the establishment of service delivery regions throughout the state. The legislature encourages local associate development organizations to form partnerships with other associate development organizations in their region to combine resources for better access to available services, to encourage regional delivery of state services, and to build the local capacity of communities in the region more effectively.

(4) The department shall contract on a regional basis for surveys of key sectors of the regional economy and the coordination of technical assistance to businesses and employees within the key sectors. The department's selection of contracting organizations or consortiums shall be based on the sufficiency of the organization's or consortium's proposal to examine key sectors of the local economy within its region adequately and its ability to coordinate the delivery of services required by businesses within the targeted sectors. Organizations contracting with the department shall work closely with the department to examine the local economy and to develop strategies to focus on developing key sectors that show potential for long-term sustainable growth. The contracting organization shall survey businesses and employees in targeted sectors on a periodic basis to gather information on the sector's business needs, expansion plans, relocation decisions, training needs, potential layoffs, financing needs, availability of financing, and other appropriate information about economic trends and specific employer and employee needs in the region.

(5) The contracting organization shall participate with the work force training and education coordinating board as created in chapter 28C.18 RCW, and any regional entities designated by that board, in providing for the coordination of job skills training within its region. [1993 c 280 § 11.]

43.330.090 Economic diversification strategies—Tourism expansion—Targeted sectors. (Effective July 1, 1994.) (1) The department shall work with private sector organizations, local governments, local economic development organizations, and higher education and training institutions to assist in the development of strategies to diversify the economy, facilitate technology transfer and diffusion, and increase value-added production by focusing on targeted sectors. The targeted sectors may include, but are not limited to, software, forest products, biotechnology, environmental industries, recycling markets and waste reduction, aerospace, food processing, tourism, film and video, microelectronics, new materials, robotics, and machine tools. The department shall, on a continuing basis, evaluate the potential return to the state from devoting additional resources to a targeted sector's approach to economic development and including additional sectors in its efforts. The department shall use information gathered in each service delivery region in formulating its sectoral strategies and in designating new targeted sectors.

(2) The department shall ensure that the state continues to pursue a coordinated program to expand the tourism industry throughout the state in cooperation with the public

and private tourism development organizations. The department shall work to provide a balance of tourism activities throughout the state and during different seasons of the year. In addition, the department shall promote, market, and encourage growth in the production of films and videos, as well as television commercials within the state.

(3) In assisting in the development of a targeted sector, the department's activities may include, but are not limited to:

(a) Conducting focus group discussions, facilitating meetings, and conducting studies to identify members of the sector, appraise the current state of the sector, and identify issues of common concern within the sector;

(b) Supporting the formation of industry associations, publications of association directories, and related efforts to create or expand the activities or industry associations;

(c) Assisting in the formation of flexible networks by providing (i) agency employees or private sector consultants trained to act as flexible network brokers and (ii) funding for potential flexible network participants for the purpose of organizing or implementing a flexible network;

(d) Helping establish research consortia;

(e) Facilitating joint training and education programs;

(f) Promoting cooperative market development activities;

(g) Analyzing the need, feasibility, and cost of establishing product certification and testing facilities and services; and

(h) Providing for methods of electronic communication and information dissemination among firms and groups of firms to facilitate network activity.

By January 10th of each year, the department shall report in writing on its targeted sector programs to the appropriate legislative economic development committees. The department's report shall include an appraisal of the sector, activities the department has undertaken to assist in the development of each sector, and recommendations to the legislature regarding activities that the state should implement but are currently beyond the scope of the department's program or resources. [1993 c 280 § 12.]

43.330.100 Local infrastructure and public facilities—Grants and loans. (Effective July 1, 1994.) (1) The department shall support the development and maintenance of local infrastructure and public facilities and provide local communities with flexible sources of funding. The department shall coordinate grant and loan programs that provide infrastructure and investment in local communities. This shall include coordinating funding for eligible projects with other federal, state, local, private, and nonprofit funding sources.

(2) At a minimum, the department shall provide coordinated procedures for applying for and tracking grants and loans among and between the community economic revitalization board, the public works trust fund, and community development block grants. [1993 c 280 § 13.]

43.330.110 Housing—Energy assistance. (Effective July 1, 1994.) (1) The department shall maintain an active effort to help communities, families, and individuals build and maintain capacity to meet housing needs in Washington state. The department shall facilitate partnerships among the many entities related to housing issues and leverage a variety of resources and services to produce comprehensive, cost-effective, and innovative housing solutions.

(2) The department shall assist in the production, development, rehabilitation, and operation of owner-occupied or rental housing for very low, low, and moderate-income persons; operate programs to assist home ownership, offer housing services, and provide emergency, transitional, and special needs housing services; and qualify as a participating state agency for all programs of the federal department of housing and urban development or its successor. The department shall develop or assist local governments in developing housing plans required by the state or federal government.

(3) The department shall coordinate and administer energy assistance and residential energy conservation and rehabilitation programs of the federal and state government through nonprofit organizations, local governments, and housing authorities. [1993 c 280 § 14.]

43.330.120 Growth management. (Effective July 1, 1994.) (1) The department shall serve as the central coordinator for state government in the implementation of the growth management act, chapter 36.70A RCW. The department shall work closely with all Washington communities planning for future growth and responding to the pressures of urban sprawl. The department shall ensure coordinated implementation of the growth management act by state agencies.

(2) The department shall offer technical and financial assistance to cities and counties planning under the growth management act. The department shall help local officials interpret and implement the different requirements of the act through workshops, model ordinances, and information materials.

(3) The department shall provide alternative dispute resolution to jurisdictions and organizations to mediate disputes and to facilitate consistent implementation of the growth management act. The department shall review local governments compliance with the requirements of the growth management act and make recommendations to the governor. [1993 c 280 § 15.]

43.330.130 Services to poor and disadvantaged persons—Preschool children—Substance abuse—Family services—Fire protection and emergency management. (Effective July 1, 1994.) (1) The department shall coordinate services to communities that are directed to the poor and disadvantaged through private and public nonprofit organizations and units of general purpose local governments. The department shall coordinate these programs using, to the extent possible, integrated case management methods, with other community and economic development efforts that promote self-sufficiency.

(2) These services may include, but not be limited to, comprehensive education services to preschool children from low-income families, providing for human service needs and advocacy, promoting volunteerism and citizen service as a means for accomplishing local community and economic development goals, coordinating and providing emergency food assistance to distribution centers and needy individuals,

and providing for human service needs through community-based organizations.

(3) The department shall provide local communities and at-risk individuals with programs that provide community protection and assist in developing strategies to reduce substance abuse. The department shall administer programs that develop collaborative approaches to prevention, intervention, and interdiction programs. The department shall administer programs that support crime victims, address youth and domestic violence problems, provide indigent defense for low-income persons, border town disputes, and administer family services and programs to promote the state's policy as provided in RCW 74.14A.025.

(4) The department shall provide fire protection and emergency management services to support and strengthen local capacity for controlling risk to life, property, and community vitality that may result from fires, emergencies, and disasters. [1993 c 280 § 16.]

43.330.900 References to director and department. (Effective July 1, 1994.) (1) All references to the director or department of community development in the Revised Code of Washington shall be construed to mean the director of community, trade, and economic development or the department of community, trade, and economic development.

(2) All references to the director or department of trade and economic development in the Revised Code of Washington shall be construed to mean the director of community, trade, and economic development or the department of community, trade, and economic development. [1993 c 280 § 79.]

43.330.901 Captions. (Effective July 1, 1994.) Captions used in this chapter do not constitute part of the law. [1993 c 280 § 83.]

43.330.902 Effective date—1993 c 280. Sections 1 through 7, 9 through 79, 82, and 83 of this act shall take effect July 1, 1994. [1993 c 280 § 86.]

43.330.903 Severability—1993 c 280. 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. [1993 c 280 § 87.]

Title 44
STATE GOVERNMENT—LEGISLATIVE

Chapters

Chapter 44.04
GENERAL PROVISIONS

Sections

44.04.015 Term limits. (1) No person is eligible to appear on the ballot or file a declaration of candidacy for the house of representatives of the legislature who, by the end of the then current term of office will have served, or but for resignation would have served, as a member of the house of representatives of the legislature during six of the previous twelve years.

(2) No person is eligible to appear on the ballot or file a declaration of candidacy for the senate of the legislature who, by the end of the then current term of office will have served, or but for resignation would have served, as a member of the senate of the legislature during eight of the previous fourteen years.

(3) No person is eligible to appear on the ballot or file a declaration of candidacy for the legislature who has served as a member of the legislature for fourteen of the previous twenty years. [1993 c 1 § 3 (Initiative Measure No. 573, approved November 3, 1992).]

Preamble—Severability—1993 c 1 (Initiative Measure No. 573): See notes following RCW 43.01.015.

Chapter 44.28
LEGISLATIVE BUDGET COMMITTEE

Sections

44.28.085 Management surveys and program reviews—Review of state auditor's report, recommendations. The legislative budget committee shall make management surveys and program reviews as to every public body, officer or employee subject to the provisions of RCW 43.09.290 through 43.09.340. The legislative budget committee may also make management surveys and program reviews of local school districts, intermediate school districts, and other units of local government receiving state funds as grants-in-aid or as shared revenues. Management surveys for the purposes of this section shall be an independent examination for the purpose of providing the legislature with an evaluation and report of the manner in which any public agency, officer, administrator, or employee has discharged the responsibility to faithfully, efficiently, and effectively administer any legislative purpose of the state. Program reviews for the purpose of this section shall be an examination of state or local government programs to ascertain whether or not such programs continue to serve their intended purposes, are conducted in an efficient and effective manner, or require modification or elimination. Nothing in this section shall limit the power or duty of the state auditor to report to the legislature as directed by RCW 43.88.160.

The legislative budget committee shall receive a copy of each report of examination issued by the state auditor under RCW 43.09.310, shall review all such reports, and shall

make such recommendations to the legislature and to the state auditor as it deems appropriate. [1993 c 406 § 6; 1975 1st ex.s. c 293 § 15; 1971 ex.s. c 170 § 3.]

Finding—Intent—Short title—1993 c 406: See notes following RCW 43.88.020.

Severability—Effective date—1975 1st ex.s. c 293: See RCW 43.88.902 and 43.88.910.

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

44.28.180 State agency program evaluation. (1) In conducting program evaluations as defined in RCW 43.88.020, the legislative budget committee may establish a biennial work plan that identifies state agency programs for which formal evaluation appears necessary. Among the factors to be considered in preparing the work plan are:

(a) Whether a program newly created or significantly altered by the legislature warrants continued oversight because (i) the fiscal impact of the program is significant, or (ii) the program represents a relatively high degree of risk in terms of reaching the stated goals and objectives for that program;

(b) Whether implementation of an existing program has failed to meet its goals and objectives by any significant degree.

(2) The project description for each program evaluation shall include start and completion dates, the proposed research approach, and cost estimates.

(3) The overall plan may include proposals to employ contract evaluators. As conditions warrant, the program evaluation work plan may be amended from time to time. All biennial work plans shall be transmitted to the appropriate fiscal and policy committees of the senate and the house of representatives. [1993 c 406 § 5.]

Finding—Intent—Short title—1993 c 406: See notes following RCW 43.88.020.

Chapter 44.68
JOINT LEGISLATIVE SYSTEMS COMMITTEE

Sections

44.68.020 Committee created—Members, terms, vacancies, officers, rules.

44.68.020 Committee created—Members, terms, vacancies, officers, rules. (1) The joint legislative systems committee is created to oversee the direction of the information processing and communications systems of the legislature and to enforce the policies, procedures, and standards established under this chapter. The systems committee consists of four members as follows:

(a) A member from each of the two largest caucuses in the house of representatives, appointed by the speaker of the house of representatives; and

(b) A member from each of the two largest caucuses in the senate, appointed by the majority leader of the senate.

(2) Members shall serve two-year terms, beginning with their appointment in the regular legislative session held in an odd-numbered year and continuing until their successors are appointed and qualified. In case of a vacancy, the original appointing authority shall appoint another member of the same party as the vacating member.

(3) The systems committee shall choose its own presiding officer and other necessary officers from among its membership, and shall make rules for orderly procedure. [1993 c 332 § 1; 1986 c 61 § 2.]

Title 46
MOTOR VEHICLES

Chapters

Leases: Chapter 62A.2A RCW.

Chapter 46.01
DEPARTMENT OF LICENSING

Sections

46.01.330 Facilities siting coordination.

46.01.330 Facilities siting coordination. The state patrol and the department of licensing shall coordinate their activities when siting facilities. This coordination shall result in the collocation 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 collocate 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 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 collocation this section shall not apply. [1993 1st sp.s. c 23 § 46.]

Effective dates—1993 1st sp.s. c 23: See note following RCW 47.86.030.

Chapter 46.04
DEFINITIONS

Sections

46.04.302 Mobile home, manufactured home. "Mobile home" or "manufactured home" means a structure, designed and constructed to be transportable in one or more sections, and is built on a permanent chassis, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities that include plumbing, heating, and electrical systems contained therein. The structure must comply with the national mobile home construction and safety standards act of 1974 as adopted by chapter 43.22 RCW if applicable. Manufactured home does not include a modular home. A structure which met the definition of a "manufactured home" at the time of manufacture is still considered to meet this definition notwithstanding that it is no longer transportable. [1993 c 154 § 1. Prior: 1989 c 343 § 24; 1989 c 337 § 1; 1977 ex.s. c 22 § 1; 1971 ex.s. c 231 § 4.]

Severability—Effective date—1989 c 343: See RCW 65.20.940 and 65.20.950.

Severability—1977 ex.s. c 22: "If any section or provision of this 1977 amendatory act, or its application to any person or circumstances is held invalid, the remainder of the act, or the application of the section or provision to other persons or circumstances is not affected." [1977 ex.s. c 22 § 10.]

Effective date—1971 ex.s. c 231: See note following RCW 46.01.130.

Chapter 46.08
GENERAL PROVISIONS

Sections

46.08.172 Parking rental fees—Establishment. The director of the department of general administration shall establish equitable and consistent parking rental fees for state-owned or leased property, to be charged to employees, visitors, clients, service providers, and others, that reflect the legislature's intent to reduce state subsidization of parking. The department shall solicit representatives from affected state agencies, employees, and state employee bargaining units to meet as regional committees. These regional committees will advise the director on parking rental fees, taking into account the market rate of comparable, privately owned rental parking in each region. In the event that such fees become part of a collective bargaining agreement and there is a conflict between the agency and the collective bargaining unit, the terms of the collective bargaining agreement shall prevail. All fees shall take into account the market rate of comparable privately owned rental parking, as determined by the director. However, parking rental fees are not to exceed the local market rate of comparable privately owned rental parking.

The director may delegate the responsibility for the collection of parking fees to other agencies of state government when cost-effective. [1993 c 394 § 4. Prior: 1991 sp.s. c 31 § 12; 1991 sp.s. c 13 § 41; 1988 ex.s. c 2 § 901; 1985 c 57 § 59; 1984 c 258 § 323; 1963 c 158 § 1.]

Finding—Purpose—1993 c 394: See note following RCW 43.01.220.

Severability—1991 sp.s. c 31: See RCW 43.991.900.

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

Intent—1984 c 258: See note following RCW 3.46.120.

Fee deposition: RCW 43.01.225.

Chapter 46.10
SNOWMOBILES

Sections

46.10.170 Proportion of motor vehicle fuel tax and snowmobile fuel tax—Report—Cost offset. From time to time, but at least once each four years, the department shall determine the amount or proportion of moneys paid to it as motor vehicle fuel tax, based on the tax rate in effect January 1, 1990, which is tax on snowmobile fuel. Such determination may be made in any manner which is, in the judgment of the director, reasonable, but the manner used to make such determination shall be reported at the end of each four-year period to the legislature. To offset the actual cost of making such determination the treasurer shall retain in, and the department is authorized to expend from, the motor vehicle fund a sum equal to such actual cost. [1993 c 54 § 7; 1990 c 42 § 117; 1979 ex.s. c 182 § 13; 1971 ex.s. c 29 § 17.]

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

Chapter 46.12
CERTIFICATES OF OWNERSHIP AND REGISTRATION

Sections

46.12.050 Issuance of certificates—Contents. The department, if satisfied from the statements upon the application that the applicant is the legal owner of the vehicle or otherwise entitled to have a certificate of ownership thereof in the applicant's name, shall issue an appropriate electronic record of ownership or a written certificate of ownership, over the director's signature, authenticated by seal, and if required, a new written certificate of license registration if certificate of license registration is required.

The certificates of ownership and the certificates of license registration shall contain upon the face thereof, the date of application, the registration number assigned to the registered owner and to the vehicle, the name and address of the registered owner and legal owner, the vehicle identification number, and such other description of the vehicle and facts as the department shall require, and in addition thereto, if the vehicle described in such certificates shall have ever been licensed and operated as an exempt vehicle or a taxicab, or if it is less than four years old and has been rebuilt after having been totaled out by an insurance carrier, such fact shall be clearly shown thereon.

All certificates of ownership of motor vehicles issued after April 30, 1990, shall reflect the odometer reading as provided by the odometer disclosure statement submitted with the title application involving a transfer of ownership.

A blank space shall be provided on the face of the certificate of license registration for the signature of the registered owner.

Upon issuance of the certificate of license registration and certificate of ownership and upon any reissue thereof, the department shall deliver the certificate of license registration to the registered owner and the certificate of ownership to the legal owner, or both to the person who is both the registered owner and legal owner. [1993 c 307 § 1; 1990 c 238 § 3; 1975 c 25 § 9; 1967 c 32 § 9; 1961 c 12 § 46.12.050. Prior: 1959 c 166 § 1; 1947 c 164 § 2; 1937 c 188 § 4; Rem. Supp. 1947 § 6312-4.]

Effective date, implementation—1990 c 238: See note following RCW 46.12.030.

46.12.120 Recodified as RCW 46.70.122. See Supplementary Table of Disposition of Former RCW Sections, this volume.

46.12.140 Recodified as RCW 46.70.124. See Supplementary Table of Disposition of Former RCW Sections, this volume.

46.12.270 Penalty for violation of RCW 46.12.250, 46.12.260, or 46.12.410. Any person violating RCW 46.12.250, 46.12.260, or 46.12.410 is guilty of a misdemeanor and shall be punished by a fine of not more than two hundred fifty dollars or by imprisonment in a county jail for not more than ninety days. [1993 c 487 § 6; 1969 ex.s. c 125 § 3.]

46.12.290 Mobile or manufactured homes, application of chapter to—Rules. (1) The provisions of chapter 46.12 RCW insofar as they are not inconsistent with the provisions of chapter 231, Laws of 1971 ex. sess. or chapter 65.20 RCW apply to mobile or manufactured homes: PROVIDED, That RCW 46.12.080 and 46.12.250 through 46.12.270 shall not apply to mobile or manufactured homes.

(2) In order to transfer ownership of a mobile home, all registered owners of record must sign the title certificate releasing their ownership.

(3) The director of licensing shall have the power to adopt such rules as necessary to implement the provisions of this chapter relating to mobile homes. [1993 c 154 § 2. Prior: 1989 c 343 § 20; 1989 c 337 § 4; 1981 c 304 § 2; 1979 c 158 § 137; 1971 ex.s. c 231 § 14.]

Severability—Effective date—1989 c 343: See RCW 65.20.940 and 65.20.950.

Severability—1981 c 304: See note following RCW 26.16.030.

Effective date—1971 ex.s. c 231: See note following RCW 46.01.130.

46.12.400 Vehicles subject to seizure—Certificate withheld. Upon receiving notice of a charge under RCW 46.61.512, the director shall withhold the issuance of a certificate of ownership on a vehicle subject to RCW 46.12.410 unless the applicant is included in the exceptions listed in that section or until receiving notice of acquittal or other termination of the charge under RCW 46.61.512. [1993 c 487 § 4.]

46.12.410 Vehicles subject to seizure—Restrictions on sale or transfer. It is unlawful to convey, sell, or transfer the ownership of a motor vehicle that was driven by or was under the actual physical control of the owner of the vehicle who has previously been convicted for a violation of RCW 46.61.502 or 46.61.504 within a five-year period and is currently charged with a violation of RCW 46.61.502 or 46.61.504, except that:

(1) A vehicle encumbered by a bona fide security interest may be transferred to the secured party or to a person designated by the secured party; and

(2) A leased vehicle may be transferred to the lessor or to a person designated by the lessor. [1993 c 487 § 5.]

Chapter 46.16
VEHICLE LICENSES

Sections

46.16.010 Licenses and plates required—Penalties—Exceptions. (1) It is unlawful for a person to operate any vehicle over and along a public highway of this state without first having obtained and having in full force and effect a current and proper vehicle license and display vehicle license number plates therefor as by this chapter provided. Failure to make initial registration before operation on the highways of this state is a misdemeanor, and any person convicted thereof shall be punished by a fine of no less than three hundred thirty dollars, no part of which may be suspended or deferred. Failure to renew an expired registration before operation on the highways of this state is a traffic infraction.

(2) The licensing of a vehicle in another state by a resident of this state, as defined in RCW 46.16.028, evading the payment of any tax or license fee imposed in connection

with registration, is a gross misdemeanor punishable as follows:

(a) For a first offense, up to one year in the county jail and a fine equal to twice the amount of delinquent taxes and fees, no part of which may be suspended or deferred;

(b) For a second or subsequent offense, up to one year in the county jail and a fine equal to three times the amount of delinquent taxes and fees, no part of which may be suspended or deferred.

(3) These provisions shall not apply to farm vehicle[s] as defined in RCW 46.04.181 if operated within a radius of fifteen miles of the farm where principally used or garaged, farm tractors and farm implements including trailers designed as cook or bunk houses used exclusively for animal herding temporarily operating or drawn upon the public highways, and trailers used exclusively to transport farm implements from one farm to another during the daylight hours or at night when such equipment has lights that comply with the law: PROVIDED FURTHER, That these provisions shall not apply to spray or fertilizer applicator rigs designed and used exclusively for spraying or fertilization in the conduct of agricultural operations and not primarily for the purpose of transportation, and nurse rigs or equipment auxiliary to the use of and designed or modified for the fueling, repairing or loading of spray and fertilizer applicator rigs and not used, designed or modified primarily for the purpose of transportation: PROVIDED FURTHER, That these provisions shall not apply to fork lifts operated during daylight hours on public highways adjacent to and within five hundred feet of the warehouses which they serve: PROVIDED FURTHER, That these provisions shall not apply to equipment defined as follows:

"Special highway construction equipment" is any vehicle which is designed and used primarily for grading of highways, paving of highways, earth moving, and other construction work on highways and which is not designed or used primarily for the transportation of persons or property on a public highway and which is only incidentally operated or moved over the highway. It includes, but is not limited to, road construction and maintenance machinery so designed and used such as portable air compressors, air drills, asphalt spreaders, bituminous mixers, bucket loaders, track laying tractors, ditchers, leveling graders, finishing machines, motor graders, paving mixers, road rollers, scarifiers, earth moving scrapers and carryalls, lighting plants, welders, pumps, power shovels and draglines, self-propelled and tractor-drawn earth moving equipment and machinery, including dump trucks and tractor-dump trailer combinations which either (1) are in excess of the legal width or (2) which, because of their length, height or unladen weight, may not be moved on a public highway without the permit specified in RCW 46.44.090 and which are not operated laden except within the boundaries of the project limits as defined by the contract, and other similar types of construction equipment, or (3) which are driven or moved upon a public highway only for the purpose of crossing such highway from one property to another, provided such movement does not exceed five hundred feet and the vehicle is equipped with wheels or pads which will not damage the roadway surface.

Exclusions:

"Special highway construction equipment" does not include any of the following:

Dump trucks originally designed to comply with the legal size and weight provisions of this code notwithstanding any subsequent modification which would require a permit, as specified in RCW 46.44.090, to operate such vehicles on a public highway, including trailers, truck-mounted transit mixers, cranes and shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.

(4) The following vehicles, whether operated solo or in combination, are exempt from license registration and displaying license plates as required by this chapter:

(a) A converter gear used to convert a semitrailer into a trailer or a two-axle truck or tractor into a three or more axle truck or tractor or used in any other manner to increase the number of axles of a vehicle. Converter gear includes an auxiliary axle, booster axle, dolly, and jeep axle.

(b) A tow dolly that is used for towing a motor vehicle behind another motor vehicle. The front or rear wheels of the towed vehicle are secured to and rest on the tow dolly that is attached to the towing vehicle by a tow bar. [1993 c 238 § 1; 1991 c 163 § 1; 1989 c 192 § 2; 1986 c 186 § 1; 1977 ex.s. c 148 § 1; 1973 1st ex.s. c 17 § 2; 1972 ex.s. c 5 § 2; 1969 c 27 § 3; 1967 c 202 § 2; 1963 ex.s. c 3 § 51; 1961 ex.s. c 21 § 32; 1961 c 12 § 46.16.010. Prior: 1955 c 265 § 1; 1947 c 33 § 1; 1937 c 188 § 15; Rem. Supp. 1947 § 6312-15; 1929 c 99 § 5; RRS § 6324.]

Rules of court: Monetary penalty schedule—JTIR 6.2.

Legislative intent—1989 c 192: "The legislature recognizes that there are residents of this state who intentionally register motor vehicles in other states to evade payment of taxes and fees required by the laws of this state. This results in a substantial loss of revenue to the state. It is the intent of the legislature to impose a stronger criminal penalty upon those residents who defraud the state, thereby enhancing compliance with the registration laws of this state and further enhancing enforcement and collection efforts.

In order to encourage voluntary compliance with the registration laws of this state, administrative penalties associated with failing to register a motor vehicle are waived until September 1, 1989. It is not the intent of the legislature to waive traffic infraction or criminal traffic violations imposed prior to July 23, 1989." [1989 c 192 § 1.]

Effective date—1989 c 192: "Section 2 of this act shall take effect September 1, 1989." [1989 c 192 § 3.]

46.16.023 Ride-sharing vehicles—Special plates—Gross misdemeanor. (1) Every owner or lessee of a vehicle seeking to apply for an excise tax exemption under RCW 82.08.0287, 82.12.0282, or 82.44.015 shall apply to the director for, and upon satisfactory showing of eligibility, receive in lieu of the regular motor vehicle license plates for that vehicle, special plates of a distinguishing separate numerical series or design, as the director shall prescribe. In addition to paying all other initial fees required by law, each applicant for the special license plates shall pay an additional license fee of twenty-five dollars upon the issuance of such plates. The special fee shall be deposited in the motor vehicle fund. Application for renewal of the license plates shall be as prescribed for the renewal of other vehicle licenses. No renewal is required for vehicles exempted under RCW 46.16.020.

(2) Whenever the ownership of a vehicle receiving special plates under subsection (1) of this section is transferred or assigned, the plates shall be removed from the motor vehicle, and if another vehicle qualifying for special plates is acquired, the plates shall be transferred to that

vehicle for a fee of five dollars, and the director shall be immediately notified of the transfer of the plates. Otherwise the removed plates shall be immediately forwarded to the director to be canceled. Whenever the owner or lessee of a vehicle receiving special plates under subsection (1) of this section is for any reason relieved of the tax-exempt status, the special plates shall immediately be forwarded to the director along with an application for replacement plates and the required fee. Upon receipt the director shall issue the license plates that are otherwise provided by law.

(3) Any person who knowingly makes any false statement of a material fact in the application for a special plate under subsection (1) of this section is guilty of a gross misdemeanor. [1993 c 488 § 5; 1987 c 175 § 2.]

Finding—Annual recertification rule—Report—1993 c 488: See notes following RCW 82.08.0287.

Effective date—1987 c 175 § 2: "Section 2 of this act shall take effect on January 1, 1988." [1987 c 175 § 4.]

46.16.068 Trailing units—Permanent plates. (Effective January 1, 1994.) Trailing units which are subject to RCW 82.44.020(5) shall, upon application, be issued a permanent license plate that is valid until the vehicle is sold, permanently removed from the state, or otherwise disposed of by the registered owner. The fee for this license plate is thirty-six dollars. Upon the sale, permanent removal from the state, or other disposition of a trailing unit bearing a permanent license plate the registered owner is required to return the license plate and registration certificate to the department. Violations of this section or misuse of a permanent license plate may subject the registered owner to prosecution or denial, or both, of future permanent registration of any trailing units. This section does not apply to any trailing units subject to the annual excise taxes prescribed in RCW 82.44.020. The department is authorized to adopt rules to implement this section for leased vehicles and other applications as necessary. [1993 c 123 § 4.]

Effective date of 1993 c 102 and 123—1993 1st sp.s. c 23: See note following RCW 46.16.070.

46.16.070 License fee on trucks, buses, and for hire vehicles based on gross weight. (Effective January 1, 1994.) (1) In lieu of all other vehicle licensing fees, unless specifically exempt, and in addition to the excise tax prescribed in chapter 82.44 RCW and the mileage fees prescribed for buses and stages in RCW 46.16.125, there shall be paid and collected annually for each motor truck, truck tractor, road tractor, tractor, bus, auto stage, or for hire vehicle with seating capacity of more than six, based upon the declared combined gross weight or declared gross weight thereof pursuant to the provisions of chapter 46.44 RCW, the following licensing fees by such gross weight:

4,000 lbs.	$ 37.00
6,000 lbs.	$ 44.00
8,000 lbs.	$ 55.00
10,000 lbs.	$ 62.00
12,000 lbs.	$ 72.00
14,000 lbs.	$ 82.00
16,000 lbs.	$ 92.00
18,000 lbs.	$ 137.00
20,000 lbs.	$ 152.00
22,000 lbs.	$ 164.00
24,000 lbs.	$ 177.00
26,000 lbs.	$ 187.00
28,000 lbs.	$ 220.00
30,000 lbs.	$ 253.00
32,000 lbs.	$ 304.00
34,000 lbs.	$ 323.00
36,000 lbs.	$ 350.00
38,000 lbs.	$ 384.00
40,000 lbs.	$ 439.00
42,000 lbs.	$ 546.00
44,000 lbs.	$ 556.00
46,000 lbs.	$ 591.00
48,000 lbs.	$ 612.00
50,000 lbs.	$ 656.00
52,000 lbs.	$ 685.00
54,000 lbs.	$ 732.00
56,000 lbs.	$ 767.00
58,000 lbs.	$ 794.00
60,000 lbs.	$ 840.00
62,000 lbs.	$ 894.00
64,000 lbs.	$ 912.00
66,000 lbs.	$ 1,005.00
68,000 lbs.	$ 1,044.00
70,000 lbs.	$ 1,117.00
72,000 lbs.	$ 1,188.00
74,000 lbs.	$ 1,283.00
76,000 lbs.	$ 1,379.00
78,000 lbs.	$ 1,497.00
80,000 lbs.	$ 1,608.00
82,000 lbs.	$ 1,713.00
84,000 lbs.	$ 1,818.00
86,000 lbs.	$ 1,923.00
88,000 lbs.	$ 2,028.00
90,000 lbs.	$ 2,133.00
92,000 lbs.	$ 2,238.00
94,000 lbs.	$ 2,343.00
96,000 lbs.	$ 2,448.00
98,000 lbs.	$ 2,553.00
100,000 lbs.	$ 2,658.00
102,000 lbs.	$ 2,763.00
104,000 lbs.	$ 2,868.00
105,500 lbs.	$ 2,973.00

Every motor truck, truck tractor, and tractor exceeding 6,000 pounds empty scale weight registered under chapter 46.16, 46.87, or 46.88 RCW shall be licensed for not less than one hundred fifty percent of its empty weight unless the amount would be in excess of the legal limits prescribed for such a vehicle in RCW 46.44.041 or 46.44.042, in which event the vehicle shall be licensed for the maximum weight authorized for such a vehicle.

The following provisions apply when increasing gross or combined gross weight for a vehicle licensed under this section:

(a) The new license fee will be one-twelfth of the fee listed above for the new gross weight, multiplied by the number of months remaining in the period for which licensing fees have been paid, including the month in which the new gross weight is effective.

(b) Upon surrender of the current certificate of registration or cab card, the new licensing fees due shall be reduced by the amount of the licensing fees previously paid for the same period for which new fees are being charged.

(2) The proceeds from the fees collected under subsection (1) of this section shall be distributed in accordance with RCW 46.68.035. [1993 1st sp.s. c 23 § 60. Prior: 1993 c 123 § 5; 1993 c 102 § 1; 1990 c 42 § 105; 1989 c 156 § 1; prior: 1987 1st ex.s. c 9 § 4; 1987 c 244 § 3; 1986 c 18 § 4; 1985 c 380 § 15; 1975-'76 2nd ex.s. c 64 § 1; 1969 ex.s. c 281 § 54; 1967 ex.s. c 118 § 1; 1967 ex.s. c 83 § 56; 1961 ex.s. c 7 § 11; 1961 c 12 § 46.16.070; prior: 1957 c 273 § 1; 1955 c 363 § 2; prior: 1951 c 269 § 9; 1950 ex.s. c 15 § 1, part; 1939 c 182 § 3, part; 1937 c 188 § 17, part; 1931 c 140 § 1, part; 1921 c 96 § 15, part; 1919 c 46 § 1, part; 1917 c 155 § 10, part; 1915 c 142 § 15, part; Rem. Supp. 1949 § 6312-17, part; RRS § 6326, part.]

Effective date of 1993 c 102 and 123—1993 1st sp.s. c 23: "Chapter 102, Laws of 1993 and chapter 123, Laws of 1993 each take effect January 1, 1994." [1993 1st sp.s. c 23 § 66.]

Effective dates—1993 1st sp.s. c 23: See note following RCW 47.86.030.

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

Application—1989 c 156: "This act first applies to the renewal of vehicle registrations that have a December 1990 or later expiration date and all initial vehicle registrations that are effective on or after January 1, 1990." [1989 c 156 § 5.]

Severability—Effective date—1987 1st ex.s. c 9: See notes following RCW 46.29.050.

Effective date—1986 c 18; 1985 c 380: See RCW 46.87.901.

Severability—1985 c 380: See RCW 46.87.900.

Effective dates—1975-'76 2nd ex.s. c 64: "Sections 1, 2, and 5 through 24 of this 1976 amendatory act shall take effect on July 1, 1976, and sections 3 and 4 of this 1976 amendatory act shall take effect on January 1, 1977. All current and outstanding valid licenses and permits held by licensees on July 1, 1976, shall remain valid until their expiration dates, but renewals and original applications made after July 1, 1976, shall be governed by the law in effect at the time such renewal or application is made." [1975-'76 2nd ex.s. c 64 § 25.]

Severability—1975-'76 2nd ex.s. c 64: "If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 64 § 26.]

Effective date—1969 ex.s. c 281: See note following RCW 46.88.010.

Severability—Effective dates—1967 ex.s. c 83: See RCW 47.26.900 and 47.26.910.

46.16.160 Vehicle trip permits—Restrictions and requirements—Fees and taxes—Penalty—Rules. (Effective January 1, 1994.) (1) The owner of a vehicle which under reciprocal relations with another jurisdiction would be required to obtain a license registration in this state or an unlicensed vehicle which would be required to obtain a license registration for operation on public highways of this state may, as an alternative to such license registration, secure and operate such vehicle under authority of a trip permit issued by this state in lieu of a Washington certificate of license registration, and licensed gross weight if applicable. The licensed gross weight may not exceed eighty thousand pounds for a combination of vehicles nor forty thousand pounds for a single unit vehicle with three or more axles. Trip permits may also be issued for movement of mobile homes pursuant to RCW 46.44.170. For the purpose of this section, a vehicle is considered unlicensed if the licensed gross weight currently in effect for the vehicle or combination of vehicles is not adequate for the load being carried. Vehicles registered under RCW 46.16.135 shall not be operated under authority of trip permits in lieu of further registration within the same registration year.

(2) Each trip permit shall authorize the operation of a single vehicle at the maximum legal weight limit for such vehicle for a period of three consecutive days commencing with the day of first use. No more than three such permits may be used for any one vehicle in any period of thirty consecutive days. Every permit shall identify, as the department may require, the vehicle for which it is issued and shall be completed in its entirety and signed by the operator before operation of the vehicle on the public highways of this state. Correction of data on the permit such as dates, license number, or vehicle identification number invalidates the permit. The trip permit shall be displayed on the vehicle to which it is issued as prescribed by the department.

(3) Vehicles operating under authority of trip permits are subject to all laws, rules, and regulations affecting the operation of like vehicles in this state.

(4) Prorate operators operating commercial vehicles on trip permits in Washington shall retain the customer copy of such permit for four years.

(5) Blank trip permits may be obtained from field offices of the department of transportation, Washington state patrol, department of licensing, or other agents appointed by the department. For each permit issued, there shall be collected a filing fee as provided by RCW 46.01.140, an administrative fee of eight dollars, and an excise tax of one dollar. If the filing fee amount of one dollar prescribed by RCW 46.01.140 is increased or decreased after January 1, 1981, the administrative fee shall be adjusted to compensate for such change to insure that the total amount collected for the filing fee, administrative fee, and excise tax remain at ten dollars. These fees and taxes are in lieu of all other vehicle license fees and taxes. No exchange, credits, or refunds may be given for trip permits after they have been purchased.

(6) The department may appoint county auditors or businesses as agents for the purpose of selling trip permits to the public. County auditors or businesses so appointed may retain the filing fee collected for each trip permit to defray expenses incurred in handling and selling the permits.

(7) A violation of or a failure to comply with any provision of this section is a gross misdemeanor.

(8) The department of licensing may adopt rules as it deems necessary to administer this section.

(9) All administrative fees and excise taxes collected under the provisions of this chapter shall be forwarded by the department with proper identifying detailed report to the state treasurer who shall deposit the administrative fees to the credit of the motor vehicle fund and the excise taxes to the credit of the general fund. Filing fees will be forwarded and reported to the state treasurer by the department as prescribed in RCW 46.01.140. [1993 c 102 § 2; 1987 c 244 § 6; 1981 c 318 § 1; 1977 ex.s. c 22 § 5; 1975-'76 2nd ex.s. c 64 § 6; 1969 ex.s. c 170 § 8; 1961 c 306 § 1; 1961 c 12 § 46.16.160. Prior: 1957 c 273 § 3; 1955 c 384 § 17; 1949 c 174 § 1; 1947 c 176 § 1; 1937 c 188 § 24; Rem. Supp. 1949 § 6312-24.]

Effective date of 1993 c 102 and 123—1993 1st sp.s. c 23: See note following RCW 46.16.070.

Severability—1977 ex.s. c 22: See note following RCW 46.04.302.

Effective dates—Severability—1975-'76 2nd ex.s. c 64: See notes following RCW 46.16.070.

46.16.381 Special parking privileges for disabled persons—Penalties for unauthorized use or parking. (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 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. A local jurisdiction providing on-street parking places reserved for physically disabled persons may impose by ordinance time restrictions on the use of these parking places.

(8) The portion of a penalty imposed under subsection (7) of this section that is retained by a local jurisdiction under RCW 3.46.120, 3.50.100, 3.62.020, 3.62.040, or 35.20.220 shall be used by that local jurisdiction exclusively for law enforcement. The court may also impose an additional penalty sufficient to reimburse the local jurisdiction for any costs it may have incurred in removal and storage of the improperly parked vehicle.

(9) 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. [1993 c 106 § 1; 1992 c 148 § 1; 1991 c 339 § 21; 1990 c 24 § 1; 1986 c 96 § 1; 1984 c 154 § 2.]

Intent—1984 c 154: "The legislature intends to extend special parking privileges to persons with disabilities that substantially impair mobility." [1984 c 154 § 1.]

Application—1984 c 154: "This act applies to special license plates, cards, or decals issued after June 7, 1984. Nothing in this act invalidates special license plates, cards, or decals issued before June 7, 1984." [1984 c 154 § 9.]

Severability—1984 c 154: "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." [1984 c 154 § 10.]

Chapter 46.20
DRIVERS' LICENSES—IDENTICARDS

Sections

46.20.025 Persons exempt from licensing requirement. The following persons are exempt from license hereunder:

(1) Any person in the service of the army, navy, air force, marine corps, or coast guard of the United States, or in the service of the national guard of this state or any other state, when furnished with a driver's license by such service when operating an official motor vehicle in such service;

(2) A nonresident who is at least sixteen years of age and who has in his or her immediate possession a valid driver's license issued to him or her in his or her home state or is at least fifteen years of age with a valid instruction permit issued to him or her in his or her home state, and when accompanied by a licensed driver who has had at least five years of driving experience and is occupying a seat beside the driver;

(3) A nonresident who is at least sixteen years of age and who has in his or her immediate possession a valid driver's license issued to him or her in his or her home country may operate a motor vehicle in this state for a period not to exceed one year;

(4) Any person operating special highway construction equipment as defined in RCW 46.16.010;

(5) Any person while driving or operating any farm tractor or implement of husbandry which is only incidentally operated or moved over a highway;

(6) Any person while operating a locomotive upon rails, including operation on a railroad crossing over a public highway; and such person is not required to display a driver's license to any law enforcement officer in connection with the operation of a locomotive or train within this state. [1993 c 148 § 1; 1979 c 75 § 1; 1965 ex.s. c 121 § 3.]

46.20.031 Persons ineligible to be licensed. The department shall not issue a driver's license hereunder:

(1) To any person who is under the age of sixteen years;

(2) To any person whose license has been suspended during such suspension, nor to any person whose license has been revoked, except as provided in RCW 46.20.311;

(3) To any person who has been evaluated by a program approved by the department of social and health services as being an alcoholic, drug addict, alcohol abuser and/or drug abuser: PROVIDED, That a license may be issued if the department determines that such person has been granted a deferred prosecution, pursuant to chapter 10.05 RCW, or is satisfactorily participating in or has successfully completed an alcohol or drug abuse treatment program approved by the department of social and health services and has established control of his or her alcohol and/or drug abuse problem;

(4) To any person who has previously been adjudged to be mentally ill or insane, or to be incompetent due to any mental disability or disease, and who has not at the time of application been restored to competency by the methods provided by law: PROVIDED, HOWEVER, That no person so adjudged shall be denied a license for such cause if the superior court should find him able to operate a motor vehicle with safety upon the highways during such incompetency;

(5) To any person who is required by this chapter to take an examination, unless such person shall have successfully passed such examination;

(6) To any person who is required under the laws of this state to deposit proof of financial responsibility and who has not deposited such proof;

(7) To any person when the department has good and substantial evidence to reasonably conclude that such person by reason of physical or mental disability would not be able to operate a motor vehicle with safety upon the highways; subject to review by a court of competent jurisdiction. [1993 c 501 § 2; 1985 c 101 § 1; 1977 ex.s. c 162 § 1; 1965 ex.s. c 121 § 4.]

Allowing unauthorized person to drive: RCW 46.16.011, 46.20.344.

Juvenile driving privileges, alcohol or drug violations: RCW 66.44.365, 69.50.420.

46.20.035 Proof of identity. (1) The department may not issue an identicard or a Washington state driver's license, except as provided in RCW 46.20.116, unless the applicant has satisfied the department regarding his or her identity. Except as provided in subsection (2) of this section, an applicant has not satisfied the identity requirements of this section unless he or she displays or provides the department with at least one of the following pieces of valid identifying documentation:

(a) A valid or recently expired driver's license or instruction permit that contains the signature, date of birth, and a photograph of the applicant;

(b) A Washington state identicard or an identification card issued by another state that contains the signature and a photograph of the applicant;

(c) An identification card issued by the United States, a state, or an agency of either the United States or a state, of a kind commonly used to identify the members of employees of the government agency, that contains the signature and a photograph of the applicant;

(d) A military identification card that contains the signature and a photograph of the applicant;

(e) A United States passport that contains the signature and a photograph of the applicant;

(f) An immigration and naturalization service form that contains the signature and photograph of the applicant; or

(g) If the applicant is a minor, an affidavit of the applicant's parent or guardian where the parent or guardian displays or provides at least one piece of identifying documentation as specified in this subsection along with additional documentation establishing the relationship between the parent or guardian and the applicant.

(2) A person unable to provide identifying documentation as specified in subsection (1) of this section may request that the department review other available documentation in order to ascertain identity. The department may waive the requirement for specific identifying documentation under subsection (1) of this section if it finds that other documentation clearly establishes the identity of the applicant. [1993 c 452 § 1.]

46.20.113 Anatomical gift statement. The department of licensing shall provide a statement whereby the licensee may certify his or her willingness to make an anatomical gift under RCW 68.50.540, as now or hereafter amended. The department shall provide the statement in at least one of the following ways:

(1) On each driver's license; or

(2) With each driver's license; or

(3) With each in-person driver's license application. [1993 c 228 § 18; 1987 c 331 § 81; 1979 c 158 § 147; 1975 c 54 § 1.]

Application, construction—Severability—1993 c 228: See RCW 68.50.902 and 68.50.903.

Effective date—1987 c 331: See RCW 68.05.900.

46.20.116 Labeling license "not valid for identification purposes." The department shall plainly label each license "not valid for identification purposes" where the applicant is unable to prove his or her identity as provided in RCW 46.20.035. [1993 c 452 § 2; 1969 ex.s. c 155 § 3.]

Effective date—Purpose—1969 ex.s. c 155: See notes following RCW 46.20.118.

46.20.117 Identicards. (1) The department shall issue "identicards," containing a picture, to nondrivers for a fee of four dollars. However, the fee shall be the actual cost of production to recipients of continuing public assistance grants under Title 74 RCW who are referred in writing to the department by the secretary of social and health services. The fee shall be deposited in the highway safety fund. To be eligible, each applicant shall produce evidence as required in RCW 46.20.035 that positively proves identity. The "identicard" shall be distinctly designed so that it will not be confused with the official driver's license. The identicard shall expire on the fifth anniversary of the applicant's birthdate after issuance.

(2) The department may cancel an "identicard" upon a showing by its records or other evidence that the holder of such "identicard" has committed a violation relating to "identicards" defined in RCW 46.20.336. [1993 c 452 § 3; 1986 c 15 § 1; 1985 ex.s. c 1 § 3; 1985 c 212 § 1; 1981 c 92 § 2; 1971 ex.s. c 65 § 1; 1969 ex.s. c 155 § 4.]

Effective date—1985 ex.s. c 1: See note following RCW 46.20.070.

Purpose—1971 ex.s. c 65: "The efficient and effective operation and administration of state government affects the health, safety, and welfare of the people of this state and it is the intent and purpose of this act to promote the health, safety, and welfare of the people by improving the operation and administration of state government." [1971 ex.s. c 65 § 2.]

Effective date—Purpose—1969 ex.s. c 155: See notes following RCW 46.20.118.

46.20.157 Information to department of information services—Confidentiality. (Effective March 1, 1994.) (1) Except as provided in subsection (2) of this section, the department shall annually provide to the department of information services at no charge a computer tape or electronic data file of all licensed drivers and identicard holders who are eighteen years of age or older and whose records have not expired for more than two years and which shall contain the following information on each such person: Full name, date of birth, residence address including county, sex, and most recent date of application, renewal, replacement, or change of driver's license or identicard.

(2) Before complying with subsection (1) of this section, the department shall remove from the tape or file the names of any certified participants in the Washington state address confidentiality program under chapter 40.24 RCW that have been identified to the department by the secretary of state. [1993 c 408 § 12.]

Severability—Effective dates—1993 c 408: See notes following RCW 2.36.054.

46.20.207 Cancellation—Grounds. (1) The department is authorized to cancel any driver's license upon determining that the licensee was not entitled to the issuance of the license, or that the licensee failed to give the required or correct information in his or her application, or that the licensee is incompetent to drive a motor vehicle for any of the reasons under RCW 46.20.031 (4) and (7).

(2) Upon such cancellation, the licensee must surrender the license so canceled to the department. [1993 c 501 § 3; 1991 c 293 § 4; 1965 ex.s. c 121 § 20.]

46.20.289 Suspension for failure to respond, appear, etc. The department shall suspend all driving privileges of a person when the department receives notice from a court under RCW 46.63.070(5) or 46.64.025 that the person has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, other than for a notice of a standing, stopping, or parking violation. A suspension under this section takes effect thirty days after the date the department mails notice of the suspension, and remains in

effect until the department has received a certificate from the court showing that the case has been adjudicated, and until the person meets the requirements of RCW 46.20.311. A suspension under this section does not take effect if, prior to the effective date of the suspension, the department receives a certificate from the court showing that the case has been adjudicated. [1993 c 501 § 1.]

46.20.291 Authority to suspend licenses—Grounds. The department is authorized to suspend the license of a driver upon a showing by its records or other sufficient evidence that the licensee:

(1) Has committed an offense for which mandatory revocation or suspension of license is provided by law;

(2) Has, by reckless or unlawful operation of a motor vehicle, caused or contributed to an accident resulting in death or injury to any person or serious property damage;

(3) Has been convicted of offenses against traffic regulations governing the movement of vehicles, or found to have committed traffic infractions, with such frequency as to indicate a disrespect for traffic laws or a disregard for the safety of other persons on the highways;

(4) Is incompetent to drive a motor vehicle under RCW 46.20.031(3); or

(5) Has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, as provided in RCW 46.20.289; or

(6) Has committed one of the prohibited practices relating to drivers' licenses defined in RCW 46.20.336. [1993 c 501 § 4; 1991 c 293 § 5; 1980 c 128 § 12; 1965 ex.s. c 121 § 25.]

Effective date—Severability—1980 c 128: See notes following RCW 46.63.060.

Reckless driving, suspension of license: RCW 46.61.500.

Vehicular assault
drug and alcohol evaluation and treatment: RCW 46.61.524.
penalty: RCW 46.61.522.

Vehicular homicide
drug and alcohol evaluation and treatment: RCW 46.61.524.
penalty: RCW 46.61.520.

46.20.311 Duration of suspension or revocation—Conditions for reissuance or renewal. (1) The department shall not suspend a driver's license or privilege to drive a motor vehicle on the public highways for a fixed period of more than one year, except as permitted under RCW 46.20.342 or 46.61.515. Except for a suspension under RCW 46.20.289 and 46.20.291(5), whenever the license or driving privilege of any person is suspended by reason of a conviction, a finding that a traffic infraction has been committed, pursuant to chapter 46.29 RCW, or pursuant to RCW 46.20.291, the suspension shall remain in effect until the person gives and thereafter maintains proof of financial responsibility for the future as provided in chapter 46.29 RCW. The department shall not issue to the person a new, duplicate, or renewal license until the person pays a reissue fee of twenty dollars. If the suspension is the result of a violation of RCW 46.61.502 or 46.61.504, the reissue fee shall be fifty dollars.

(2) Any person whose license or privilege to drive a motor vehicle on the public highways has been revoked, unless the revocation was for a cause which has been removed, is not entitled to have the license or privilege renewed or restored until: (a) After the expiration of one year from the date the license or privilege to drive was revoked; (b) after the expiration of the applicable revocation period provided by RCW 46.61.515(3) (b) or (c); (c) after the expiration of two years for persons convicted of vehicular homicide; (d) after the expiration of one year in cases of revocation for the first refusal within five years to submit to a chemical test under RCW 46.20.308; (e) after the expiration of two years in cases of revocation for the second or subsequent refusal within five years to submit to a chemical test under RCW 46.20.308; or (f) after the expiration of the applicable revocation period provided by RCW 46.20.265. After the expiration of the appropriate period, the person may make application for a new license as provided by law together with a reissue fee in the amount of twenty dollars, but if the revocation is the result of a violation of RCW 46.20.308, 46.61.502, or 46.61.504, the reissue fee shall be fifty dollars. Except for a revocation under RCW 46.20.265, the department shall not then issue a new license unless it is satisfied after investigation of the driving ability of the person that it will be safe to grant the privilege of driving a motor vehicle on the public highways, and until the person gives and thereafter maintains proof of financial responsibility for the future as provided in chapter 46.29 RCW. For a revocation under RCW 46.20.265, the department shall not issue a new license unless it is satisfied after investigation of the driving ability of the person that it will be safe to grant that person the privilege of driving a motor vehicle on the public highways.

(3) Whenever the driver's license of any person is suspended pursuant to Article IV of the nonresident violators compact or RCW 46.23.020 or 46.20.289 or 46.20.291(5), the department shall not issue to the person any new or renewal license until the person pays a reissue fee of twenty dollars. If the suspension is the result of a violation of the laws of this or any other state, province, or other jurisdiction involving (a) the operation or physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor or drugs, or (b) the refusal to submit to a chemical test of the driver's blood alcohol content, the reissue fee shall be fifty dollars. [1993 c 501 § 5; 1990 c 250 § 45; 1988 c 148 § 9. Prior: 1985 c 407 § 4; 1985 c 211 § 1; 1984 c 258 § 325; 1983 c 165 § 18; 1983 c 165 § 17; 1982 c 212 § 5; 1981 c 91 § 1; 1979 ex.s. c 136 § 60; 1973 1st ex.s. c 36 § 1; 1969 c 1 § 2 (Initiative Measure No. 242, approved November 5, 1968); 1967 c 167 § 5; 1965 ex.s. c 121 § 27.]

Severability—1990 c 250: See note following RCW 46.16.301.

Legislative finding—Severability—1988 c 148: See notes following RCW 13.40.265.

Effective dates—1985 c 407: See note following RCW 46.04.480.

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

Intent—1984 c 258: See note following RCW 3.46.120.

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Severability, implied consent law—1969 c 1: See RCW 46.20.911.

46.20.342 Driving while license suspended or revoked—Penalties—Extension of suspension or revocation. (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 hundred eighty days. 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, (iv) the person has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, as provided in RCW 46.20.289, (v) 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 (vi) 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 (vi), 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. [1993 c 501 § 6; 1992 c 130 § 1; 1991 c 293 § 6. Prior:

1990 c 250 § 47; 1990 c 210 § 5; 1987 c 388 § 1; 1985 c 302 § 3; 1980 c 148 § 3; prior: 1979 ex.s. c 136 § 62; 1979 ex.s. c 74 § 1; 1969 c 27 § 2; prior: 1967 ex.s. c 145 § 52; 1967 c 167 § 7; 1965 ex.s. c 121 § 43.]

Rules of court: Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.

Severability—1990 c 250: See note following RCW 46.16.301.

Effective date—Severability—1987 c 388: See notes following RCW 46.16.710.

Effective date—1980 c 148: See note following RCW 46.10.090.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Impoundment of vehicle for driver's license violations—Release, when—Court hearing: RCW 46.20.435.

License plates and registration, confiscation and marking: RCW 46.16.710.

46.20.505 Motorcycle endorsement—Examination fees, amount and distribution. Every person applying for a special endorsement or a new category of endorsement of a driver's license authorizing such person to drive a motorcycle or a motor-driven cycle shall pay an examination fee of two dollars which is not refundable. In addition, the endorsement fee for the initial or new category motorcycle endorsement shall be six dollars and the subsequent renewal endorsement fee shall be fourteen dollars. The initial or new category and renewal endorsement fees shall be deposited in the motorcycle safety education account of the highway safety fund. [1993 c 115 § 1; 1989 c 203 § 2; 1988 c 227 § 5; 1987 c 454 § 2; 1985 ex.s. c 1 § 8; 1982 c 77 § 2; 1979 c 158 § 153; 1967 ex.s. c 145 § 50.]

Severability—1988 c 227: See RCW 46.81A.900.

Effective date—1985 ex.s. c 1: See note following RCW 46.20.070.

Severability—1982 c 77: See note following RCW 46.20.500.

Severability—1967 ex.s. c 145: See RCW 47.98.043.

Motorcycle safety education account: RCW 46.68.065.

Chapter 46.32
VEHICLE INSPECTION

Sections

46.32.005 Definitions. For the purpose of this chapter "commercial motor vehicle" means a self-propelled or towed vehicle designed or used to transport passengers or property, if the vehicle:

(1) Has a gross vehicle weight rating or gross combination weight rating of ten thousand one or more pounds;

(2) Is designed to transport sixteen or more passengers, including the driver; or

(3) Is transporting hazardous materials and is required to be identified by a placard in accordance with 49 C.F.R. Sec. 172.500-.560 (1991).

A recreational vehicle used for noncommercial purposes is not considered a commercial motor vehicle. "Recreational vehicle" includes a vehicle towing a horse trailer for a noncommercial purpose. [1993 c 403 § 1.]

46.32.010 Buses and drivers—Inspection authorized—Stations—Duties of state patrol—Penalties. (1) The chief of the Washington state patrol may operate, maintain, or designate, throughout the state of Washington, stations for the inspection of school buses and private carrier buses, with respect to vehicle equipment, drivers' qualifications, and hours of service and to set reasonable times when inspection of vehicles shall be performed.

(2) The state patrol may inspect a commercial motor vehicle while the vehicle is operating on the public highways of this state with respect to vehicle equipment, hours of service, and driver qualifications.

(3) It is unlawful for any vehicle required to be inspected to be operated over the public highways of this state unless and until it has been approved periodically as to equipment.

(4) Inspections shall be performed by a responsible employee of the chief of the Washington state patrol, who shall be duly authorized and who shall have authority to secure and withhold, with written notice to the director of licensing, the certificate of license registration and license plates of any vehicle found to be defective in equipment so as to be unsafe or unfit to be operated upon the highways of this state, and it shall be unlawful for any person to operate such vehicle unless and until it has been placed in a condition satisfactory to pass a subsequent equipment inspection. The police officer in charge of such vehicle equipment inspection shall grant to the operator of such defective vehicle the privilege to move such vehicle to a place for repair under such restrictions as may be reasonably necessary.

(5) In the event any insignia, sticker, or other marker is adopted to be displayed upon vehicles in connection with the inspection of vehicle equipment, it shall be displayed as required by the rules of the chief of the Washington state patrol, and it is a traffic infraction for any person to mutilate, destroy, remove, or otherwise interfere with the display thereof.

(6) It is a traffic infraction for any person to refuse to have his motor vehicle examined as required by the chief of the Washington state patrol, or, after having had it examined, to refuse to place an insignia, sticker, or other marker, if issued, upon the vehicle, or fraudulently to obtain any such insignia, sticker, or other marker, or to refuse to place his motor vehicle in proper condition after having had it examined, or in any manner, to fail to conform to the provisions of this chapter.

(7) It is a traffic infraction for any person to perform false or improvised repairs, or repairs in any manner not in accordance with acceptable and customary repair practices, upon a motor vehicle. [1993 c 403 § 2; 1986 c 123 § 1; 1979 ex.s. c 136 § 67; 1979 c 158 § 156; 1967 c 32 § 48; 1961 c 12 § 46.32.010. Prior: 1947 c 267 § 1; 1945 c 44 § 1; 1937 c 189 § 7; Rem. Supp. 1947 § 6360-7.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.32.020 Rules—Supplies—Assistants. The chief of the Washington state patrol may adopt reasonable rules regarding types of vehicles to be inspected, inspection criteria, times for the inspection of vehicle equipment, drivers' qualifications, hours of service, and all other matters

with respect to the conduct of vehicle equipment and driver inspections.

The chief of the Washington state patrol shall prepare and furnish such stickers, tags, record and report forms, stationery, and other supplies as shall be deemed necessary. The chief of the Washington state patrol is empowered to appoint and employ such assistants as he may consider necessary and to fix hours of employment and compensation. [1993 c 403 § 3; 1986 c 123 § 2; 1961 c 12 § 46.32.020. Prior: 1945 c 44 § 2; 1937 c 189 § 8; Rem. Supp. 1945 § 6360-8.]

Chapter 46.37
VEHICLE LIGHTING AND OTHER EQUIPMENT

Sections

46.37.190 Warning devices on vehicles—Other drivers yield and stop. (1) Every authorized emergency vehicle shall, in addition to any other equipment and distinctive marking required by this chapter, be equipped with at least one lamp capable of displaying a red light visible from at least five hundred feet in normal sunlight and a siren capable of giving an audible signal.

(2) Every school bus and private carrier bus shall, in addition to any other equipment and distinctive markings required by this chapter, be equipped with a "stop" signal upon a background not less than fourteen by eighteen inches displaying the word "stop" in letters of distinctly contrasting colors not less than eight inches high, and shall further be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, which shall be capable of displaying to the front two alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level and these lights shall have sufficient intensity to be visible at five hundred feet in normal sunlight.

(3) Vehicles operated by public agencies whose law enforcement duties include the authority to stop and detain motor vehicles on the public highways of the state may be equipped with a siren and lights of a color and type designated by the state patrol for that purpose. The state patrol may prohibit the use of these sirens and lights on vehicles other than the vehicles described in this subsection.

(4) The lights described in this section shall not be mounted nor used on any vehicle other than a school bus, a private carrier bus, or an authorized emergency or law enforcement vehicle. Optical strobe light devices shall not be installed or used on any vehicle other than an emergency vehicle authorized by the state patrol, a publicly owned law enforcement or emergency vehicle, a department of transportation, city, or county maintenance vehicle, or a public transit vehicle.

(a) An "optical strobe light device" used by emergency vehicles means a strobe light device which emits an optical signal at a specific frequency to a traffic control light enabling the emergency vehicle in which the strobe light device is used to obtain the right of way at intersections.

(b) An "optical strobe light device" used by department of transportation, city, or county maintenance vehicles means a strobe light device that emits an optical signal at a specific frequency to a traffic control light enabling the department of transportation maintenance vehicle in which the strobe light device is used to perform maintenance tests.

(c) An "optical strobe light device" used by public transit vehicles means a strobe light device that emits an optical signal at a specific frequency to a traffic control light enabling the public transit vehicle in which the strobe light device is used to accelerate the cycle of the traffic control light. For the purposes of this section, "public transit vehicle" means vehicles, owned by a governmental entity, with a seating capacity for twenty-five or more persons and used to provide mass transportation. Public transit vehicles operating an optical strobe light will have second degree priority to emergency vehicles when simultaneously approaching the same traffic control light.

(5) The use of the signal equipment described herein, except the optical strobe light devices used by public transit vehicles and department of transportation, city, or county maintenance vehicles that are not used in conjunction with emergency equipment, shall impose upon drivers of other vehicles the obligation to yield right of way and stop as prescribed in RCW 46.61.210, 46.61.370, and 46.61.350. [1993 c 401 § 2; 1987 c 330 § 710; 1985 c 331 § 1; 1982 c 101 § 1; 1971 ex.s. c 92 § 1; 1970 ex.s. c 100 § 5; 1965 ex.s. c 155 § 53; 1963 c 154 § 14; 1961 c 12 § 46.37.190. Prior: 1957 c 66 § 1; 1955 c 269 § 19.]

Rules of court: Monetary penalty schedule—JTIR 6.2.

Construction—Application of rules—Severability—1987 c 330: See notes following RCW 28B.12.050.

46.37.191 Implementing rules. The state patrol shall adopt rules to implement RCW 46.37.190. [1993 c 401 § 3.]

46.37.430 Safety glazing—Sunscreening or coloring. (1) No person may sell any new motor vehicle as specified in this title, nor may any new motor vehicle as specified in this title be registered unless such vehicle is equipped with safety glazing material of a type that meets or exceeds federal standards, or if there are none, standards approved by the Washington state patrol. The foregoing provisions apply to all passenger-type motor vehicles, including passenger buses and school buses, but in respect to trucks, including truck tractors, the requirements as to safety glazing material apply to all glazing material used in doors, windows, and windshields in the drivers' compartments of such vehicles except as provided by subsection (4) of this section.

(2) The term "safety glazing materials" means glazing materials so constructed, treated, or combined with other materials as to reduce substantially, in comparison with ordinary sheet glass or plate glass, the likelihood of injury to persons by objects from exterior sources or by these safety glazing materials when they may be cracked or broken.

(3) The director of licensing shall not register any motor vehicle which is subject to the provisions of this section unless it is equipped with an approved type of safety glazing material, and he or she shall suspend the registration of any motor vehicle so subject to this section which the director

finds is not so equipped until it is made to conform to the requirements of this section.

(4) No person may sell or offer for sale, nor may any person operate a motor vehicle registered in this state which is equipped with, any camper manufactured after May 23, 1969, unless such camper is equipped with safety glazing material of a type conforming to rules adopted by the state patrol wherever glazing materials are used in outside windows and doors.

(5) No film sunscreening or coloring material that reduces light transmittance to any degree may be applied to the surface of the safety glazing material in a motor vehicle unless it meets the following standards for such material:

(a) The maximum level of film sunscreening material to be applied to any window, except the windshield, shall have a total reflectance of thirty-five percent or less, plus or minus three percent, and a light transmission of thirty-five percent or more, plus or minus three percent, when measured against clear glass resulting in a minimum of twenty-four percent light transmission on AS-2 glazing where the vehicle is equipped with outside rearview mirrors on both the right and left. Installation of more than a single sheet of film sunscreening material to any window is prohibited. The same maximum levels of film sunscreen material may be applied to windows to the immediate right and left of the driver on limousines and passenger buses used to transport persons for compensation and vehicles identified by the manufacturer as multi-use, multipurpose, or other similar designation. All windows to the rear of the driver on such vehicles may have film sunscreening material applied that has less than thirty-five percent light transmittance, if the light reflectance is thirty-five percent or less and the vehicle is equipped with outside rearview mirrors on both the right and left. A person or business tinting windows for profit who tints windows within restricted areas of the glazing system shall supply a sticker to be affixed to the driver's door post, in the area adjacent to the manufacturer's identification tag. Installation of this sticker certifies that the glazing application meets this chapter's standards for light transmission, reflectance, and placement requirements. Stickers must be no smaller than three-quarters of an inch by one and one-half inches, and no larger than two inches by two and one-half inches. The stickers must be of sufficient quality to endure exposure to harsh climate conditions. The business name and state tax identification number of the installer must be clearly visible on the sticker.

(b) A greater degree of light reduction is permitted on all windows and the top six inches of windshields of a vehicle operated by or carrying as a passenger a person who possesses a written verification from a licensed physician that the operator or passenger must be protected from exposure to sunlight for physical or medical reasons.

(c) Windshield application. A greater degree of light reduction is permitted on the top six-inch area of a vehicle's windshield. Clear film sunscreening material that reduces or eliminates ultraviolet light may be applied to windshields.

(d) When film sunscreening material is applied to any window except the windshield, outside mirrors on both the left and right sides shall be located so as to reflect to the driver a view of the roadway, through each mirror, a distance of at least two hundred feet to the rear of the vehicle.

(e) The following types of film sunscreening material are not permitted:

(i) Mirror finish products;

(ii) Red, gold, yellow, or black material; or

(iii) Film sunscreening material that is in liquid preapplication form and brushed or sprayed on.

Nothing in this section prohibits the use of shaded or heat-absorbing safety glazing material in which the shading or heat-absorbing characteristics have been applied at the time of manufacture of the safety glazing material and which meet federal standards and the standards of the state patrol for such safety glazing materials.

(6) It is a traffic infraction for any person to operate a vehicle for use on the public highways of this state, if the vehicle is equipped with film sunscreening or coloring material in violation of this section.

(7) Owners of vehicles with film sunscreening material applied to windows to the rear of the driver, prior to June 7, 1990, must comply with the requirements of this section and RCW 46.37.435 by July 1, 1993. [1993 c 384 § 1; 1990 c 95 § 1; 1989 c 210 § 1; 1987 c 330 § 723; 1986 c 113 § 5; 1985 c 304 § 1; 1979 c 158 § 157; 1969 ex.s. c 281 § 47; 1961 c 12 § 46.37.430. Prior: 1955 c 269 § 43; prior: 1947 c 220 § 1; 1937 c 189 § 40; Rem. Supp. 1947 § 6360-40; RCW 46.36.090.]

Construction—Application of rules—Severability—1987 c 330: See notes following RCW 28B.12.050.

Chapter 46.44
SIZE, WEIGHT, LOAD

Sections

46.44.030 Maximum lengths. It is unlawful for any person to operate upon the public highways of this state any vehicle having an overall length, with or without load, in excess of forty feet. This restriction does not apply to (1) a municipal transit vehicle, (2) auto stage, private carrier bus or school bus with an overall length not to exceed forty-six feet, or (3) an articulated auto stage with an overall length not to exceed sixty-one feet.

It is unlawful for any person to operate on the highways of this state any combination of vehicles that contains a vehicle in excess of forty-eight feet, with or without load.

It is unlawful for any person to operate upon the public highways of this state any combination consisting of a tractor and semitrailer that has a semitrailer length in excess of forty-eight feet or a combination consisting of a tractor

and two trailers in which the combined length of the trailers exceeds sixty-one feet, with or without load.

It is unlawful for any person to operate on the highways of this state any combination consisting of a truck and trailer with an overall length, with or without load, in excess of seventy-five feet. However, a combination of vehicles transporting automobiles or boats may have a front overhang of three feet and a rear overhang of four feet beyond this allowed length.

These length limitations do not apply to vehicles transporting poles, pipe, machinery, or other objects of a structural nature that cannot be dismembered and operated by a public utility when required for emergency repair of public service facilities or properties, but in respect to night transportation every such vehicle and load thereon shall be equipped with a sufficient number of clearance lamps on both sides and marker lamps upon the extreme ends of any projecting load to clearly mark the dimensions of the load.

The length limitations described in this section are exclusive of safety and energy conservation devices, such as mud flaps and splash and spray suppressant devices, refrigeration units or air compressors, and other devices that the department determines to be necessary for safe and efficient operation of commercial vehicles. No device excluded under this paragraph from the limitations of this section may have, by its design or use, the capability to carry cargo. [1993 c 301 § 1; 1991 c 113 § 1; 1990 c 28 § 1; 1985 c 351 § 1; 1984 c 104 § 1; 1983 c 278 § 2; 1979 ex.s. c 113 § 4; 1977 ex.s. c 64 § 1; 1975-'76 2nd ex.s. c 53 § 1; 1974 ex.s. c 76 § 2; 1971 ex.s. c 248 § 2; 1967 ex.s. c 145 § 61; 1963 ex.s. c 3 § 52; 1961 ex.s. c 21 § 36; 1961 c 12 § 46.44.030. Prior: 1959 c 319 § 25; 1957 c 273 § 14; 1951 c 269 § 22; prior: 1949 c 221 § 1, part; 1947 c 200 § 5, part; 1941 c 116 § 1, part; 1937 c 189 § 49, part; Rem. Supp. 1949 § 6360-49, part.]

Severability—1967 ex.s. c 145: See RCW 47.98.043.

46.44.041 Maximum gross weights—Wheelbase and axle factors. (Effective until January 1, 1994.) No vehicle or combination of vehicles shall operate upon the public highways of this state with a gross load on any single axle in excess of twenty thousand pounds, or upon any group of axles in excess of that set forth in the following table, except that two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each, if the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more.

Distance in feet between the extremes of any group of 2 or more consecutive axles	Maximum load in pounds carried on any group of 2 or more consecutive axles							
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles	9 axles
4	34,000							
5	34,000							
6	34,000							
7	34,000							
8	34,000	42,000						
9	39,000	42,500						
10	40,000	43,500						
11		44,000						
12		45,000	50,000					
13		45,500	50,500					
14		46,500	51,500					
15		47,000	52,000					
16		48,000	52,500	52,500				
17		48,500	53,500	53,500				
18		49,500	54,000	54,000				
19		50,000	54,500	54,500				
20		51,000	55,500	55,500				
21		51,500	56,000	56,000				
22		52,500	56,500	56,500				
23		53,000	57,500	57,500				
24		54,000	58,000	58,000				
25		54,500	58,500	58,500				
26		55,500	59,500	59,500				
27		56,000	60,000	60,000				
28		57,000	60,500	61,000	61,000			
29		57,500	61,500	62,000	62,000			
30		58,500	62,000	63,000	63,000			
31		59,000	62,500	64,000	64,500			
32		60,000	63,500	65,000	65,000			
33			64,000	66,000	66,000			
34			64,500	67,000	67,000			
35			65,500	68,000	68,000			
36			66,000	69,500	69,500			
37			66,500	70,500	70,500			
38			67,500	72,000	72,000			
39			68,000	72,500	72,500			
40			68,500	73,000	73,000			
41			69,500	73,500	73,500			
42			70,000	74,000	74,000			
43			70,500	75,000	75,000			
44			71,500	75,500	75,500			
45			72,000	76,000	76,000			
46			72,500	76,500	80,000	80,000		
47			73,500	77,000	81,000	81,000		
48			74,000	78,000	82,000	82,000		
49			74,500	78,500	83,000	83,000		
50			75,500	79,000	84,000	84,000		
51			76,000	80,000	84,500	85,000		
52			76,500	80,500	85,000	86,000		
53			77,500	81,000	86,000	87,000		
54			78,000	81,500	86,500	88,000	91,000	91,000
55			78,500	82,500	87,000	89,000	92,000	92,000
56			79,500	83,000	87,500	90,000	93,000	93,000
57			80,000	83,500	88,000	91,000	94,000	94,000
58				84,000	89,000	92,000	95,000	95,000
59				85,000	89,500	93,500	96,000	96,000
60				85,500	90,000	95,000	97,000	97,000
61				86,000	90,500	95,500	98,000	98,000
62				87,000	91,000	96,000	99,000	99,000
63				87,500	92,000	97,000	100,000	100,000
64				88,000	92,500	97,500	101,000	101,000
65				88,500	93,000	98,000	102,000	102,000
66				89,500	93,500	98,500	103,000	103,000
67				90,000	94,000	99,000	104,000	104,000
68				90,500	95,000	99,500	105,000	105,000
69				91,000	95,500	100,000	105,500	105,500
70				92,000	96,000	101,000	105,500	105,500

When inches are involved: Under six inches take lower, six inches or over take higher. The maximum load on any axle in any group of axles shall not exceed the single axle or tandem axle allowance as set forth in the table above.

The maximum axle and gross weights specified in this section are subject to the braking requirements set up for the service brakes upon any motor vehicle or combination of vehicles as provided by law.

It is unlawful to operate upon the public highways any single unit vehicle, supported upon three axles or more with a gross weight including load in excess of forty thousand pounds or any combination of vehicles having a gross weight in excess of eighty thousand pounds without first obtaining an additional tonnage permit as provided for in RCW 46.44.095: PROVIDED, That when a combination of vehicles has purchased license tonnage in excess of seventy-

two thousand pounds as provided by RCW 46.16.070, such excess license tonnage may be applied to the power unit subject to limitations of RCW 46.44.042 and this section when such vehicle is operated without a trailer.

Loads of not more than eighty thousand pounds which may be legally hauled in the state bordering this state which also has a sales tax, are legal in this state when moving to a port district within four miles of the bordering state except on the interstate system. This provision does not allow the operation of a vehicle combination consisting of a truck tractor and three trailers.

Notwithstanding anything contained herein, a vehicle or combination of vehicles in operation on January 4, 1975, may operate upon the public highways of this state, including the interstate system within the meaning of section 127 of Title 23, United States Code, with an overall gross weight upon a group of two consecutive sets of dual axles which was lawful in this state under the laws, regulations and procedures in effect in this state on January 4, 1975. [1993 c 246 § 1; 1988 c 229 § 1; 1988 c 6 § 2; 1985 c 351 § 3; 1977 c 81 § 2; 1975-'76 2nd ex.s. c 64 § 22.]

Effective dates—Severability—1975-'76 2nd ex.s. c 64: See notes following RCW 46.16.070.

46.44.041 Maximum gross weights—Wheelbase and axle factors. (Effective January 1, 1994.) No vehicle or combination of vehicles shall operate upon the public highways of this state with a gross load on any single axle in excess of twenty thousand pounds, or upon any group of axles in excess of that set forth in the following table, except that two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each, if the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more.

Distance in feet between the extremes of any group of 2 or more consecutive axles	Maximum load in pounds carried on any group of 2 or more consecutive axles							
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles	9 axles
4	34,000							
5	34,000							
6	34,000							
7	34,000							
8	34,000	42,000						
9	39,000	42,500						
10	40,000	43,500						
11		44,000						
12		45,000	50,000					
13		45,500	50,500					
14		46,500	51,500					
15		47,000	52,000					
16		48,000	52,500	58,000				
17		48,500	53,500	58,500				
18		49,500	54,000	59,000				
19		50,000	54,500	60.000				
20		51,000	55,500	60.500	66,000			
21		51,500	56,000	61,000	66,500			
22		52,500	56,500	61,500	67,000			
23		53,000	57,500	62,500	68,000			
24		54,000	58,000	63,000	68.500	74,000		
25		54,500	58,500	63,500	69,000	74,500		
26		55,500	59,500	64,000	69,500	75,000		
27	56,000	60,000	65,000	70,000	75,500			
28	57,000	60,500	65,500	71,000	76,500	82,000		
29	57,500	61,500	66,000	71,500	77,000	82,500		
30	58,500	62,000	66,500	72,000	77,500	83,000		
31	59,000	62,500	67,500	72,500	78,000	83,500		
32	60,000	63,500	68,000	73,000	78,500	84,500	90,000	
33		64,000	68,500	74,000	79,000	85,000	90,500	
34		64,500	69,000	74,500	80,000	85,500	91,000	
35		65,500	70,000	75,000	80,500	86,000	91,500	
36		66,000	70,500	75,500	81,000	86,500	92,000	
37		66,500	71,000	76,000	81,500	87,000	93,000	
38		67,500	71,500	77,000	82,000	87,500	93,500	
39		68,000	72,500	77,000	82,500	88,500	94,000	
40		68,500	73,000	78,000	83,500	89,000	94,500	
41		69,500	73,500	78,500	84,000	89,500	95,000	
42		70,000	74,000	79,000	84,500	90,000	95,500	
43		70,500	75,000	80,000	85,000	90,500	96,000	
44		71,500	75,500	80,500	85,500	91,000	96,500	
45		72,000	76,000	81,000	86,000	91,500	97,500	
46		72,500	76,500	81,500	87,000	92,500	98,000	
47		73,500	77,500	82,000	87,500	93,000	98,500	
48		74,000	78,000	83,000	88,000	93,500	99,000	
49		74,500	78,500	83,500	88,500	94,000	99,500	
50		75,500	79,000	84,000	89,000	94,500	100,000	
51		76,000	80,000	84,500	89,500	95,000	100,500	
52		76,500	80,500	85,000	90,500	95,500	101,000	
53		77,500	81,000	86,000	91,000	96,500	102,000	
54		78,000	81,500	86,500	91,500	97,000	102,500	
55		78,500	82,500	87,000	92,000	97,500	103,000	
56		79,500	83,000	87,500	92,500	98,000	103,500	
57		80,000	83,500	88,000	93,000	98,500	104,000	
58			84,000	89,000	94,000	99,000	104,500	
59			85,000	89,000	94,500	99,500	105,500	
60			85,500	90,000	95,000	100,500	105,500	
61			86,000	90,500	95,500	101,000	105,500	
62			91,000	96,000	86,500	101,500	105,500	
63			87,500	92,000	96,500	102,000	105,500	
64			88,000	92,500	97,500	102,500	105,500	
65			88,500	93,000	98,000	103,000	105,500	
66			89,500	93,500	98,500	103,500	105,500	
67			90,000	94,000	99,000	104,500	105,500	
68			90,500	95,000	99,500	105,000	105,500	
69			91,000	95,500	100,000	105,500	105,500	
70			92,000	96,000	101,000	105,500	105,500	

When inches are involved: Under six inches take lower, six inches or over take higher. The maximum load on any axle in any group of axles shall not exceed the single axle or tandem axle allowance as set forth in the table above.

The maximum axle and gross weights specified in this section are subject to the braking requirements set up for the service brakes upon any motor vehicle or combination of vehicles as provided by law.

Loads of not more than eighty thousand pounds which may be legally hauled in the state bordering this state which also has a sales tax, are legal in this state when moving to a port district within four miles of the bordering state except on the interstate system. This provision does not allow the operation of a vehicle combination consisting of a truck tractor and three trailers.

Notwithstanding anything contained herein, a vehicle or combination of vehicles in operation on January 4, 1975, may operate upon the public highways of this state, including the interstate system within the meaning of section 127 of Title 23, United States Code, with an overall gross weight upon a group of two consecutive sets of dual axles which was lawful in this state under the laws, regulations, and procedures in effect in this state on January 4, 1975. [1993 c 246 § 1; 1993 c 102 § 3. Prior: 1988 c 229 § 1; 1988 c 6 § 2; 1985 c 351 § 3; 1977 c 81 § 2; 1975-'76 2nd ex.s. c 64 § 22.]

Reviser's note: This section was amended by 1993 c 102 § 3 and by 1993 c 246 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date of 1993 c 102 and 123—1993 1st sp.s. c 23: See note following RCW 46.16.070.

Effective dates—Severability—1975-'76 2nd ex.s. c 64: See notes following RCW 46.16.070.

46.44.042 Maximum gross weights—Axle and tire factors. Subject to the maximum gross weights specified in RCW 46.44.041, it is unlawful to operate any vehicle upon the public highways with a gross weight, including load, upon any tire concentrated upon the surface of the highway in excess of six hundred pounds per inch width of such tire. Other than the nonliftable steering axle on the power unit or tiller axle on fire fighting apparatus, an axle manufactured after July 31, 1993, carrying more than ten thousand pounds gross weight must be equipped with four or more tires. Effective January 1, 1997, an axle, excluding the nonliftable steering axle on the power unit or tiller axle on fire fighting apparatus, carrying more than ten thousand pounds gross weight must have four or more tires, regardless of date of manufacture. Instead of the four or more tires per axle requirements of this section: (1) An axle may be equipped with two tires limited to five hundred pounds per inch width of tire; or (2) in the case of a ready-mix concrete transit truck, the rear booster trailing axle may be equipped with two tires limited to six hundred pounds per inch width of tire. This section does not apply to oversize and overweight permits issued under RCW 46.44.090. For the purpose of this section, the width of tire in case of solid rubber or hollow center cushion tires, so long as the use thereof may be permitted by the law, shall be measured between the flanges of the rim. For the purpose of this section, the width of tires in case of pneumatic tires shall be the maximum overall normal inflated width as stipulated by the manufacturer when inflated to the pressure specified and without load thereon.

The department of transportation, under rules adopted by the transportation commission with respect to state highways, and a local authority, with respect to a public highway under its jurisdiction, may extend the weight table in RCW 46.44.041 to one hundred fifteen thousand pounds. However, the extension must be in compliance with federal law, and vehicles operating under the extension must be in full compliance with the 1997 axle and tire requirements under this section. [1993 c 103 § 1; 1985 c 351 § 4; 1975-'76 2nd ex.s. c 64 § 10; 1961 c 12 § 46.44.042. Prior: 1959 c 319 § 27; 1951 c 269 § 27; prior: 1949 c 221 § 2, part; 1947 c 200 § 6, part; 1941 c 116 § 2, part; 1937 c 189 § 50, part; Rem. Supp. 1949 § 6360-50, part; 1929 c 180 § 3, part; 1927 c 309 § 8, part; 1923 c 181 § 4, part; 1921 c 96 § 20, part; RRS § 6362-8, part.]

Effective dates—Severability—1975-'76 2nd ex.s. c 64: See notes following RCW 46.16.070.

46.44.0941 Special permits—Fees. (Effective January 1, 1994.) The following fees, in addition to the regular license and tonnage fees, shall be paid for all movements under special permit made upon state highways. All funds collected, except the amount retained by authorized agents of the department as provided in RCW 46.44.096, shall be forwarded to the state treasury and shall be deposited in the motor vehicle fund:

All overlegal loads, except overweight, single trip	$ 10.00
Continuous operation of overlegal loads having either overwidth or overheight features only, for a period not to exceed thirty days	$ 20.00
Continuous operations of overlegal loads having overlength features only, for a period not to exceed thirty days	$ 10.00
Continuous operation of a combination of vehicles having one trailing unit that exceeds forty-eight feet and is not more than fifty-six feet in length, for a period of one year	$ 100.00
Continuous operation of a combination of vehicles having two trailing units which together exceed sixty-one feet and are not more than sixty-eight feet in length, for a period of one year	$ 100.00
Continuous operation of a three-axle fixed load vehicle having less than 65,000 pounds gross weight, for a period not to exceed thirty days	$ 70.00
Continuous operation of a four-axle fixed load vehicle meeting the requirements of RCW 46.44.091(1) and weighing less than 86,000 pounds gross weight, not to exceed thirty days	$ 90.00
Continuous operation of overlegal loads having nonreducible features not to exceed eighty-five feet in length and fourteen feet in width, for a period of one year	$ 150.00
Continuous operation of a two or three-axle collection truck, actually engaged in the collection of solid waste or recyclables, or both, under chapter 81.77 or 35.21 RCW or by contract under RCW 36.58.090, for one year with an additional six thousand pounds more than the weight authorized in RCW 46.16.070 on the rear axle of a two-axle truck or eight thousand pounds for the tandem axles of a three-axle truck. RCW 46.44.041 and 46.44.091 notwithstanding, the tire limits specified in RCW 46.44.042 apply, but none of the excess weight is valid or may be permitted on any part of the federal interstate highway system	$ 42.00 per thousand pounds

The department may issue any of the above-listed permits that involve height, length, or width for an expanded period of consecutive months, not to exceed one year.

Continuous operation of farm implements under a permit issued as authorized by RCW 46.44.140 by:

(1) Farmers in the course of farming activities, for any three-month period	$ 10.00
(2) Farmers in the course of farming activities, for a period not to exceed one year	$ 25.00
(3) Persons engaged in the business of the sale, repair, or maintenance of such farm implements, for any three-month period	$ 25.00

(4) Persons engaged in the business of the sale, repair, or maintenance of such farm implements, for a period not to exceed one year ..... $ 100.00

Overweight Fee Schedule

Weight over total registered gross weight.	Fee per mile on state highways
1-5,999 pounds	$ .07
6,000-11,999 pounds	$ .14
12,000-17,999 pounds	$ .21
18,000-23,999 pounds	$ .35
24,000-29,999 pounds	$ .49
30,000-35,999 pounds	$ .63
36,000-41,999 pounds	$ .84
42,000-47,999 pounds	$ 1.05
48,000-53,999 pounds	$ 1.26
54,000-59,999 pounds	$ 1.47
60,000-65,999 pounds	$ 1.68
66,000-71,999 pounds	$ 2.03
72,000-79,999 pounds	$ 2.38
80,000 pounds or more	$ 2.80

PROVIDED: (a) The minimum fee for any overweight permit shall be $14.00, (b) the fee for issuance of a duplicate permit shall be $14.00, (c) when computing overweight fees prescribed in this section or in RCW 46.44.095 that result in an amount less than even dollars the fee shall be carried to the next full dollar if fifty cents or over and shall be reduced to the next full dollar if forty-nine cents or under.

The fees levied in this section and RCW 46.44.095 do not apply to vehicles owned and operated by the state of Washington, a county within the state, a city or town or metropolitan municipal corporation within the state, or the federal government. [1993 c 102 § 4; 1990 c 42 § 107; 1989 c 398 § 1; 1985 c 351 § 5; 1983 c 278 § 3; 1979 ex.s. c 113 § 5; 1975-'76 2nd ex.s. c 64 § 16; 1975 1st ex.s. c 168 § 2; 1973 1st ex.s. c 1 § 3; 1971 ex.s. c 248 § 3; 1967 c 174 § 8; 1965 c 137 § 2.]

Effective date of 1993 c 102 and 123—1993 1st sp.s. c 23: See note following RCW 46.16.070.

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

Effective dates—Severability—1975-'76 2nd ex.s. c 64: See notes following RCW 46.16.070.

Effective date—1975 1st ex.s. c 168: See note following RCW 46.44.091.

46.44.095 Temporary additional tonnage permits—Fees. (Effective January 1, 1994.) When a combination of vehicles has been licensed to a total gross weight of 80,000 pounds or when a three or more axle single unit vehicle has been licensed to a total gross weight of 40,000 pounds, a temporary additional tonnage permit to haul loads in excess of these limits may be issued. This permit is valid for periods of not less than five days at two dollars and eighty cents per day for each two thousand pounds or fraction thereof. The fee may not be prorated. The permits shall authorize the movement of loads not exceeding the weight limits set forth in RCW 46.44.041 and 46.44.042. [1993 c 102 § 5; 1990 c 42 § 108; 1989 c 398 § 3; 1988 c 55 § 1; 1983 c 68 § 2; 1979 c 158 § 159; 1977 ex.s. c 151 § 33; 1975-'76 2nd ex.s. c 64 § 17; 1974 ex.s. c 76 § 1; 1973 1st ex.s. c 150 § 3; 1969 ex.s. c 281 § 55; 1967 ex.s. c 94 § 15; 1967 c 32 § 51; 1965 ex.s. c 170 § 38; 1961 ex.s. c 7 § 15; 1961 c 12 § 46.44.095. Prior: 1959 c 319 § 31; 1957 c 273 § 18; 1955 c 185 § 1; 1953 c 254 § 13; 1951 c 269 § 39; prior: 1949 c 221 § 3, part; 1947 c 200 § 7, part; 1945 c 177 § 1, part; 1937 c 189 § 55, part; Rem. Supp. 1949 § 6360-55, part.]

Effective date of 1993 c 102 and 123—1993 1st sp.s. c 23: See note following RCW 46.16.070.

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

Federal requirements—Severability—1977 ex.s. c 151: See RCW 47.98.070 and 47.98.080.

Effective dates—Severability—1975-'76 2nd ex.s. c 64: See notes following RCW 46.16.070.

46.44.096 Special permits—Determining fee—To whom paid. (Effective January 1, 1994.) In determining fees according to RCW 46.44.0941, mileage on state primary and secondary highways shall be determined from the planning survey records of the department of transportation, and the gross weight of the vehicle or vehicles, including load, shall be declared by the applicant. Overweight on which fees shall be paid will be gross loadings in excess of loadings authorized by law or axle loadings in excess of loadings authorized by law, whichever is the greater. Loads which are overweight and oversize shall be charged the fee for the overweight permit without additional fees being assessed for the oversize features.

Special permits issued under RCW 46.44.047, 46.44.0941, or 46.44.095, may be obtained from offices of the department of transportation, ports of entry, or other agents appointed by the department.

The department may appoint agents for the purposes of selling special motor vehicle permits, temporary additional tonnage permits, and log tolerance permits. Agents so appointed may retain three dollars and fifty cents for each permit sold to defray expenses incurred in handling and selling the permits. If the fee is collected by the department of transportation, the department shall certify the fee so collected to the state treasurer for deposit to the credit of the motor vehicle fund.

Fees established in RCW 46.44.0941 shall be paid to the political body issuing the permit if the entire movement is to be confined to roads, streets, or highways for which that political body is responsible. When a movement involves a combination of state highways, county roads, and/or city streets the fee shall be paid to the state department of transportation. When a movement is confined within the city limits of a city or town upon city streets, including routes of state highways on city streets, all fees shall be paid to the city or town involved. A permit will not be required from city or town authorities for a move involving a combination of city or town streets and state highways when the move through a city or town is being confined to the route of the state highway. When a move involves a combination of county roads and city streets the fee shall be paid to the county authorities, but the fee shall not be collected nor the county permit issued until valid permits are presented showing the city or town authorities approve of the move in

question. When the movement involves only county roads the fees collected shall be paid to the county involved. Fees established shall be paid to the political body issuing the permit if the entire use of the vehicle during the period covered by the permit shall be confined to the roads, streets, or highways for which that political body is responsible. [1993 c 102 § 6; 1989 c 398 § 4; 1984 c 7 § 56; 1975-'76 2nd ex.s. c 64 § 18; 1971 ex.s. c 248 § 4; 1969 ex.s. c 281 § 31; 1961 c 12 § 46.44.096. Prior: 1955 c 185 § 2; 1951 c 269 § 40; prior: 1949 c 221 § 3, part; 1947 c 200 § 7, part; 1945 c 177 § 1, part; 1937 c 189 § 55, part; Rem. Supp. 1949 § 6360-55, part.]

Effective date of 1993 c 102 and 123—1993 1st sp.s. c 23: See note following RCW 46.16.070.

Severability—1984 c 7: See note following RCW 47.01.141.

Effective dates—Severability—1975-'76 2nd ex.s. c 64: See notes following RCW 46.16.070.

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

46.44.105 Enforcement procedures—Penalties—Rules. (1) Violation of any of the provisions of RCW 46.44.041, 46.44.042, 46.44.047, 46.44.090, 46.44.091, and 46.44.095, or failure to obtain a permit as provided by RCW 46.44.090 and 46.44.095, or misrepresentation of the size or weight of any load or failure to follow the requirements and conditions of a permit issued hereunder is a traffic infraction, and upon the first finding thereof shall be assessed a basic penalty of not less than fifty dollars; and upon a second finding thereof shall be assessed a basic penalty of not less than seventy-five dollars; and upon a third or subsequent finding shall be assessed a basic penalty of not less than one hundred dollars.

(2) In addition to the penalties imposed in subsection (1) of this section, any person violating RCW 46.44.041, 46.44.042, 46.44.047, 46.44.090, 46.44.091, or 46.44.095 shall be assessed three cents for each pound of excess weight. Upon a first violation in any calendar year, the court may suspend the penalty for five hundred pounds of excess weight for each axle on any vehicle or combination of vehicles, not to exceed a two thousand pound suspension. In no case may the basic penalty assessed in subsection (1) of this section be suspended.

(3) Whenever any vehicle or combination of vehicles is involved in two violations of RCW 46.44.041, 46.44.042, 46.44.047, 46.44.090, 46.44.091, or 46.44.095 during any twelve-month period, the court may suspend the certificate of license registration of the vehicle or combination of vehicles for not less than thirty days. Upon a third or succeeding violation in any twelve-month period, the court shall suspend the certificate of license registration for not less than thirty days. Whenever the certificate of license registration is suspended, the court shall secure such certificate and immediately forward the same to the director with information concerning the suspension.

(4) Any person found to have violated any posted limitations of a highway or section of highway shall be assessed a monetary penalty of not less than one hundred and fifty dollars, and the court shall in addition thereto upon second violation within a twelve-month period involving the same power unit, suspend the certificate of license registration for not less than thirty days.

(5) It is unlawful for the driver of a vehicle to fail or refuse to stop and submit the vehicle and load to a weighing, or to fail or refuse, when directed by an officer upon a weighing of the vehicle to stop the vehicle and otherwise comply with the provisions of this section. It is unlawful for a driver of a commercial motor vehicle as defined in RCW 46.32.005, other than the driver of a bus as defined in RCW 46.32.005(2), to fail or refuse to stop at a weighing station when proper traffic control signs indicate scales are open.

Any police officer is authorized to require the driver of any vehicle or combination of vehicles to stop and submit to a weighing either by means of a portable or stationary scale and may require that the vehicle be driven to the nearest public scale. Whenever a police officer, upon weighing a vehicle and load, determines that the weight is unlawful, the officer may require the driver to stop the vehicle in a suitable location and remain standing until such portion of the load is removed as may be necessary to reduce the gross weight of the vehicle to the limit permitted by law. If the vehicle is loaded with grain or other perishable commodities, the driver shall be permitted to proceed without removing any of the load, unless the gross weight of the vehicle and load exceeds by more than ten percent the limit permitted by this chapter. The owner or operator of the vehicle shall care for all materials unloaded at the risk of the owner or operator.

Any vehicle whose driver or owner represents that the vehicle is disabled or otherwise unable to proceed to a weighing location shall have its load sealed or otherwise marked by any police officer. The owner or driver shall be directed that upon completion of repairs, the vehicle shall submit to weighing with the load and markings and/or seal intact and undisturbed. Failure to report for weighing, appearing for weighing with the seal broken or the markings disturbed, or removal of any cargo prior to weighing is unlawful. Any person so convicted shall be fined five hundred dollars, and in addition the certificate of license registration shall be suspended for not less than thirty days.

(6) Any other provision of law to the contrary notwithstanding, district courts having venue have concurrent jurisdiction with the superior courts for the imposition of any penalties authorized under this section.

(7) For the purpose of determining additional penalties as provided by subsection (2) of this section, "excess weight" means the poundage in excess of the maximum gross weight prescribed by RCW 46.44.041 and 46.44.042 plus the weights allowed by RCW 46.44.047, 46.44.091, and 46.44.095.

(8) The penalties provided in subsections (1) and (2) of this section shall be remitted as provided in chapter 3.62 RCW or RCW 10.82.070. For the purpose of computing the basic penalties and additional penalties to be imposed under the provisions of subsections (1) and (2) of this section the convictions shall be on the same vehicle or combination of vehicles within a twelve-month period under the same ownership.

(9) Any state patrol officer or any weight control officer who finds any person operating a vehicle or a combination of vehicles in violation of the conditions of a permit issued

under RCW 46.44.047, 46.44.090, and 46.44.095 may confiscate the permit and forward it to the state department of transportation which may return it to the permittee or revoke, cancel, or suspend it without refund. The department of transportation shall keep a record of all action taken upon permits so confiscated, and if a permit is returned to the permittee the action taken by the department of transportation shall be endorsed thereon. Any permittee whose permit is suspended or revoked may upon request receive a hearing before the department of transportation or person designated by that department. After the hearing the department of transportation may reinstate any permit or revise its previous action.

Every permit issued as provided for in this chapter shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any law enforcement officer or authorized agent of any authority granting such a permit.

Upon the third finding within a calendar year of a violation of the requirements and conditions of a permit issued under RCW 46.44.095 as now or hereafter amended, the permit shall be canceled, and the canceled permit shall be immediately transmitted by the court or the arresting officer to the department of transportation. The vehicle covered by the canceled permit is not eligible for a new permit for a period of thirty days.

(10) For the purposes of determining gross weights the actual scale weight taken by the arresting officer is prima facie evidence of the total gross weight.

(11) It is a traffic infraction to direct the loading of a vehicle with knowledge that it violates the requirements in RCW 46.44.041, 46.44.042, 46.44.047, 46.44.090, 46.44.091, or 46.44.095 and that it is to be operated on the public highways of this state.

(12) The chief of the state patrol, with the advice of the department, may adopt reasonable rules to aid in the enforcement of this section. [1993 c 403 § 4; 1990 c 217 § 1; 1985 c 351 § 6; 1984 c 258 § 327; 1984 c 7 § 58; 1979 ex.s. c 136 § 75; 1975-'76 2nd ex.s. c 64 § 23.]

Rules of court: Monetary penalty schedule—JTIR 6.2.

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

Intent—1984 c 258: See note following RCW 3.46.120.

Severability—1984 c 7: See note following RCW 47.01.141.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Effective dates—Severability—1975-'76 2nd ex.s. c 64: See notes following RCW 46.16.070.

46.44.160 Repealed. (Effective January 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 46.52

ACCIDENTS—REPORTS—ABANDONED VEHICLES

Sections

46.52.120 Case record of convictions and infractions—Cross-reference to accident reports. (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.

(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. [1993 c 501 § 12; 1992 c 32 § 3; 1989 c 178 § 23; 1988 c 38 § 2; 1984 c 99 § 1; 1982 c 52 § 1; 1979 ex.s. c 136 § 83; 1977 ex.s. c 356 § 1; 1967 c 32 § 62; 1961 c 12 § 46.52.120. Prior: 1937 c 189 § 144; RRS § 6360-144.]

Severability—Effective dates—1989 c 178: See RCW 46.25.900 and 46.25.901.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 46.55

ABANDONED, UNAUTHORIZED, AND JUNK VEHICLES—TOW TRUCK OPERATORS

Sections

46.55.085 Law enforcement impound—Unauthorized vehicle in right of way. (1) A law enforcement officer discovering an unauthorized vehicle left within a highway right of way shall attach to the vehicle a readily visible notification sticker. The sticker shall contain the following information:

(a) The date and time the sticker was attached;

(b) The identity of the officer;

(c) A statement that if the vehicle is not removed within twenty-four hours from the time the sticker is attached, the vehicle may be taken into custody and stored at the owner's expense; and

(d) The address and telephone number where additional information may be obtained.

(2) If the vehicle has current Washington registration plates, the officer shall check the records to learn the identity of the last owner of record. The officer or his department shall make a reasonable effort to contact the owner by telephone in order to give the owner the information on the notification sticker.

(3) If the vehicle is not removed within twenty-four hours from the time the notification sticker is attached, the law enforcement officer may take custody of the vehicle and provide for the vehicle's removal to a place of safety. A vehicle that does not pose a safety hazard may remain on the roadside for more than twenty-four hours if the owner or operator is unable to remove it from the place where it is located and so notifies law enforcement officials and requests assistance.

(4) For the purposes of this section a place of safety includes the business location of a registered tow truck operator. [1993 c 121 § 1; 1987 c 311 § 6. Formerly RCW 46.52.170 and 46.52.180.]

46.55.105 Responsibility of registered owner. (1) The abandonment of any vehicle creates a prima facie presumption that the last registered owner of record is responsible for the abandonment and is liable for costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction.

(2) If an unauthorized vehicle is found abandoned under subsection (1) of this section, the last registered owner of record is guilty of a traffic infraction under chapter 46.63 RCW, unless the vehicle is redeemed after impound as provided in RCW 46.55.120. In addition to the monetary penalty payable under that chapter, the person found to have committed the infraction is also liable for restitution in the amount of the deficiency remaining after disposal of the vehicle under RCW 46.55.140.

(3) Filing a report of sale or transfer regarding the vehicle involved in accordance with RCW 46.12.101(1) or a vehicle theft report filed with a law enforcement agency relieves the last registered owner of liability under subsections (1) and (2) of this section.

(4) For the purposes of *RCW 46.63.070(5)(b), a traffic infraction under subsection (2) of this section is a moving violation and is not considered to be a standing, stopping, or parking violation. [1993 c 314 § 1.]

***Reviser's note:** 1993 c 501 § 10 amended RCW 46.63.070 by removing the provisions of subsection (5)(b) that related to standing, stopping, or parking violations.

46.55.115 State patrol—Removal of vehicles directly or by towing operators—Lien for costs of removal and storage—Appeal. The Washington state patrol, under its authority to remove vehicles from the highway, may remove the vehicles directly, through towing operators appointed by the state patrol and called on a rotational or other basis, through contracts with towing operators, or by a combination of these methods. When removal is to be accomplished through a towing operator on a noncontractual basis, the state patrol may appoint any towing operator for this purpose upon the application of the operator. Each appointment shall be contingent upon the submission of an application to the state patrol and the making of subsequent reports in such form and frequency and compliance with such standards of equipment, performance, pricing, and practices as may be required by rule of the state patrol.

An appointment may be rescinded by the state patrol upon evidence that the appointed towing operator is not complying with the laws or rules relating to the removal and storage of vehicles from the highway. The state patrol may not rescind an appointment merely because a registered tow truck operator negotiates a different rate for voluntary, owner-requested towing than for involuntary towing under this chapter. The costs of removal and storage of vehicles under this section shall be paid by the owner or driver of the vehicle and shall be a lien upon the vehicle until paid, unless the removal is determined to be invalid.

Rules promulgated under this section shall be binding only upon those towing operators appointed by the state patrol for the purpose of performing towing services at the request of the Washington state patrol. Any person aggrieved by a decision of the state patrol made under this section may appeal the decision under chapter 34.05 RCW. [1993 c 121 § 2; 1987 c 330 § 744; 1979 ex.s. c 178 § 22; 1977 ex.s. c 167 § 5. Formerly RCW 46.61.567.]

Construction—Application of rules—Severability—1987 c 330: See notes following RCW 28B.12.050.

Severability—1979 ex.s. c 178: See note following RCW 46.61.590.

46.55.120 Redemption of vehicles—Sale of unredeemed vehicles—Impoundment in violation of chapter. (1) Vehicles impounded by registered tow truck operators pursuant to RCW 46.55.080, 46.55.085, or 46.55.113 may be redeemed only under the following circumstances:

(a) Only the legal owner, the registered owner, a person authorized in writing by the registered owner or the vehicle's insurer, a person who is determined and verified by the operator to have the permission of the registered owner of the vehicle, or one who has purchased a vehicle from the registered owner who produces proof of ownership or written authorization and signs a receipt therefor, may redeem an impounded vehicle.

(b) The vehicle shall be released upon the presentation to any person having custody of the vehicle of commercially reasonable tender sufficient to cover the costs of towing, storage, or other services rendered during the course of towing, removing, impounding, or storing any such vehicle. Commercially reasonable tender shall include, without limitation, cash, major bank credit cards, or personal checks drawn on in-state banks if accompanied by two pieces of valid identification, one of which may be required by the operator to have a photograph. If the towing firm can determine through the customer's bank or a check verification service that the presented check would not be paid by the bank or guaranteed by the service, the towing firm may refuse to accept the check. Any person who stops payment on a personal check or credit card, or does not make

restitution within ten days from the date a check becomes insufficient due to lack of funds, to a towing firm that has provided a service pursuant to this section or in any other manner defrauds the towing firm in connection with services rendered pursuant to this section shall be liable for damages in the amount of twice the towing and storage fees, plus costs and reasonable attorney's fees.

(2)(a) The registered tow truck operator shall give to each person who seeks to redeem an impounded vehicle written notice of the right of redemption and opportunity for a hearing, which notice shall be accompanied by a form to be used for requesting a hearing, the name of the person or agency authorizing the impound, and a copy of the towing and storage invoice. The registered tow truck operator shall maintain a record evidenced by the redeeming person's signature that such notification was provided.

(b) Any person seeking to redeem an impounded vehicle under this section has a right to a hearing in the district court for the jurisdiction in which the vehicle was impounded to contest the validity of the impoundment or the amount of towing and storage charges. The district court has jurisdiction to determine the issues involving all impoundments including those authorized by the state or its agents. Any request for a hearing shall be made in writing on the form provided for that purpose and must be received by the district court within ten days of the date the opportunity was provided for in subsection (2)(a) of this section. If the hearing request is not received by the district court within the ten-day period, the right to a hearing is waived and the registered owner is liable for any towing, storage, or other impoundment charges permitted under this chapter. Upon receipt of a timely hearing request, the district court shall proceed to hear and determine the validity of the impoundment.

(3)(a) The district court, within five days after the request for a hearing, shall notify the registered tow truck operator, the person requesting the hearing if not the owner, the registered and legal owners of the vehicle, and the person or agency authorizing the impound in writing of the hearing date and time.

(b) At the hearing, the person or persons requesting the hearing may produce any relevant evidence to show that the impoundment, towing, or storage fees charged were not proper.

(c) At the conclusion of the hearing, the district court shall determine whether the impoundment was proper, whether the towing or storage fees charged were in compliance with the posted rates, and who is responsible for payment of the fees. The court may not adjust fees or charges that are in compliance with the posted or contracted rates.

(d) If the impoundment is found proper, the impoundment, towing, and storage fees as permitted under this chapter together with court costs shall be assessed against the person or persons requesting the hearing, unless the operator did not have a signed and valid impoundment authorization from a private property owner or an authorized agent.

(e) If the impoundment is determined to be in violation of this chapter, then the registered and legal owners of the vehicle shall bear no impoundment, towing, or storage fees, and any security shall be returned or discharged as appropriate, and the person or agency who authorized the impoundment shall be liable for any towing, storage, or other impoundment fees permitted under this chapter. The court shall enter judgment in favor of the registered tow truck operator against the person or agency authorizing the impound for the impoundment, towing, and storage fees paid. In addition, the court shall enter judgment in favor of the registered and legal owners of the vehicle for reasonable damages for loss of the use of the vehicle during the time the same was impounded, for not less than fifty dollars per day, against the person or agency authorizing the impound. If any judgment entered is not paid within fifteen days of notice in writing of its entry, the court shall award reasonable attorneys' fees and costs against the defendant in any action to enforce the judgment. Notice of entry of judgment may be made by registered or certified mail, and proof of mailing may be made by affidavit of the party mailing the notice. Notice of the entry of the judgment shall read essentially as follows:

> TO: . . . . . .
> YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the . . . . . Court located at . . . . . in the sum of $. . . . . ., in an action entitled . . . . . ., Case No. . . . . YOU ARE FURTHER NOTIFIED that attorneys fees and costs will be awarded against you under RCW . . . if the judgment is not paid within 15 days of the date of this notice.
> DATED this . . . . day of . . . . . ., 19. . .
> Signature . . . . . .
> Typed name and address of party mailing notice

(4) Any impounded abandoned vehicle not redeemed within fifteen days of mailing of the notice of custody and sale as required by RCW 46.55.110(2) shall be sold at public auction in accordance with all the provisions and subject to all the conditions of RCW 46.55.130. A vehicle may be redeemed at any time before the start of the auction upon payment of towing and storage fees. [1993 c 121 § 3; 1989 c 111 § 11; 1987 c 311 § 12; 1985 c 377 § 12.]

Chapter 46.61
RULES OF THE ROAD

Sections

46.61.055 Traffic control signal legend. Whenever traffic is controlled by traffic control signals exhibiting

different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word or legend, and said lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green indication

(a) Vehicle operators facing a circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. Vehicle operators turning right or left shall stop to allow other vehicles lawfully within the intersection control area to complete their movements. Vehicle operators turning right or left shall also stop for pedestrians who are lawfully within the intersection control area as required by RCW 46.61.235(1).

(b) Vehicle operators facing a green arrow signal, shown alone or in combination with another indication, may enter the intersection control area only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Vehicle operators shall stop to allow other vehicles lawfully within the intersection control area to complete their movements. Vehicle operators shall also stop for pedestrians who are lawfully within the intersection control area as required by RCW 46.61.235(1).

(c) Unless otherwise directed by a pedestrian control signal, as provided in RCW 46.61.060 as now or hereafter amended, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow indication

(a) Vehicle operators facing a steady circular yellow or yellow arrow signal are thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection. Vehicle operators shall stop for pedestrians who are lawfully within the intersection control area as required by RCW 46.61.235(1).

(b) Pedestrians facing a steady circular yellow or yellow arrow signal, unless otherwise directed by a pedestrian control signal as provided in RCW 46.61.060 shall not enter the roadway.

(3) Steady red indication

(a) Vehicle operators facing a steady circular red signal alone shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection control area and shall remain standing until an indication to proceed is shown. However, the vehicle operators facing a steady circular red signal may, after stopping proceed to make a right turn from a one-way or two-way street into a two-way street or into a one-way street carrying traffic in the direction of the right turn; or a left turn from a one-way or two-way street into a one-way street carrying traffic in the direction of the left turn; unless a sign posted by competent authority prohibits such movement. Vehicle operators planning to make such turns shall remain stopped to allow other vehicles lawfully within or approaching the intersection control area to complete their movements. Vehicle operators planning to make such turns shall also remain stopped for pedestrians who are lawfully within the intersection control area as required by RCW 46.61.235(1).

(b) Unless otherwise directed by a pedestrian control signal as provided in RCW 46.61.060 as now or hereafter amended, pedestrians facing a steady circular red signal alone shall not enter the roadway.

(c) Vehicle operators facing a steady red arrow indication may not enter the intersection control area to make the movement indicated by such arrow, and unless entering the intersection control area to make such other movement as is permitted by other indications shown at the same time, shall stop at a clearly marked stop line, but if none, before entering a crosswalk on the near side of the intersection control area, or if none, then before entering the intersection control area and shall remain standing until an indication to make the movement indicated by such arrow is shown. However, the vehicle operators facing a steady red arrow indication may, after stopping proceed to make a right turn from a one-way or two-way street into a two-way street or into a one-way street carrying traffic in the direction of the right turn; or a left turn from a one-way street or two-way street into a one-way street carrying traffic in the direction of the left turn; unless a sign posted by competent authority prohibits such movement. Vehicle operators planning to make such turns shall remain stopped to allow other vehicles lawfully within or approaching the intersection control area to complete their movements. Vehicle operators planning to make such turns shall also remain stopped for pedestrians who are lawfully within the intersection control area as required by RCW 46.61.235(1).

(d) Unless otherwise directed by a pedestrian signal, pedestrians facing a steady red arrow signal indication shall not enter the roadway.

(4) If an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal. [1993 c 153 § 2; 1990 c 241 § 2; 1975 c 62 § 19; 1965 ex.s. c 155 § 8.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.61.060 Pedestrian control signals. Whenever pedestrian control signals exhibiting the words "Walk" or the walking person symbol or "Don't Walk" or the hand symbol are operating, the signals shall indicate as follows:

(1) WALK or walking person symbol—Pedestrians facing such signal may cross the roadway in the direction of the signal. Vehicle operators shall stop for pedestrians who are lawfully moving within the intersection control area on such signal as required by RCW 46.61.235(1).

(2) Steady or flashing DON'T WALK or hand symbol—Pedestrians facing such signal shall not enter the roadway. Vehicle operators shall stop for pedestrians who have begun to cross the roadway before the display of either signal as required by RCW 46.61.235(1).

(3) Pedestrian control signals having the "Wait" legend in use on August 6, 1965, shall be deemed authorized signals and shall indicate the same as the "Don't Walk" legend.

Whenever such pedestrian control signals are replaced the legend "Wait" shall be replaced by the legend "Don't Walk" or the hand symbol. [1993 c 153 § 3; 1990 c 241 § 3; 1975 c 62 § 20; 1965 ex.s. c 155 § 9.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.61.220 Transit vehicles. (1) The driver of a vehicle shall yield the right of way to a transit vehicle traveling in the same direction that has signalled and is reentering the traffic flow.

(2) Nothing in this section shall operate to relieve the driver of a transit vehicle from the duty to drive with due regard for the safety of all persons using the roadway. [1993 c 401 § 1.]

46.61.235 Stopping for pedestrians in crosswalks. (1) The operator of an approaching vehicle shall stop and remain stopped to allow a pedestrian to cross the roadway within an unmarked or marked crosswalk when the pedestrian is upon or within one lane of the half of the roadway upon which the vehicle is traveling or onto which it is turning. For purposes of this section "half of the roadway" means all traffic lanes carrying traffic in one direction of travel, and includes the entire width of a one-way roadway.

(2) No pedestrian shall suddenly leave a curb or other place of safety and walk, run, or otherwise move into the path of a vehicle which is so close that it is impossible for the driver to stop.

(3) Subsection (1) of this section does not apply under the conditions stated in RCW 46.61.240(2).

(4) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle. [1993 c 153 § 1; 1990 c 241 § 4; 1965 ex.s. c 155 § 34.]

Rules of court: Monetary penalty schedule—JTIR 6.2.

46.61.502 Driving under the influence. (1) A person is guilty of driving while under the influence of intoxicating liquor or any drug if the person drives a vehicle within this state:

(a) And the person has 0.10 grams or more of alcohol per two hundred ten liters of breath within two hours after driving, as shown by analysis of the person's breath made under RCW 46.61.506; or

(b) And the person has 0.10 percent or more by weight of alcohol in the person's blood within two hours after driving, as shown by analysis of the person's blood made under RCW 46.61.506; or

(c) While the person is under the influence of or affected by intoxicating liquor or any drug; or

(d) While the person is under the combined influence of or affected by intoxicating liquor and any drug.

(2) The fact that any person charged with a violation of this section is or has been entitled to use such drug under the laws of this state shall not constitute a defense against any charge of violating this section.

(3) It is an affirmative defense to a violation of subsection (1) (a) and (b) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of driving and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.10 or more within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4) Analyses of blood or breath samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had 0.10 grams or more of alcohol per two hundred ten liters of breath or 0.10 percent or more of alcohol in the person's blood, pursuant to subsection (1) (a) and (b) of this section, and may be used as evidence that a person was under the influence of or affected by intoxicating liquors or any drug pursuant to subsection (1) (c) and (d) of this section. [1993 c 328 § 1; 1987 c 373 § 2; 1986 c 153 § 2; 1979 ex.s. c 176 § 1.]

Rules of court: Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.

Legislative finding, purpose—1987 c 373: "The legislature finds the existing statutes that establish the criteria for determining when a person is guilty of driving a motor vehicle under the influence of intoxicating liquor or drugs are constitutional and do not require any additional criteria to ensure their legality. The purpose of this act is to provide an additional method of defining the crime of driving while intoxicated. This act is not an acknowledgement that the existing breath alcohol standard is legally improper or invalid." [1987 c 373 § 1.]

Severability—1987 c 373: "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." [1987 c 373 § 8.]

Severability—1979 ex.s. c 176: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 176 § 8.]

Business operation of vessel or vehicle while intoxicated: RCW 9.91.020.

Operating aircraft recklessly or under influence of intoxicants or drugs: RCW 47.68.220.

Use of vessel in negligent manner or while under influence of alcohol or drugs prohibited: RCW 88.12.100.

46.61.504 Physical control of vehicle under the influence. (1) A person is guilty of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug if the person has actual physical control of a vehicle within this state:

(a) And the person has 0.10 grams or more of alcohol per two hundred ten liters of breath within two hours after being in actual physical control of a motor vehicle, as shown by analysis of the person's breath made under RCW 46.61.506; or

(b) And the person has 0.10 percent or more by weight of alcohol in the person's blood within two hours after being in actual physical control of a motor vehicle, as shown by analysis of the person's blood made under RCW 46.61.506; or

(c) While the person is under the influence of or affected by intoxicating liquor or any drug; or

(d) While the person is under the combined influence of or affected by intoxicating liquor and any drug.

(2) The fact that any person charged with a violation of this section is or has been entitled to use such drug under the

laws of this state shall not constitute a defense against any charge of violating this section. No person may be convicted under this section if, prior to being pursued by a law enforcement officer, the person has moved the vehicle safely off the roadway.

(3) It is an affirmative defense to a violation of subsection (1) (a) and (b) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of being in actual physical control of a motor vehicle and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.10 or more within two hours after being in actual physical control of a motor vehicle. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4) Analyses of blood or breath samples obtained more than two hours after the alleged actual physical control of a motor vehicle may be used as evidence that within two hours of the alleged actual physical control of a motor vehicle, a person had 0.10 grams or more of alcohol per two hundred ten liters of breath or 0.10 percent or more of alcohol in the person's blood, pursuant to subsection (1) (a) and (b) of this section, and may be used as evidence that a person was under the influence of or affected by intoxicating liquors or any drug pursuant to subsection (1) (c) and (d) of this section. [1993 c 328 § 2; 1987 c 373 § 3; 1986 c 153 § 3; 1979 ex.s. c 176 § 2.]

Rules of court: Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.

Legislative finding, purpose—Severability—1987 c 373: See notes following RCW 46.61.502.

Severability—1979 ex.s. c 176: See note following RCW 46.61.502.

46.61.511 Seizure and forfeiture of vehicle. (1) A vehicle driven by or under the actual physical control of the owner of the vehicle in violation of RCW 46.61.502 or 46.61.504 is, upon the conviction of the owner when that conviction is the second or subsequent conviction for a violation of RCW 46.61.502 or 46.61.504 within a five-year period, subject to seizure and forfeiture and no property right exists in that vehicle.

A forfeiture of a vehicle 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 violation of RCW 46.61.502 or 46.61.504.

(2) A vehicle subject to forfeiture under this chapter may be seized by a law enforcement officer of this state upon process issued by a court of competent jurisdiction. Seizure of a vehicle may be made without process if the vehicle subject to seizure has been the subject of a prior judgment in favor of the state in a forfeiture proceeding based upon this section.

(3) A seizure under subsection (2) of this section automatically 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 vehicle to be served within fifteen days after the seizure on the owner of the vehicle seized, on the person in charge of the vehicle, and on any person having a known right or interest in the vehicle, including a community property interest. The notice of seizure 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. Notice of seizure in the case of property subject to a security interest that has been perfected by filing a financing statement in accordance with chapter 62A.9 RCW, or a certificate of title, shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title.

(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 seized vehicle within forty-five days of the seizure, the vehicle is deemed forfeited.

(5) If a person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the seized vehicle within forty-five days of the seizure, the law enforcement agency shall give the person or persons 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. Removal may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of the vehicle 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 vehicle involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorney's fees. The burden of producing evidence shall be upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the vehicle. The seizing law enforcement agency shall promptly return the vehicle 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 of the vehicle.

(6) When a vehicle is forfeited under this chapter the seizing law enforcement agency may sell the vehicle, retain it for official use, or upon application by a law enforcement agency of this state release the vehicle to that agency for the exclusive use of enforcing this title.

(7) When a vehicle is forfeited, the seizing agency shall keep a record indicating the identity of the prior owner, if

known, a description of the vehicle, the disposition of the vehicle, the value of the vehicle at the time of seizure, and the amount of proceeds realized from disposition of the vehicle.

(8) Each seizing agency shall retain records of forfeited vehicles for at least seven years.

(9) Each seizing agency shall file a report including a copy of the records of forfeited vehicles with the state treasurer each calendar quarter.

(10) The quarterly report need not include a record of a forfeited vehicle that is still being held for use as evidence during the investigation or prosecution of a case or during the appeal from a conviction.

(11) 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 vehicles forfeited during the preceding calendar year. Money remitted shall be deposited in the public safety and education account.

(12) The net proceeds of a forfeited vehicle is the value of the forfeitable interest in the vehicle after deducting the cost of satisfying a bona fide security interest to which the vehicle is subject at the time of seizure; and in the case of a sold vehicle, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents.

(13) The value of a sold forfeited vehicle is the sale price. The value of a retained forfeited vehicle is the fair market value of the vehicle 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. A seizing agency may use, but need not use, an independent qualified appraiser to determine the value of retained vehicles. If an appraiser is used, the value of the vehicle appraised is net of the cost of the appraisal. [1993 c 487 § 2.]

46.61.512 Notice to person charged and to director. (1) Whenever a person is charged with a violation of RCW 46.61.502 or 46.61.504 and that person has been previously convicted for a violation of RCW 46.61.502 or 46.61.504 within a five-year period, the court shall instruct the person charged of the provisions of RCW 46.12.410 and shall immediately forward notice of the charge to the director.

(2) Upon the conviction or acquittal of the person charged or if a pending charge is otherwise terminated, the court shall immediately forward notice of the conviction, acquittal, or other termination of charge to the director. [1993 c 487 § 3.]

46.61.515 Driving or physical control of vehicle under the influence—Penalties—Alcohol or drug problem, treatment—Suspension or revocation of license—Appeal. (Effective until June 30, 1995.) (1) Every person who is convicted of a violation of RCW 46.61.502 or 46.61.504 shall be punished by imprisonment for not less than twenty-four consecutive hours nor more than one year, and by a fine of not less than two hundred fifty dollars and not more than one thousand dollars. Unless the judge finds the person to be indigent, two hundred fifty dollars of the fine shall not be suspended or deferred. Twenty-four consecutive hours of the jail sentence shall not be suspended or deferred unless the judge finds that the imposition of the jail sentence will pose a substantial risk to the defendant's physical or mental well-being. Whenever the mandatory jail sentence is suspended or deferred, the judge must state, in writing, the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. The court may impose conditions of probation that may include nonrepetition, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The convicted person shall, in addition, be required to complete a course in an alcohol information school approved by the department of social and health services or more intensive treatment in a program approved by the department of social and health services, as determined by the court. A diagnostic evaluation and treatment recommendation shall be prepared under the direction of the court by an alcoholism agency approved by the department of social and health services or a qualified probation department approved by the department of social and health services. A copy of the report shall be forwarded to the department of licensing. Based on the diagnostic evaluation, the court shall determine whether the convicted person shall be required to complete a course in an alcohol information school approved by the department of social and health services or more intensive treatment in a program approved by the department of social and health services. Standards for approval for alcohol treatment programs shall be prescribed by rule under the Administrative Procedure Act, chapter 34.05 RCW. The department of social and health services shall periodically review the costs of alcohol information schools and treatment programs as part of the approval process.

(2) On a second or subsequent conviction for driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs within a five-year period a person shall be punished by imprisonment for not less than seven days nor more than one year and by a fine of not less than five hundred dollars and not more than two thousand dollars. District courts and courts organized under chapter 35.20 RCW are authorized to impose such fine. Unless the judge finds the person to be indigent, five hundred dollars of the fine shall not be suspended or deferred. The minimum jail sentence shall not be suspended or deferred unless the judge finds that the imposition of the jail sentence will pose a substantial risk to the defendant's physical or mental well-being. Whenever the mandatory jail sentence is suspended or deferred, the judge must state, in writing, the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. If, at the time of the arrest on a second or subsequent offense, the driver is without a license or permit because of a previous suspension or revocation for a reason listed in RCW 46.20.342(1) (a) or (b), or because of a previous suspension or revocation for a reason listed in RCW 46.20.342(1)(c) if the original suspension or revocation was the result of a conviction of RCW 46.61.502 or 46.61.504, the minimum mandatory sentence shall be ninety days in jail and a five hundred dollar fine. The penalty so imposed shall not be suspended or deferred. The person shall, in addition, be required to complete a diagnostic evaluation by an alcoholism agency approved by the department of social and health services or a qualified probation department approved by the department of social and health services. The report

shall be forwarded to the department of licensing. If the person is found to have an alcohol or drug problem requiring treatment, the person shall complete treatment at an approved alcoholism treatment program or approved drug treatment center.

In addition to any nonsuspendable and nondeferrable jail sentence required by this subsection, whenever the court imposes less than one year in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding two years. The suspension of the sentence may be conditioned upon nonrepetition, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of suspension during the suspension period.

(3) The license or permit to drive or any nonresident privilege of any person convicted of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs shall:

(a) On the first conviction under either offense, be suspended by the department until the person reaches age nineteen or for ninety days, whichever is longer. The department of licensing shall determine the person's eligibility for licensing based upon the reports provided by the designated alcoholism agency or probation department and shall deny reinstatement until enrollment and participation in an approved program has been established and the person is otherwise qualified;

(b) On a second conviction under either offense within a five-year period, be revoked by the department for one year. The department of licensing shall determine the person's eligibility for licensing based upon the reports provided by the designated alcoholism agency or probation department and shall deny reinstatement until satisfactory progress in an approved program has been established and the person is otherwise qualified;

(c) On a third or subsequent conviction of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs, vehicular homicide, or vehicular assault, or any combination thereof within a five-year period, be revoked by the department for two years.

(4) In any case provided for in this section, where a driver's license is to be revoked or suspended, the revocation or suspension shall be stayed and shall not take effect until after the determination of any appeal from the conviction which may lawfully be taken, but in case the conviction is sustained on appeal the revocation or suspension takes effect as of the date that the conviction becomes effective for other purposes.

(5)(a) In addition to penalties set forth in this section, a one hundred twenty-five dollar fee shall be assessed to a person who is either convicted, sentenced to a lesser charge, or given deferred prosecution, as a result of an arrest for violating RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522. This fee is for the purpose of funding the Washington state toxicology laboratory and the Washington state patrol breath test program.

(b) 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.

(c) When a minor has been adjudicated a juvenile offender for an offense which, if committed by an adult, would constitute a violation of RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522, the court shall assess the one hundred twenty-five dollar fee under (a) of this subsection. 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.

(6) The fee assessed under subsection (5) of this section shall be collected by the clerk of the court and distributed as follows:

(a) Forty percent shall be subject to distribution under RCW 3.62.020, 3.62.040, or 10.82.040.

(b) If the case involves a blood test by the state toxicology laboratory, the remainder of the fee shall be forwarded to the state treasurer for deposit in the death investigations account to be used solely for funding the state toxicology laboratory blood testing program.

(c) Otherwise, the remainder of the fee shall be forwarded to the state treasurer for deposit in the state patrol highway account to be used solely for funding the Washington state patrol breath test program. [1993 c 501 § 7; 1993 c 239 § 1; 1985 c 352 § 1; 1984 c 258 § 328; 1983 c 165 § 21; 1983 c 150 § 1; 1982 1st ex.s. c 47 § 27; 1979 ex.s. c 176 § 6; 1977 ex.s. c 3 § 3; 1975 1st ex.s. c 287 § 2; 1974 ex.s. c 130 § 1; 1971 ex.s. c 284 § 1; 1967 c 32 § 68; 1965 ex.s. c 155 § 62.]

Reviser's note: This section was amended by 1993 c 239 § 1 and by 1993 c 501 § 7, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Study of 1993 c 239 amendments: "The Washington state patrol in conjunction with the traffic safety commission shall use a small percentage of the revenues generated under the 1993 amendments to RCW 46.61.515 contained in section 1, chapter 239, Laws of 1993, to perform a study to determine a mechanism for evaluating the best practice for increasing the conviction rate for persons driving under the influence of alcohol or drugs. The study must be completed and a report made to the appropriate committees of the legislature by June 30, 1995." [1993 c 239 § 2.]

Expiration of 1993 c 239 § 1 amendments: "The 1993 amendments to section 1 of this act expire June 30, 1995." [1993 c 239 § 3.]

Effective date—1993 c 239: "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, 1993." [1993 c 239 § 4.]

Effective date—1985 c 352 § 1: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately except for section 1 of this act, which shall take effect July 1, 1985." [1985 c 352 § 23.]

Severability—1985 c 352: See note following RCW 10.05.010.

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

Intent—1984 c 258: See note following RCW 3.46.120.

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308.

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.190.

Severability—1979 ex.s. c 176: See note following RCW 46.61.502.

Severability—1971 ex.s. c 284: See note following RCW 46.65.010.

Cities and towns, penalties for driving while intoxicated: RCW 35.21.165.

Counties, penalties for driving while intoxicated: RCW 36.32.127.

Ignition interlocks: RCW 46.20.710 through 46.20.750.

Juvenile driving privileges, alcohol or drug violations: RCW 66.44.365, 69.50.420.

Operating railroad, steamboat, vehicle, etc., while intoxicated: RCW 9.91.020.

Revocation of license for driving under the influence: RCW 46.20.285.

46.61.687 Child passenger restraint required—Conditions—Penalty for violation—Dismissal—Noncompliance not negligence. (1) Whenever a child who is less than six years of age is being transported in a motor vehicle that is in operation and that is required by RCW 46.37.510 to be equipped with a safety belt system in a passenger seating position, the driver of the vehicle shall keep the child properly restrained as follows:

(a) If the child is less than two years of age, the child shall be properly restrained in a child restraint system that complies with standards of the United States department of transportation and that is secured in the vehicle in accordance with instructions of the manufacturer of the child restraint system;

(b) If the child is less than six but at least two years of age, the child shall be restrained either as specified in (a) of this subsection or with a safety belt properly adjusted and fastened around the child's body.

(2) A person violating subsection (1) of this section may be issued a notice of traffic infraction under chapter 46.63 RCW. If the person to whom the notice was issued presents proof of acquisition of an approved child passenger restraint system within seven days to the jurisdiction issuing the notice, the jurisdiction shall dismiss the notice of traffic infraction. If the person fails to present proof of acquisition within the time required, he or she is subject to a penalty assessment of not less than thirty dollars.

(3) Failure to comply with the requirements of this section shall not constitute negligence by a parent or legal guardian; nor shall failure to use a child restraint system be admissible as evidence of negligence in any civil action. [1993 c 274 § 1; 1987 c 330 § 745; 1983 c 215 § 2.]

Construction—Application of rules—Severability—1987 c 330: See notes following RCW 28B.12.050.

Severability—1983 c 215: See note following RCW 46.37.505.

Standards for child passenger restraint systems: RCW 46.37.505.

Chapter 46.63
DISPOSITION OF TRAFFIC INFRACTIONS

Sections

46.63.020 Violations as traffic infractions—Exceptions. Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

(1) RCW 46.09.120(2) relating to the operation of a nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance;

(2) RCW 46.09.130 relating to operation of nonhighway vehicles;

(3) RCW 46.10.090(2) relating to the operation of a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs or in a manner endangering the person of another;

(4) RCW 46.10.130 relating to the operation of snowmobiles;

(5) Chapter 46.12 RCW relating to certificates of ownership and registration;

(6) RCW 46.16.010 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 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;

(42) Chapter 46.65 RCW relating to habitual traffic offenders;

(43) 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;

(44) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;

(45) Chapter 46.80 RCW relating to motor vehicle wreckers;

(46) Chapter 46.82 RCW relating to driver's training schools;

(47) 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;

(48) RCW 46.87.290 relating to operation of an unregistered or unlicensed vehicle under chapter 46.87 RCW. [1993 c 501 § 8; 1992 c 32 § 4; 1991 c 339 § 27. Prior: 1990 c 250 § 59; 1990 c 95 § 3; prior: 1989 c 353 § 8; 1989 c 178 § 27; 1989 c 111 § 20; prior: 1987 c 388 § 11; 1987 c 247 § 6; 1987 c 244 § 55; 1987 c 181 § 2; 1986 c 186 § 3; prior: 1985 c 377 § 28; 1985 c 353 § 2; 1985 c 302 § 7; 1983 c 164 § 6; 1982 c 10 § 12; prior: 1981 c 318 § 2; 1981 c 19 § 1; 1980 c 148 § 7; 1979 ex.s. c 136 § 2.]

***Reviser's note:** RCW 46.16.381(8) was renumbered as subsection (9) by 1993 c 106 § 1.

Severability—1990 c 250: See note following RCW 46.16.301.

Severability—Effective date—1989 c 353: See RCW 46.30.900 and 46.30.901.

Severability—Effective dates—1989 c 178: See RCW 46.25.900 and 46.25.901.

Severability—1987 c 388: See note following RCW 46.16.710.

Effective dates—1987 c 244: See note following RCW 46.12.020.

Severability—Effective date—1985 c 377: See RCW 46.55.900 and 46.55.902.

Severability—1982 c 10: See note following RCW 6.13.080.

Severability—1981 c 19: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 19 § 7.]

Effective date—1980 c 148: See note following RCW 46.10.090.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Allowing unauthorized persons to drive: RCW 46.20.344.

46.63.060 Notice of traffic infraction—Determination final unless contested—Form. (1) A notice of traffic infraction represents a determination that an infraction has been committed. The determination will be final unless contested as provided in this chapter.

(2) The form for the notice of traffic infraction shall be prescribed by rule of the supreme court and shall include the following:

(a) A statement that the notice represents a determination that a traffic infraction has been committed by the person named in the notice and that the determination shall be final unless contested as provided in this chapter;

(b) A statement that a traffic infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction; that the penalty for a traffic infraction may include sanctions against the person's driver's license including suspension, revocation, or denial; that the penalty for a traffic infraction related to standing, stopping, or parking may include nonrenewal of the vehicle license;

(c) A statement of the specific traffic infraction for which the notice was issued;

(d) A statement of the monetary penalty established for the traffic infraction;

(e) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;

(f) A statement that at any hearing to contest the determination the state has the burden of proving, by a preponderance of the evidence, that the infraction was committed; and that the person may subpoena witnesses including the officer who issued the notice of infraction;

(g) A statement that at any hearing requested for the purpose of explaining mitigating circumstances surrounding the commission of the infraction the person will be deemed to have committed the infraction and may not subpoena witnesses;

(h) A statement that the person must respond to the notice as provided in this chapter within fifteen days or the person's driver's license or driving privilege will be suspended by the department until any penalties imposed pursuant to this chapter have been satisfied;

(i) A statement that failure to appear at a hearing requested for the purpose of contesting the determination or for the purpose of explaining mitigating circumstances will result in the suspension of the person's driver's license or driving privilege, or in the case of a standing, stopping, or parking violation, refusal of the department to renew the vehicle license, until any penalties imposed pursuant to this chapter have been satisfied;

(j) A statement, which the person shall sign, that the person promises to respond to the notice of infraction in one of the ways provided in this chapter. [1993 c 501 § 9; 1984

c 224 § 2; 1982 1st ex.s. c 14 § 2; 1980 c 128 § 1; 1979 ex.s. c 136 § 8.]

Severability—Effective date—1984 c 224: See notes following RCW 46.16.216.

Effective date—1982 1st ex.s. c 14: "This act shall take effect on July 1, 1984, and shall apply to violations of traffic laws committed on or after July 1, 1984." [1982 1st ex.s. c 14 § 7.]

Severability—1982 1st ex.s. c 14: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 1st ex.s. c 14 § 6.]

Effective date—1980 c 128: "Sections 1 through 8 and 10 through 16 of this act shall take effect on January 1, 1981, and shall apply to violations of the traffic laws committed on or after January 1, 1981. Section 9 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately." [1980 c 128 § 18.]

Severability—1980 c 128: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 128 § 17.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.63.070 Response to notice—Contesting determination—Hearing—Failure to respond or appear. (1) Any person who receives a notice of traffic infraction shall respond to such notice as provided in this section within fifteen days of the date of the notice.

(2) If the person determined to have committed the infraction does not contest the determination the person shall respond by completing the appropriate portion of the notice of infraction and submitting it, either by mail or in person, to the court specified on the notice. A check or money order in the amount of the penalty prescribed for the infraction must be submitted with the response. When a response which does not contest the determination is received, an appropriate order shall be entered in the court's records, and a record of the response and order shall be furnished to the department in accordance with RCW 46.20.270.

(3) If the person determined to have committed the infraction wishes to contest the determination the person shall respond by completing the portion of the notice of infraction requesting a hearing and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be sooner than seven days from the date of the notice, except by agreement.

(4) If the person determined to have committed the infraction does not contest the determination but wishes to explain mitigating circumstances surrounding the infraction the person shall respond by completing the portion of the notice of infraction requesting a hearing for that purpose and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing.

(5) If any person issued a notice of traffic infraction:

(a) Fails to respond to the notice of traffic infraction as provided in subsection (2) of this section; or

(b) Fails to appear at a hearing requested pursuant to subsection (3) or (4) of this section;

the court shall enter an appropriate order assessing the monetary penalty prescribed for the traffic infraction and any other penalty authorized by this chapter and shall notify the department in accordance with RCW 46.20.270, of the failure to respond to the notice of infraction or to appear at a requested hearing. [1993 c 501 § 10; 1984 c 224 § 3; 1982 1st ex.s. c 14 § 3; 1980 c 128 § 2; 1979 ex.s. c 136 § 9.]

Severability—Effective date—1984 c 224: See notes following RCW 46.16.216.

Effective date—Severability—1982 1st ex.s. c 14: See notes following RCW 46.63.060.

Effective date—Severability—1980 c 128: See notes following RCW 46.63.060.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.63.110 Monetary penalties. (1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The supreme court shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which local courts may exercise discretion in assessing fines and penalties for traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.

(3) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed twenty-five dollars for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.

(4) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(5) Whenever a monetary penalty is imposed by a court under this chapter it is immediately payable. If the person is unable to pay at that time the court may, in its discretion, grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment the court shall notify the department of the failure to pay the penalty, and the department shall suspend the person's driver's license or driving privilege until the penalty has been paid and the penalty provided in subsection (3) of this section has been paid. [1993 c 501 § 11; 1986 c 213 § 2; 1984 c 258 § 330. Prior: 1982 1st ex.s. c 14 § 4; 1982 1st ex.s. c 12 § 1; 1982 c 10 § 13; prior: 1981 c 330 § 7; 1981 c 19 § 6; 1980 c 128 § 4; 1979 ex.s. c 136 § 13.]

Rules of court: Monetary penalty schedule—JTIR 6.2.

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

Intent—1984 c 258: See note following RCW 3.46.120.

Effective date—Severability—1982 1st ex.s. c 14: See notes following RCW 46.63.060.

Severability—1982 c 10: See note following RCW 6.13.080.

Severability—1981 c 330: See note following RCW 3.62.060.

Severability—1981 c 19: See note following RCW 46.63.020.

Effective date—Severability—1980 c 128: See notes following RCW 46.63.060.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 46.64
ENFORCEMENT

Sections

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

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

46.64.040 Nonresident's use of highways—Resident leaving state—Secretary of state as attorney in fact. The acceptance by a nonresident of the rights and privileges conferred by law in the use of the public highways of this state, as evidenced by his or her operation of a vehicle thereon, or the operation thereon of his or her vehicle with his or her consent, express or implied, shall be deemed equivalent to and construed to be an appointment by such nonresident of the secretary of state of the state of Washington to be his or her true and lawful attorney upon whom may be served all lawful summons and processes against him or her growing out of any accident, collision, or liability in which such nonresident may be involved while operating a vehicle upon the public highways, or while his or her vehicle is being operated thereon with his or her consent, express or implied, and such operation and acceptance shall be a signification of the nonresident's agreement that any summons or process against him or her which is so served shall be of the same legal force and validity as if served on the nonresident personally within the state of Washington. Likewise each resident of this state who, while operating a motor vehicle on the public highways of this state, is involved in any accident, collision or liability and thereafter within three years departs from this state appoints the secretary of state of the state of Washington as his or her lawful attorney for service of summons as provided in this section for nonresidents. Service of such summons or process shall be made by leaving two copies thereof with a fee established by the secretary of state by rule with the secretary of state of the state of Washington, or at the secretary of state's office, and such service shall be sufficient and valid personal service upon said resident or nonresident: PROVIDED, That notice of such service and a copy of the summons or process is forthwith sent by registered mail with return receipt requested, by plaintiff to the defendant at the last known address of the said defendant, and the plaintiff's affidavit of compliance herewith are appended to the process, together with the affidavit of the plaintiff's attorney that the attorney has with due diligence attempted to serve personal process upon the defendant at all addresses known to him or her of defendant and further listing in his or her affidavit the addresses at which he or she attempted to have process served. However, if process is forwarded by registered mail and defendant's endorsed receipt is received and entered as a part of the return of process then the foregoing affidavit of plaintiff's attorney need only show that the defendant received personal delivery by mail: PROVIDED FURTHER, That personal service outside of this state in accordance with the provisions of law relating to personal service of summons outside of this state shall relieve the plaintiff from mailing a copy of the summons or process by registered mail as hereinbefore provided. The secretary of state shall forthwith send one of such copies by mail, postage prepaid, addressed to the defendant at the defendant's address, if known to the secretary of state. The court in which the action is brought may order such continuances as may be necessary to afford the defendant reasonable opportunity to defend the action. The fee paid by the plaintiff to the secretary of state shall be taxed as part of his or her costs if he or she prevails in the action. The secretary of state shall keep a record of all such summons and processes, which shall show the day of service. [1993 c 269 § 16; 1982 c 35 § 197; 1973 c 91 § 1; 1971 ex.s. c 69 § 1; 1961 c 12 § 46.64.040. Prior: 1959 c 121 § 1; 1957 c 75 § 1; 1937 c 189 § 129; RRS § 6360-129.]

Rules of court: Cf. CR 12(a).

Effective date—1993 c 269: See note following RCW 23.86.070.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Deposit of fees in secretary of state's revolving fund: RCW 43.07.130.

Chapter 46.68
DISPOSITION OF REVENUE

Sections

46.68.010 Erroneous payments—Refunds, underpayments—Penalty for false statements. Whenever any license fee, paid under the provisions of this title, has been erroneously paid, either wholly or in part, the payor is entitled to have refunded the amount so erroneously paid. A renewal license fee paid prior to the actual expiration date of the license being renewed shall be deemed to be erroneously paid if the vehicle for which the renewal license was purchased is destroyed or permanently removed from the state prior to the beginning date of the registration period for which the renewal fee was paid. Upon such refund being certified to the state treasurer by the director as correct and being claimed in the time required by law the state treasurer shall mail or deliver the amount of each refund to the person

entitled thereto. No claim for refund shall be allowed for such erroneous payments unless filed with the director within three years after such claimed erroneous payment was made.

If due to error a person has been required to pay a vehicle license fee under this title and an excise tax under Title 82 RCW that amounts to an overpayment of ten dollars or more, that person shall be entitled to a refund of the entire amount of the overpayment, regardless of whether a refund of the overpayment has been requested. If due to error the department or its agent has failed to collect the full amount of the license fee and excise tax due and the 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 fees.

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. [1993 c 307 § 2; 1989 c 68 § 1; 1979 c 120 § 1; 1967 c 32 § 73; 1961 c 12 § 46.68.010. Prior: 1937 c 188 § 76; RRS § 6312-76.]

46.68.035 Disposition of combined vehicle licensing fees. (Effective January 1, 1994.) All proceeds from combined vehicle licensing fees received by the director for vehicles licensed under RCW 46.16.070 and 46.16.085 shall be forwarded to the state treasurer to be distributed into accounts according to the following method:

(1) The sum of two dollars for each vehicle shall be deposited into the highway safety fund, except that for each vehicle registered by a county auditor or agent to a county auditor pursuant to RCW 46.01.140, the sum of two dollars shall be credited to the current county expense fund.

(2) The remainder shall be distributed as follows:

(a) 23.677 percent shall be deposited into the state patrol highway account of the motor vehicle fund;

(b) 1.521 percent shall be deposited into the Puget Sound ferry operations account of the motor vehicle fund; and

(c) The remaining proceeds shall be deposited into the motor vehicle fund. [1993 c 102 § 7; 1990 c 42 § 106; 1989 c 156 § 4; 1985 c 380 § 21.]

Effective date of 1993 c 102 and 123—1993 1st sp.s. c 23: See note following RCW 46.16.070.

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

Application—1989 c 156: See note following RCW 46.16.070.

Effective date—1986 c 18; 1985 c 380: See RCW 46.87.901.

Severability—1985 c 380: See RCW 46.87.900.

Chapter 46.70

UNFAIR BUSINESS PRACTICES—DEALERS' LICENSES

Sections

46.70.011 Definitions. As used in this chapter:

(1) "Vehicle" means and includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks.

(2) "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, and which is required to be registered and titled under Title 46 RCW, Motor Vehicles.

(3) "Vehicle dealer" means any person, firm, association, corporation, or trust, not excluded by subsection (4) of this section, engaged in the business of buying, selling, listing, exchanging, offering, brokering, leasing with an option to purchase, auctioning, soliciting, or advertising the sale of new or used vehicles, or arranging or offering or attempting to solicit or negotiate on behalf of others, a sale, purchase, or exchange of an interest in new or used motor vehicles, irrespective of whether the motor vehicles are owned by that person. Vehicle dealers shall be classified as follows:

(a) A "motor vehicle dealer" is a vehicle dealer that deals in new or used motor vehicles, or both;

(b) A "mobile home and travel trailer dealer" is a vehicle dealer that deals in mobile homes, park trailers, or travel trailers, or more than one type of these vehicles;

(c) A "miscellaneous vehicle dealer" is a vehicle dealer that deals in motorcycles or vehicles other than motor vehicles or mobile homes and travel trailers or any combination of such vehicles.

(4) The term "vehicle dealer" does not include, nor do the licensing requirements of RCW 46.70.021 apply to, the following persons, firms, associations, or corporations:

(a) Receivers, trustees, administrators, executors, guardians, or other persons appointed by, or acting under a judgment or order of, any court; or

(b) Public officers while performing their official duties; or

(c) Employees of vehicle dealers who are engaged in the specific performance of their duties as such employees; or

(d) Any person engaged in an isolated sale of a vehicle in which he is the registered or legal owner, or both, thereof; or

(e) Any person, firm, association, corporation, or trust, engaged in the selling of equipment other than vehicles, subject to registration, used for agricultural or industrial purposes; or

(f) A real estate broker licensed under chapter 18.85 RCW, or his authorized representative, who, on behalf of the legal or registered owner of a used mobile home negotiates

the purchase, sale, or exchange of the used mobile home in conjunction with the purchase, sale, exchange, rental, or lease of the land upon which the used mobile home is located and the real estate broker is not acting as an agent, subagent, or representative of a vehicle dealer licensed under this chapter; or

(g) Owners who are also operators of the special highway construction equipment or of the highway construction equipment for which a vehicle license and display vehicle license number plate is required as defined in RCW 46.16.010; or

(h) Any bank, trust company, savings bank, mutual savings bank, savings and loan association, credit union, and any parent, subsidiary, or affiliate thereof, authorized to do business in this state under state or federal law with respect to the sale or other disposition of a motor vehicle owned and used in their business; or with respect to the acquisition and sale or other disposition of a motor vehicle in which the entity has acquired an interest as a lessor, lessee, or secured party.

(5) "Vehicle salesperson" means any person who for any form of compensation sells, auctions, leases with an option to purchase, or offers to sell or to so lease vehicles on behalf of a vehicle dealer.

(6) "Department" means the department of licensing, which shall administer and enforce the provisions of this chapter.

(7) "Director" means the director of licensing.

(8) "Manufacturer" means any person, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new and unused vehicles or remanufactures vehicles in whole or in part and further includes the terms:

(a) "Distributor," which means any person, firm, association, corporation, or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new and unused vehicle to vehicle dealers or who maintains factory representatives.

(b) "Factory branch," which means a branch office maintained by a manufacturer for the purpose of selling or offering for sale, vehicles to a distributor, wholesaler, or vehicle dealer, or for directing or supervising in whole or in part factory or distributor representatives, and further includes any sales promotion organization, whether a person, firm, or corporation, which is engaged in promoting the sale of new and unused vehicles in this state of a particular brand or make to vehicle dealers.

(c) "Factory representative," which means a representative employed by a manufacturer, distributor, or factory branch for the purpose of making or promoting for the sale of their vehicles or for supervising or contracting with their dealers or prospective dealers.

(9) "Established place of business" means a location meeting the requirements of RCW 46.70.023(1) at which a vehicle dealer conducts business in this state.

(10) "Principal place of business" means that dealer firm's business location in the state, which place the dealer designates as their principal place of business.

(11) "Subagency" means any place of business of a vehicle dealer within the state, which place is physically and geographically separated from the principal place of business of the firm or any place of business of a vehicle dealer within the state, at which place the firm does business using a name other than the principal name of the firm, or both.

(12) "Temporary subagency" means a location other than the principal place of business or subagency within the state where a licensed vehicle dealer may secure a license to conduct the business and is licensed for a period of time not to exceed ten days for a specific purpose such as auto shows, shopping center promotions, tent sales, exhibitions, or similar merchandising ventures. No more than six temporary subagency licenses may be issued to a licensee in any twelve-month period.

(13) "Wholesale vehicle dealer" means a vehicle dealer who buys and sells other than at retail.

(14) "Retail vehicle dealer" means a vehicle dealer who may buy and sell at both wholesale and retail.

(15) "Listing dealer" means a used mobile home dealer who makes contracts with sellers who will compensate the dealer for obtaining a willing purchaser for the seller's mobile home.

(16) "Auction" means a transaction conducted by means of exchanges between an auctioneer and the members of the audience, constituting a series of oral invitations for offers for the purchase of vehicles made by the auctioneer, offers to purchase by members of the audience, and the acceptance of the highest or most favorable offer to purchase.

(17) "Auction company" means a sole proprietorship, partnership, corporation, or other legal or commercial entity licensed under chapter 18.11 RCW that only sells or offers to sell vehicles at auction or only arranges or sponsors auctions.

(18) "Buyer's agent" means any person, firm, partnership, association, or corporation retained or employed by a consumer to arrange for or to negotiate, or both, the purchase of a new motor vehicle on behalf of the consumer, and who is paid a fee or receives other compensation from the consumer for the services. [1993 c 175 § 1. Prior: 1989 c 337 § 11; 1989 c 301 § 1; 1988 c 287 § 1; 1986 c 241 § 2; 1981 c 305 § 2; 1979 c 158 § 186; 1979 c 11 § 3; prior: 1977 ex.s. c 204 § 2; 1977 ex.s. c 125 § 1; 1973 1st ex.s. c 132 § 2; 1969 ex.s. c 63 § 1; 1967 ex.s. c 74 § 3.]

46.70.021 License required for dealers or manufacturers—Penalties. It is unlawful for any person, firm, or association to act as a vehicle dealer or vehicle manufacturer, to engage in business as such, serve in the capacity of such, advertise himself, herself, or themselves as such, solicit sales as such, or distribute or transfer vehicles for resale in this state, without first obtaining and holding a current license as provided in this chapter, unless the title of the vehicle is in the name of the seller. It is unlawful for any person other than a licensed vehicle dealer to display a vehicle for sale unless the registered owner or legal owner is the displayer or holds a notarized power of attorney. A person or firm engaged in buying and offering for sale, or buying and selling five or more vehicles in a twelve-month period, or in any other way engaged in dealer activity without holding a vehicle dealer license, is guilty of a gross misdemeanor, and upon conviction is subject to a fine of up to five thousand dollars for each violation and up to one year in jail. A second offense is a class C felony punishable

under chapter 9A.20 RCW. A violation of this section is also a per se violation of chapter 19.86 RCW and is considered a deceptive practice. The department of licensing, the Washington state patrol, the attorney general's office, and the department of revenue shall cooperate in the enforcement of this section. A distributor, factory branch, or factory representative shall not be required to have a vehicle manufacturer license so long as the vehicle manufacturer so represented is properly licensed pursuant to this chapter. Nothing in this chapter prohibits financial institutions from cooperating with vehicle dealers licensed under this chapter in dealer sales or leases. However, financial institutions shall not broker vehicles and cooperation is limited to organizing, promoting, and financing of such dealer sales or leases. [1993 c 307 § 4; 1988 c 287 § 2; 1986 c 241 § 3; 1973 1st ex.s. c 132 § 3; 1967 ex.s. c 74 § 4.]

46.70.023 Place of business. (1) An "established place of business" requires a permanent, enclosed commercial building located within the state of Washington easily accessible at all reasonable times. An established place of business shall have an improved display area of not less than three thousand square feet in or immediately adjoining the building, or a display area large enough to display six or more vehicles of the type the dealer is licensed to sell, whichever area is larger. The business of a vehicle dealer, including the display of vehicles, may be lawfully carried on at an established place of business in accordance with the terms of all applicable building code, zoning, and other land-use regulatory ordinances. The dealer shall keep the building open to the public so that they may contact the vehicle dealer or the dealer's salespersons at all reasonable times. The books, records, and files necessary to conduct the business shall be kept and maintained at that place. The established place of business shall display an exterior sign with the business name and nature of the business, such as auto sales, permanently affixed to the land or building, with letters clearly visible to the major avenue of traffic. In no event may a room or rooms in a hotel, rooming house, or apartment house building or part of a single or multiple-unit dwelling house be considered an "established place of business" unless the ground floor of such a dwelling is devoted principally to and occupied for commercial purposes and the dealer offices are located on the ground floor. A mobile office or mobile home may be used as an office if it is connected to utilities and is set up in accordance with state law. This subsection does not apply to auction companies that do not own vehicle inventory or sell vehicles from an auction yard.

(2) An auction company shall have office facilities within the state. The books, records, and files necessary to conduct the business shall be maintained at the office facilities. All storage facilities for inventory shall be listed with the department, and shall meet local zoning and land use ordinances. An auction company shall maintain a telecommunications system.

(3) Auction companies shall post their vehicle dealer license at each auction where vehicles are offered, and shall provide the department with the address of the auction at least three days before the auction.

(4) If a dealer maintains a place of business at more than one location or under more than one name in this state, he or she shall designate one location as the principal place of business of the firm, one name as the principal name of the firm, and all other locations or names as subagencies. A subagency license is required for each and every subagency: PROVIDED, That the department may grant an exception to the subagency requirement in the specific instance where a licensed dealer is unable to locate their used vehicle sales facilities adjacent to or at the established place of business. This exception shall be granted and defined under the promulgation of rules consistent with the Administrative Procedure Act.

(5) All vehicle dealers shall maintain ownership or leasehold throughout the license year of the real property from which they do business. The dealer shall provide the department with evidence of ownership or leasehold whenever the ownership changes or the lease is terminated.

(6) A subagency shall comply with all requirements of an established place of business, except that auction companies shall comply with the requirements in subsection (2) of this section.

(7) A temporary subagency shall meet all local zoning and building codes for the type of merchandising being conducted. The dealer license certificate shall be posted at the location. No other requirements of an established place of business apply to a temporary subagency. Auction companies are not required to obtain a temporary subagency license.

(8) A wholesale vehicle dealer shall have office facilities in a commercial building within this state, and all storage facilities for inventory shall be listed with the department, and shall meet local zoning and land use ordinances. A wholesale vehicle dealer shall maintain a telecommunications system. An exterior sign visible from the nearest street shall identify the business name and the nature of business. A wholesale dealer need not maintain a display area as required in this section. When two or more vehicle dealer businesses share a location, all records, office facilities, and inventory, if any, must be physically segregated and clearly identified.

(9) A retail vehicle dealer shall be open during normal business hours, maintain office and display facilities in a commercially zoned location or in a location complying with all applicable building and land use ordinances, and maintain a business telephone listing in the local directory. When two or more vehicle dealer businesses share a location, all records, office facilities, and inventory shall be physically segregated and clearly identified.

(10) A listing dealer need not have a display area if the dealer does not physically maintain any vehicles for display.

(11) A subagency license is not required for a mobile home dealer to display an on-site display model, a consigned mobile home not relocated from its site, or a repossessed mobile home if sales are handled from a principal place of business or subagency. A mobile home dealer shall identify on-site display models, repossessed mobile homes, and those consigned at their sites with a sign that includes the dealer's name and telephone number.

(12) Every vehicle dealer shall advise the department of the location of each and every place of business of the firm and the name or names under which the firm is doing

business at such location or locations. If any name or location is changed, the dealer shall notify the department of such change within ten days. The license issued by the department shall reflect the name and location of the firm and shall be posted in a conspicuous place at that location by the dealer.

(13) A vehicle dealer's license shall upon the death or incapacity of an individual vehicle dealer authorize the personal representative of such dealer, subject to payment of license fees, to continue the business for a period of six months from the date of the death or incapacity. [1993 c 307 § 5; 1991 c 339 § 28; 1989 c 301 § 2; 1986 c 241 § 4.]

46.70.041 Application for license—Contents. (1) Every application for a vehicle dealer license shall contain the following information to the extent it applies to the applicant:

(a) Proof as the department may require concerning the applicant's identity, including but not limited to his fingerprints, the honesty, truthfulness, and good reputation of the applicant for the license, or of the officers of a corporation making the application;

(b) The applicant's form and place of organization including if the applicant is a corporation, proof that the corporation is licensed to do business in this state;

(c) The qualification and business history of the applicant and any partner, officer, or director;

(d) The applicant's financial condition or history including a bank reference and whether the applicant or any partner, officer, or director has ever been adjudged bankrupt or has any unsatisfied judgment in any federal or state court;

(e) Whether the applicant has been adjudged guilty of a crime which directly relates to the business for which the license is sought and the time elapsed since the conviction is less than ten years, or has suffered any judgment within the preceding five years in any civil action involving fraud, misrepresentation, or conversion and in the case of a corporation or partnership, all directors, officers, or partners;

(f) A business telephone with a listing in the local directory;

(g) The name or names of new vehicles the vehicle dealer wishes to sell;

(h) The names and addresses of each manufacturer from whom the applicant has received a franchise;

(i) A certificate by a representative of the department, that the applicant's principal place of business and each subagency business location in the state of Washington meets the location requirements as required by this chapter. The certificate shall include proof of the applicant's ownership or lease of the real property where the applicant's principal place of business is established;

(j) A copy of a current service agreement with a manufacturer, or distributor for a foreign manufacturer, requiring the applicant, upon demand of any customer receiving a new vehicle warranty to perform or arrange for, within a reasonable distance of his established place of business, the service repair and replacement work required of the manufacturer or distributor by such vehicle warranty. This requirement applies only to applicants seeking to sell, to exchange, to offer, to auction, to solicit, to advertise, or to broker new or current-model vehicles with factory or distributor warranties;

(k) The class of vehicles the vehicle dealer will be buying, selling, listing, exchanging, offering, brokering, leasing with an option to purchase, auctioning, soliciting, or advertising, and which classification or classifications the dealer wishes to be designated as;

(l) Any other information the department may reasonably require.

(2) If the applicant is a manufacturer the application shall contain the following information to the extent it is applicable to the applicant:

(a) The name and address of the principal place of business of the applicant and, if different, the name and address of the Washington state representative of the applicant;

(b) The name or names under which the applicant will do business in the state of Washington;

(c) Evidence that the applicant is authorized to do business in the state of Washington;

(d) The name or names of the vehicles that the licensee manufactures;

(e) The name or names and address or addresses of each and every distributor, factory branch, and factory representative;

(f) The name or names and address or addresses of resident employees or agents to provide service or repairs to vehicles located in the state of Washington only under the terms of any warranty attached to new or unused vehicles manufactured, unless such manufacturer requires warranty service to be performed by all of its dealers pursuant to a current service agreement on file with the department;

(g) Any other information the department may reasonably require. [1993 c 307 § 6; 1993 c 175 § 2; 1990 c 250 § 64; 1986 c 241 § 8; 1979 c 158 § 187; 1977 ex.s. c 125 § 2; 1973 1st ex.s. c 132 § 5; 1971 ex.s. c 74 § 1; 1969 ex.s. c 63 § 2; 1967 ex.s. c 74 § 6.]

Reviser's note: This section was amended by 1993 c 175 § 2 and by 1993 c 307 § 6, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—1990 c 250: See note following RCW 46.16.301.

Requirements of "established place of business": RCW 46.70.023.

46.70.051 Issuance of license. (1) After the application has been filed, the fee paid, and bond posted, if required the department shall, if no denial order is in effect and no proceeding is pending under RCW 46.70.101, issue the appropriate license, which license, in the case of a vehicle dealer, shall designate the classification of the dealer. Nothing prohibits a vehicle dealer from obtaining licenses for more than one classification, and nothing prevents any vehicle dealer from dealing in other classes of vehicles on an isolated basis.

(2) An auction company licensed under chapter 18.11 RCW may sell at auction all classifications of vehicles under a motor vehicle dealer's license issued under this chapter including motor vehicles, miscellaneous type vehicles, and mobile homes and travel trailers. [1993 c 307 § 7; 1989 c 301 § 3; 1973 1st ex.s. c 132 § 6; 1971 ex.s. c 74 § 2; 1967 ex.s. c 74 § 7.]

46.70.083 Expiration of license—Renewal—Certification of established place of business. The license of a vehicle dealer or a vehicle manufacturer expires on the date that is twelve consecutive months from the date of issuance. The license may be renewed by filing with the department prior to the expiration of the license, a renewal application containing such information as the department may require to indicate the number of vehicle sales transacted during the past year, and any material change in the information contained in the original application. Failure by the dealer to comply is grounds for denial of the renewal application or dealer license plate renewal.

The dealer's established place of business shall be certified by a representative of the department at least once every thirty-six months, or more frequently as determined necessary by the department. The certification will verify compliance with the requirements of this chapter for an established place of business. Failure by the dealer to comply at any time is grounds for license suspension or revocation, denial of the renewal application, or monetary assessment. [1993 c 307 § 8; 1991 c 140 § 2; 1990 c 250 § 66; 1986 c 241 § 12; 1985 c 109 § 1; 1973 1st ex.s. c 132 § 12; 1971 ex.s. c 74 § 6; 1967 ex.s. c 74 § 10.]

Severability—1990 c 250: See note following RCW 46.16.301.

46.70.122 Duty when purchaser or transferee is a dealer. (1) If the purchaser or transferee is a dealer he shall, on selling or otherwise disposing of the vehicle, promptly execute the assignment and warranty of title, in such form as the director shall prescribe.

(2) The assignment and warranty shall show any secured party holding a security interest created or reserved at the time of resale, to which shall be attached the assigned certificates of ownership and license registration received by the dealer. The dealer shall mail or deliver them to the department with the transferee's application for the issuance of new certificates of ownership and license registration. The title certificate issued for a vehicle possessed by a dealer and subject to a security interest shall be delivered to the secured party who upon request of the dealer's transferee shall, unless the transfer was a breach of the security agreement, either deliver the certificate to the transferee for transmission to the department, or upon receipt from the transferee of the owner's bill of sale or sale document, the transferee's application for a new certificate and the required fee, mail or deliver to the department. Failure of a dealer to deliver the title certificate to the secured party does not affect perfection of the security interest. [1990 c 238 § 5; 1975 c 25 § 11; 1972 ex.s. c 99 § 3; 1967 c 140 § 2; 1961 c 12 § 46.12.120. Prior: 1959 c 166 § 10; prior: 1947 c 164 § 4(c); 1937 c 188 § 6(c); Rem. Supp. 1947 § 6312-6(c). Formerly RCW 46.12.120.]

Effective date, implementation—1990 c 238: See note following RCW 46.12.030.

Effective date—1967 c 140: See note following RCW 46.12.010.

Definitions: RCW 46.12.005.

46.70.124 Certificates of ownership for dealers' used vehicles—Consignments. In the case of vehicle dealers a separate certificate of ownership, either of the dealer or of the dealer's immediate vendor properly assigned, shall be required covering each used vehicle kept in the dealer's possession. In the case of consigned vehicles, the vehicle dealer may possess a completed consignment contract that includes a guaranteed title from the seller in lieu of the required certificate of ownership. [1990 c 250 § 29; 1961 c 12 § 46.12.140. Prior: 1959 c 166 § 12; prior: 1947 c 164 § 4(e); 1937 c 188 § 6(e); Rem. Supp. 1947 § 6312-6(e). Formerly RCW 46.12.140.]

Severability—1990 c 250: See note following RCW 46.16.301.

46.70.140 Handling "hot" vehicles—Unreported motor "switches"—Unauthorized use of dealer plates—Penalty. Any vehicle dealer who knowingly or with reason to know, buys or receives, sells or disposes of, conceals or has in the dealer's possession, any vehicle from which the motor or serial number has been removed, defaced, covered, altered, or destroyed, or any dealer, who removes from or installs in any motor vehicle registered with the department by motor block number, a new or used motor block without immediately notifying the department of such fact upon a form provided by the department, or any vehicle dealer who loans or permits the use of vehicle dealer license plates by any person not entitled to the use thereof, is guilty of a gross misdemeanor. [1993 c 307 § 9; 1973 1st ex.s. c 132 § 17; 1971 ex.s. c 74 § 8; 1967 c 32 § 79; 1961 c 12 § 46.70.140. Prior: 1951 c 150 § 11.]

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

46.70.180 Unlawful acts and practices. Each of the following acts or practices is unlawful:

(1) To cause or permit to be advertised, printed, displayed, published, distributed, broadcasted, televised, or disseminated in any manner whatsoever, any statement or representation with regard to the sale or financing of a vehicle which is false, deceptive, or misleading, including but not limited to the following:

(a) That no down payment is required in connection with the sale of a vehicle when a down payment is in fact required, or that a vehicle may be purchased for a smaller down payment than is actually required;

(b) That a certain percentage of the sale price of a vehicle may be financed when such financing is not offered in a single document evidencing the entire security transaction;

(c) That a certain percentage is the amount of the service charge to be charged for financing, without stating whether this percentage charge is a monthly amount or an amount to be charged per year;

(d) That a new vehicle will be sold for a certain amount above or below cost without computing cost as the exact amount of the factory invoice on the specific vehicle to be sold;

(e) That a vehicle will be sold upon a monthly payment of a certain amount, without including in the statement the number of payments of that same amount which are required to liquidate the unpaid purchase price.

(2) To incorporate within the terms of any purchase and sale agreement any statement or representation with regard to the sale or financing of a vehicle which is false, decep-

tive, or misleading, including but not limited to terms that include as an added cost to the selling price of a vehicle an amount for licensing or transfer of title of that vehicle which is not actually due to the state, unless such amount has in fact been paid by the dealer prior to such sale.

(3) To set up, promote, or aid in the promotion of a plan by which vehicles are to be sold to a person for a consideration and upon further consideration that the purchaser agrees to secure one or more persons to participate in the plan by respectively making a similar purchase and in turn agreeing to secure one or more persons likewise to join in said plan, each purchaser being given the right to secure money, credits, goods, or something of value, depending upon the number of persons joining the plan.

(4) To commit, allow, or ratify any act of "bushing" which is defined as follows: Taking from a prospective buyer of a vehicle a written order or offer to purchase, or a contract document signed by the buyer, which:

(a) Is subject to the dealer's, or his authorized representative's future acceptance, and the dealer fails or refuses within forty-eight hours, exclusive of Saturday, Sunday, or legal holiday, and prior to any further negotiations with said buyer, to deliver to the buyer either the dealer's signed acceptance or all copies of the order, offer, or contract document together with any initial payment or security made or given by the buyer, including but not limited to money, check, promissory note, vehicle keys, a trade-in, or certificate of title to a trade-in; or

(b) Permits the dealer to renegotiate a dollar amount specified as trade-in allowance on a vehicle delivered or to be delivered by the buyer as part of the purchase price, for any reason except substantial physical damage or latent mechanical defect occurring before the dealer took possession of the vehicle and which could not have been reasonably discoverable at the time of the taking of the order, offer, or contract; or

(c) Fails to comply with the obligation of any written warranty or guarantee given by the dealer requiring the furnishing of services or repairs within a reasonable time.

(5) To commit any offense relating to odometers, as such offenses are defined in RCW 46.37.540, 46.37.550, 46.37.560, and 46.37.570. A violation of this subsection is a class C felony punishable under chapter 9A.20 RCW.

(6) For any vehicle dealer or vehicle salesman to refuse to furnish, upon request of a prospective purchaser, the name and address of the previous registered owner of any used vehicle offered for sale.

(7) To commit any other offense under RCW 46.37.423, 46.37.424, or 46.37.425.

(8) To commit any offense relating to a dealer's temporary license permit, including but not limited to failure to properly complete each such permit, or the issuance of more than one such permit on any one vehicle.

(9) For a dealer, salesman, or mobile home manufacturer, having taken an instrument or cash "on deposit" from a purchaser prior to the delivery of the bargained-for vehicle, to commingle said "on deposit" funds with assets of the dealer, salesman, or mobile home manufacturer instead of holding said "on deposit" funds as trustee in a separate trust account until the purchaser has taken delivery of the bargained-for vehicle. Failure, immediately upon receipt, to endorse "on deposit" instruments to such a trust account, or to set aside "on deposit" cash for deposit in such trust account, and failure to deposit such instruments or cash in such trust account by the close of banking hours on the day following receipt thereof, shall be evidence of intent to commit this unlawful practice: PROVIDED, HOWEVER, That a motor vehicle dealer may keep a separate trust account which equals his customary total customer deposits for vehicles for future delivery.

(10) For a dealer or manufacturer to fail to comply with the obligations of any written warranty or guarantee given by the dealer or manufacturer requiring the furnishing of goods and services or repairs within a reasonable period of time, or to fail to furnish to a purchaser, all parts which attach to the manufactured unit including but not limited to the undercarriage, and all items specified in the terms of a sales agreement signed by the seller and buyer.

(11) For a vehicle dealer to pay to or receive from any person, firm, partnership, association, or corporation acting, either directly or through a subsidiary, as a buyer's agent for consumers, any compensation, fee, gratuity, or reward in connection with the purchase or sale of a new motor vehicle.

(12) For a buyer's agent acting directly or through a subsidiary to pay to or to receive from any motor vehicle dealer any compensation, fee, gratuity, or reward in connection with the purchase or sale of a new motor vehicle.

(13) For a buyer's agent to arrange for or to negotiate the purchase, or both, of a new motor vehicle through an out-of-state dealer without disclosing in writing to the customer that the new vehicle would not be subject to chapter 19.118 RCW.

(14) Being a manufacturer, other than a motorcycle manufacturer governed by chapter 46.94 RCW, to:

(a) Coerce or attempt to coerce any vehicle dealer to order or accept delivery of any vehicle or vehicles, parts or accessories, or any other commodities which have not been voluntarily ordered by the vehicle dealer: PROVIDED, That recommendation, endorsement, exposition, persuasion, urging, or argument are not deemed to constitute coercion;

(b) Cancel or fail to renew the franchise or selling agreement of any vehicle dealer doing business in this state without fairly compensating the dealer at a fair going business value for his capital investment which shall include but not be limited to tools, equipment, and parts inventory possessed by the dealer on the day he is notified of such cancellation or termination and which are still within the dealer's possession on the day the cancellation or termination is effective, if: (i) The capital investment has been entered into with reasonable and prudent business judgment for the purpose of fulfilling the franchise; and (ii) said cancellation or nonrenewal was not done in good faith. Good faith is defined as the duty of each party to any franchise to act in a fair and equitable manner towards each other, so as to guarantee one party freedom from coercion, intimidation, or threats of coercion or intimidation from the other party: PROVIDED, That recommendation, endorsement, exposition, persuasion, urging, or argument are not deemed to constitute a lack of good faith.

(c) Encourage, aid, abet, or teach a vehicle dealer to sell vehicles through any false, deceptive, or misleading sales or

financing practices including but not limited to those practices declared unlawful in this section;

(d) Coerce or attempt to coerce a vehicle dealer to engage in any practice forbidden in this section by either threats of actual cancellation or failure to renew the dealer's franchise agreement;

(e) Refuse to deliver any vehicle publicly advertised for immediate delivery to any duly licensed vehicle dealer having a franchise or contractual agreement for the retail sale of new and unused vehicles sold or distributed by such manufacturer within sixty days after such dealer's order has been received in writing unless caused by inability to deliver because of shortage or curtailment of material, labor, transportation, or utility services, or by any labor or production difficulty, or by any cause beyond the reasonable control of the manufacturer;

(f) To provide under the terms of any warranty that a purchaser of any new or unused vehicle that has been sold, distributed for sale, or transferred into this state for resale by the vehicle manufacturer may only make any warranty claim on any item included as an integral part of the vehicle against the manufacturer of that item.

Nothing in this section may be construed to impair the obligations of a contract or to prevent a manufacturer, distributor, representative, or any other person, whether or not licensed under this chapter, from requiring performance of a written contract entered into with any licensee hereunder, nor does the requirement of such performance constitute a violation of any of the provisions of this section if any such contract or the terms thereof requiring performance, have been freely entered into and executed between the contracting parties. This paragraph and *subsection (11)(b) of this section do not apply to new motor vehicle manufacturers governed by chapter 46.96 RCW.

(15) Unlawful transfer of an ownership interest in a motor vehicle as defined in RCW 19.116.050. [1993 c 175 § 3; 1990 c 44 § 14; 1989 c 415 § 20; 1986 c 241 § 18; 1985 c 472 § 13; 1981 c 152 § 6; 1977 ex.s. c 125 § 4; 1973 1st ex.s. c 132 § 18; 1969 c 112 § 1; 1967 ex.s. c 74 § 16.]

***Reviser's note:** 1993 c 175 § 3 added three new subsections to this section but failed to update this reference. The previous subsection (11)(b) is now subsection (14)(b).

Severability—1990 c 44: See RCW 19.116.900.

Severability—1989 c 415: See RCW 46.96.900.

Severability—1985 c 472: See RCW 46.94.900.

Odometers—Disconnecting, resetting, turning back, replacing without notifying purchaser: RCW 46.37.540 through 46.37.570.

46.70.290 Mobile homes and persons engaged in distribution and sale. The provisions of chapter 46.70 RCW shall apply to the distribution and sale of mobile homes and to mobile home dealers, distributors, manufacturers, factory representatives, or other persons engaged in such distribution and sale to the same extent as for motor vehicles. [1993 c 307 § 10; 1971 ex.s. c 231 § 23.]

Effective date—1971 ex.s. c 231: See note following RCW 46.01.130.

46.70.300 Chapter exclusive—Local business and occupation tax not prevented. (1) The provisions of this chapter relating to the licensing and regulation of vehicle dealers and manufacturers shall be exclusive, and no county, city, or other political subdivision of this state shall enact any laws, rules, or regulations licensing or regulating vehicle dealers or manufacturers.

(2) This section shall not be construed to prevent a political subdivision of this state from levying a business and occupation tax upon vehicle dealers or manufacturers maintaining an office within that political subdivision if a business and occupation tax is levied by such a political subdivision upon other types of businesses within its boundaries. [1993 c 307 § 11; 1981 c 152 § 2.]

46.70.320 Violations regarding buyer's agents. The regulation of buyers' agents is a matter affecting the public interest for the purpose of applying chapter 19.86 RCW. Activities of buyers' agents prohibited under RCW 46.70.180 (11), (12), or (13) are not reasonable in relation to the development and preservation of business. A violation of RCW 46.70.180 (11), (12), or (13) constitutes an unfair or deceptive act or practice in trade or commerce for the purpose of applying chapter 19.86 RCW. [1993 c 175 § 4.]

Chapter 46.71
AUTOMOTIVE REPAIR

Sections

46.71.005 Legislative recognition. (Effective January 1, 1994.) The automotive repair industry supports good communication between auto repair facilities and their customers. The legislature recognizes that improved communications and accurate representations between automotive repair facilities and the customers will: Increase consumer confidence; reduce the likelihood of disputes arising; clarify repair facility lien interests; and promote fair and nondeceptive practices, thereby enhancing the safety and reliability of motor vehicles serviced by auto repair facilities in the state of Washington. [1993 c 424 § 1.]

Severability—1993 c 424: "If any provision of this act is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of the act and the applicability thereof to persons and circumstances shall not be affected thereby." [1993 c 424 § 15.]

Effective date—1993 c 424: "This act shall take effect January 1, 1994." [1993 c 424 § 18.]

46.71.010 Repealed. (Effective January 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

46.71.011 Definitions. (Effective January 1, 1994.) For purposes of this chapter:

(1) An "aftermarket body part" or "nonoriginal equipment manufacturer body part" is an exterior body panel or nonstructural body component manufactured by someone other than the original equipment manufacturer and supplied through suppliers other than those in the manufacturer's normal distribution channels.

(2) "Automotive repair" includes but is not limited to:

(a) All repairs to vehicles subject to chapter 46.16 RCW that are commonly performed in a repair facility by a motor vehicle technician including the diagnosis, installation, exchange, or repair of mechanical or electrical parts or units for any vehicle, the performance of any electrical or mechanical adjustment to any vehicle, or the performance of any service work required for routine maintenance or repair of any vehicle. However, commercial fleet repair or maintenance transactions involving two or more vehicles or ongoing service or maintenance contracts involving vehicles used primarily for business purposes are not included;

(b) All work in facilities that perform one or more specialties within the automotive repair service industry including, but not limited to, body collision repair, refinishing, brake, electrical, exhaust repair or installation, frame, unibody, front-end, radiators, tires, transmission, tune-up, and windshield; and

(c) The removal, replacement, or repair of exterior body panels, the removal, replacement, or repair of structural and nonstructural body components, the removal, replacement, or repair of collision damaged suspension components, and the refinishing of automotive components.

(3) "Automotive repair facility" or "repair facility" means any person, firm, association, or corporation who for compensation engages in the business of automotive repair or diagnosis, or both, of malfunctions of motor vehicles subject to licensure under chapter 46.16 RCW and repair and refinishing auto-body collision damage as well as overall refinishing and cosmetic repairs.

(4) A "rebuilt" part consists of a used assembly that has been dismantled and inspected with only the defective parts being replaced.

(5) A "remanufactured" part consists of a used assembly that has been dismantled with the core parts being remachined and all other parts replaced with new parts so as to provide performance comparable to that found originally. [1993 c 424 § 2.]

Severability—Effective date—1993 c 424: See notes following RCW 46.71.005.

46.71.015 Estimates—Invoices—Recordkeeping requirements. (Effective January 1, 1994.) (1) Except as otherwise provided in RCW 46.71.025, all estimates that exceed one hundred dollars shall be in writing and include the following information: The date; the name, address, and telephone number of the repair facility; the name, address, and telephone number, if available, of the customer or the customer's designee; if the vehicle is delivered for repair, the year, make, and model of the vehicle, the vehicle license plate number or last eight digits of the vehicle identification number, and the odometer reading of the vehicle; a description of the problem reported by the customer or the specific repairs requested by the customer; and a choice of alternatives described in RCW 46.71.025.

(2) Whether or not a written estimate is required, parts and labor provided by an automotive repair facility shall be clearly and accurately recorded in writing on an invoice and shall include, in addition to the information listed in subsection (1) of this section, the following information: A description of the repair or maintenance services performed on the vehicle; a list of all parts supplied, identified by name and part number, if available, part kit description or recognized package or shop supplies, if any, and an indication whether the parts supplied are rebuilt, or used, if applicable or where collision repair is involved, aftermarket body parts or nonoriginal equipment manufacturer body parts, if applicable; the price per part charged, if any, and the total amount charged for all parts; the total amount charged for all labor, if any; and the total charge. Parts and labor do not need to be separately disclosed if pricing is expressed as an advertised special by the job, a predisclosed written repair menu item, or a routine service package.

(3) Notwithstanding subsection (2) of this section, if the repair work is performed under warranty or without charge to the customer, other than an applicable deductible, the repair facility shall provide either an itemized list of the parts supplied, or describe the service performed on the vehicle, but the repair facility is not required to provide any pricing information for parts or labor.

(4) A copy of the estimate, unless waived, shall be provided to the customer or customer's designee prior to providing parts or labor as required under RCW 46.71.025. A copy of the invoice shall be provided to the customer upon completion of the repairs.

(5) Only material omissions, under this section, are actionable in a court of law or equity. [1993 c 424 § 3.]

Severability—Effective date—1993 c 424: See notes following RCW 46.71.005.

46.71.020 Repealed. (Effective January 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

46.71.021 Disposition of replaced parts. (Effective January 1, 1994.) Except for parts covered by a manufacturer's or other warranty or parts that must be returned to a distributor, remanufacturer, or rebuilder, the repair facility shall return replaced parts to the customer at the time the work is completed if the customer requested the parts at the time of authorization of the repair. If a customer at the time of authorization of the repair requests the return

of a part that must be returned to the manufacturer, remanufacturer, distributor, recycler, or rebuilder, or must be disposed of as required by law, the repair facility shall offer to show the part to the customer. The repair facility need not show a replaced part if no charge is being made for the replacement part. [1993 c 424 § 4.]

Severability—Effective date—1993 c 424: See notes following RCW 46.71.005.

46.71.025 Estimate required—Alternatives—Authorization to exceed. (Effective January 1, 1994.) (1) Except as provided in subsection (3) of this section, a repair facility prior to providing parts or labor shall provide the customer or the customer's designee with a written price estimate of the total cost of the repair, including parts and labor, or where collision repair is involved, aftermarket body parts or nonoriginal equipment manufacturer body parts, if applicable, or offer the following alternatives:

"YOU ARE ENTITLED TO A WRITTEN PRICE ESTIMATE FOR THE REPAIRS YOU HAVE AUTHORIZED. YOU ARE ALSO ENTITLED TO REQUIRE THE REPAIR FACILITY TO OBTAIN YOUR ORAL OR WRITTEN AUTHORIZATION TO EXCEED THE WRITTEN PRICE ESTIMATE. YOUR SIGNATURE OR INITIALS WILL INDICATE YOUR SELECTION.

1. I request an estimate in writing before you begin repairs. Contact me if the price will exceed this estimate by more than ten percent.

2. Proceed with repairs but contact me if the price will exceed $. . . . . .

3. I do not want a written estimate.

. . . . . (Initial or signature)

Date: . . . . Time: . . . . "

(2) The repair facility may not charge the customer more than one hundred ten percent, exclusive of retail sales tax, of the total shown on the written price estimate. Neither of these limitations apply if, before providing additional parts or labor the repair facility obtains either the oral or written authorization of the customer, or the customer's designee, to exceed the written price estimate. The repair facility or its representative shall note on the estimate the date and time of obtaining an oral authorization, the additional parts and labor required, the estimated cost of the additional parts and labor, or where collision repair is involved, aftermarket body parts or nonoriginal equipment manufacturer body parts, if applicable, the name or identification number of the employee who obtains the authorization, and the name and telephone number of the person authorizing the additional costs.

(3) A written estimate shall not be required when the customer's motor vehicle or component has been brought to an automotive repair facility's regular place of business without face-to-face contact between the customer and the repair facility. Face-to-face contact means actual in-person discussion between the customer or his or her designee and the agent or employee of the automotive repair facility authorized to intake vehicles or components. However, prior to providing parts and labor, the repair facility must obtain either the oral or written authorization of the customer or the customer's designee. The repair facility or its representative shall note on the estimate or repair order the date and time of obtaining an oral authorization, the total amount authorized, the name or identification number of the employee who obtains the authorization, and the name of the person authorizing the repairs. [1993 c 424 § 5.]

Severability—Effective date—1993 c 424: See notes following RCW 46.71.005.

46.71.030 Repealed. (Effective January 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

46.71.031 Required signs. (Effective January 1, 1994.) An automotive repair facility shall post in a prominent place on the business premises one or more signs, readily visible to customers, in the following form:

"YOUR CUSTOMER RIGHTS

YOU ARE ENTITLED BY LAW TO:

1. A WRITTEN ESTIMATE FOR REPAIRS WHICH WILL COST MORE THAN ONE HUNDRED DOLLARS, UNLESS WAIVED OR ABSENT FACE-TO-FACE CONTACT (SEE ITEM 4 BELOW);
2. RETURN OR INSPECTION OF ALL REPLACED PARTS, IF REQUESTED AT TIME OF REPAIR AUTHORIZATION;
3. AUTHORIZE ORALLY OR IN WRITING ANY REPAIRS WHICH EXCEED THE ESTIMATED TOTAL PRESALES TAX COST BY MORE THAN TEN PERCENT;
4. AUTHORIZE ANY REPAIRS ORALLY OR IN WRITING IF YOUR VEHICLE IS LEFT WITH THE REPAIR FACILITY WITHOUT FACE-TO-FACE CONTACT BETWEEN YOU AND THE REPAIR FACILITY PERSONNEL.

IF YOU HAVE AUTHORIZED A REPAIR IN ACCORDANCE WITH THE ABOVE INFORMATION YOU ARE REQUIRED TO PAY FOR THE COSTS OF THE REPAIR PRIOR TO TAKING THE VEHICLE FROM THE PREMISES."

The first line of each sign shall be in letters not less than one and one-half inch in height and the remaining lines shall be in letters not less than one-half inch in height. [1993 c 424 § 6.]

Severability—Effective date—1993 c 424: See notes following RCW 46.71.005.

46.71.035 Failure to comply with estimate requirements. (Effective January 1, 1994.) An automotive repair facility that fails to comply with the estimate requirements of RCW 46.71.025 is barred from recovering in an action to recover for automotive repairs any amount in excess of one hundred ten percent of the amount authorized by the customer, or the customer's designee, unless the repair facility proves by a preponderance of the evidence that its conduct was reasonable, necessary, and justified under the circumstances. In an action to recover for automotive repairs the

prevailing party may, at the discretion of the court, recover the costs of the action and reasonable attorneys' fees. [1993 c 424 § 7.]

Severability—Effective date—1993 c 424: See notes following RCW 46.71.005.

46.71.040 Repealed. (Effective January 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

46.71.041 Liens barred for failure to comply. (Effective January 1, 1994.) A repair facility that fails to comply with RCW 46.71.021, 46.71.025, or 46.71.031 is barred from asserting a possessory or chattel lien for the amount of the unauthorized parts or labor upon the motor vehicle or component. [1993 c 424 § 8.]

Severability—Effective date—1993 c 424: See notes following RCW 46.71.005.

46.71.043 Repealed. (Effective January 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

46.71.045 Unlawful acts or practices. (Effective January 1, 1994.) Each of the following acts or practices are unlawful:

(1) Advertising that is false, deceptive, or misleading. A single or isolated media mistake does not constitute a false, deceptive, or misleading statement or misrepresentation under this section;

(2) Materially understating or misstating the estimated price for a specified repair procedure;

(3) Retaining payment from a customer for parts not delivered or installed or a labor operation or repair procedure that has not actually been performed;

(4) Unauthorized operation of a customer's vehicle for purposes not related to repair or diagnosis;

(5) Failing or refusing to provide a customer, upon request, a copy, at no charge, of any document signed by the customer;

(6) Retaining duplicative payment from both the customer and the warranty or extended service contract provider for the same covered component, part, or labor;

(7) Charging a customer for unnecessary repairs. For purposes of this subsection "unnecessary repairs" means those for which there is no reasonable basis for performing the service. A reasonable basis includes, but is not limited to: (a) That the repair service is consistent with specifications established by law or the manufacturer of the motor vehicle, component, or part; (b) that the repair is in accordance with accepted industry standards; or (c) that the repair was performed at the specific request of the customer. [1993 c 424 § 9.]

Severability—Effective date—1993 c 424: See notes following RCW 46.71.005.

46.71.047 Repealed. (Effective January 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

46.71.050 Repealed. (Effective January 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

46.71.051 Copy of warranty. (Effective January 1, 1994.) The repair facility shall make available, upon request, a copy of any express warranty provided by the repair facility to the customer that covers repairs performed on the vehicle. [1993 c 424 § 10.]

Severability—Effective date—1993 c 424: See notes following RCW 46.71.005.

46.71.060 Price estimates and invoices kept for one year. (Effective January 1, 1994.) Every automotive repair facility shall retain and make available for inspection, upon request by the customer or the customer's authorized representative, true copies of the written price estimates and invoices required under this chapter for at least one year after the date on which the repairs were performed. [1993 c 424 § 11; 1982 c 62 § 7; 1977 ex.s. c 280 § 6.]

Severability—Effective date—1993 c 424: See notes following RCW 46.71.005.

46.71.065 Repealed. (Effective January 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

46.71.070 Unfair practices as violation of Consumer Protection Act—Defense. (Effective January 1, 1994.) The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the Consumer Protection Act, chapter 19.86 RCW. Violations of this chapter are not reasonable in relation to the development and preservation of business. A violation of this chapter is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the Consumer Protection Act, chapter 19.86 RCW. In an action under chapter 19.86 RCW due to an automotive repair facility's charging a customer an amount in excess of one hundred ten percent of the amount authorized by the customer, a violation shall not be found if the automotive repair facility proves by a preponderance of the evidence that its conduct was reasonable, necessary, and justified under the circumstances.

Notwithstanding RCW 46.64.050, no violation of this chapter shall give rise to criminal liability under that section. [1993 c 424 § 12; 1982 c 62 § 9; 1977 ex.s. c 280 § 7.]

Severability—Effective date—1993 c 424: See notes following RCW 46.71.005.

46.71.090 Notice of this chapter to repair facilities. (Effective January 1, 1994.) When the department of revenue issues a registration certificate under RCW 82.32.030 to an automotive repair facility, it shall give written notice to the person of the requirements of this chapter in a manner prescribed by the director of revenue. The department of revenue shall thereafter give the notice on an annual basis in conjunction with the business and occupation tax return provided to each person holding a registration certificate as an automotive repair facility. [1993 c 424 § 13; 1982 c 62 § 11.]

Severability—Effective date—1993 c 424: See notes following RCW 46.71.005.

Chapter 46.81A
MOTORCYCLE SKILLS EDUCATION PROGRAM

Sections

46.81A.020 Powers and duties of director.

46.81A.020 Powers and duties of director. (1) The director shall administer and enforce the law pertaining to the motorcycle skills education program as set forth in this chapter.

(2) The director may adopt and enforce reasonable rules that are consistent with this chapter.

(3) The director shall revise the Washington motorcycle safety program to:

(a) Institute a motorcycle skills education course for both novice and advanced motorcycle riders that is a minimum of eight hours and no more than sixteen hours at a cost of no more than fifty dollars;

(b) Encourage the use of loaned or used motorcycles for use in the motorcycle skills education course if the instructor approves them;

(c) Require all instructors to conduct at least three classes in a one-year period to maintain their teaching eligibility;

(d) Encourage the use of radio or intercom equipped helmets when, in the opinion of the instructor, radio or intercom equipped helmets improve the quality of instruction;

(e) Require a biennial report to be submitted to the legislative transportation committee that includes the following:

(i) A narrative history of the program;

(ii) Current biennium program appropriations versus actual program expenditures;

(iii) Historical enrollment statistics and enrollment forecasts;

(iv) Comparative data evaluating motorcycle traffic statistics of program graduates versus nongraduates;

(v) Data on the age of the enrollees;

(vi) Statistical information regarding general trends in motorcycle ridership in Washington state;

(vii) The number of courses offered throughout the biennium;

(viii) Information on course dropout rates.

(4) The department shall obtain and compile information from applicants for a motorcycle endorsement regarding whether they have completed a state approved motorcycle skills education course. This information shall be used for the report required by subsection (3)(e) of this section. [1993 c 115 § 2; 1988 c 227 § 3.]

Chapter 46.87
PROPORTIONAL REGISTRATION
(Formerly: International Registration Plan)

Sections

46.87.020 Definitions.
46.87.030 Part-year registration—Credit for unused fees.
46.87.070 Registration of trailers, semitrailers, pole trailers. (Effective January 1, 1994.)
46.87.080 Cab cards, validation tabs, special license plates—Design, procedures—Issuance, refusal, revocation.
46.87.085 Staggered renewal periods.
46.87.160 Repealed.
46.87.310 Application records—Preservation, contents, audit—Additional assessments, penalties, refunds.
46.87.340 Assessments—Lien for nonpayment.

46.87.020 Definitions. Terms used in this chapter have the meaning given to them in the International Registration Plan (IRP), the Uniform Vehicle Registration, Proration, and Reciprocity Agreement (Western Compact), chapter 46.04 RCW, or as otherwise defined in this section. Definitions given to terms by the IRP and the Western Compact, as applicable, shall prevail unless given a different meaning in this chapter or in rules adopted under authority of this chapter.

(1) "Apportionable vehicle" has the meaning given by the IRP, except that it does not include vehicles with a declared gross weight of twelve thousand pounds or less. Apportionable vehicles include trucks, tractors, truck tractors, road tractors, and buses, each as separate and licensable vehicles. For IRP jurisdictions that require the registration of nonmotor vehicles, this term may include trailers, semitrailers, and pole trailers as applicable, each as separate and licensable vehicles.

(2) "Cab card" is a certificate of registration issued for a vehicle by the registering jurisdiction under the Western Compact. Under the IRP, it is a certificate of registration issued by the base jurisdiction for a vehicle upon which is disclosed the jurisdictions and registered gross weights in such jurisdictions for which the vehicle is registered.

(3) "Commercial vehicle" is a term used by the Western Compact and means any vehicle, except recreational vehicles, vehicles displaying restricted plates, and government owned or leased vehicles, that is operated and registered in more than one jurisdiction and is used or maintained for the transportation of persons for hire, compensation, or profit, or is designed, used, or maintained primarily for the transportation of property and:

(a) Is a motor vehicle having a declared gross weight in excess of twenty-six thousand pounds; or

(b) Is a motor vehicle having three or more axles with a declared gross weight in excess of twelve thousand pounds; or

(c) Is a motor vehicle, trailer, pole trailer, or semitrailer used in combination when the gross weight or declared gross weight of the combination exceeds twenty-six thousand pounds combined gross weight. The nonmotor vehicles mentioned are only applicable to those jurisdictions requiring the registration of such vehicles.

Although a two-axle motor vehicle, trailer, pole trailer, semitrailer, or any combination of such vehicles with an actual or declared gross weight or declared combined gross weight exceeding twelve thousand pounds but not more than twenty-six thousand is not considered to be a commercial vehicle, at the option of the owner, such vehicles may be considered as "commercial vehicles" for the purpose of proportional registration. The nonmotor vehicles mentioned are only applicable to those jurisdictions requiring the registration of such vehicles.

Commercial vehicles include trucks, tractors, truck tractors, road tractors, and buses. Trailers, pole trailers, and semitrailers, will also be considered as commercial vehicles for those jurisdictions who require registration of such vehicles.

(4) "Credentials" means cab cards, apportioned plates (for Washington-based fleets), and validation tabs issued for proportionally registered vehicles.

(5) "Declared combined gross weight" means the total unladen weight of any combination of vehicles plus the weight of the maximum load to be carried on the combination of vehicles as set by the registrant in the application pursuant to chapter 46.44 RCW and for which registration fees have been or are to be paid.

(6) "Declared gross weight" means the total unladen weight of any vehicle plus the weight of the maximum load to be carried on the vehicle as set by the registrant in the application pursuant to chapter 46.44 RCW and for which registration fees have been or are to be paid. In the case of a bus, auto stage, or a passenger-carrying for hire vehicle with a seating capacity of more than six, the declared gross weight shall be determined by multiplying the average load factor of one hundred and fifty pounds by the number of seats in the vehicle, including the driver's seat, and add this amount to the unladen weight of the vehicle. If the resultant gross weight is not listed in RCW 46.16.070, it will be increased to the next higher gross weight so listed pursuant to chapter 46.44 RCW.

(7) "Department" means the department of licensing.

(8) "Fleet" means one or more commercial vehicles in the Western Compact and one or more apportionable vehicles in the IRP.

(9) "In-jurisdiction miles" means the total miles accumulated in a jurisdiction during the preceding year by vehicles of the fleet while they were a part of the fleet.

(10) "IRP" means the International Registration Plan.

(11) "Jurisdiction" means and includes a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a foreign country, and a state or province of a foreign country.

(12) "Owner" means a person or business firm who holds the legal title to a vehicle, or if a vehicle is the subject of an agreement for its conditional sale with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee, or if a vehicle is subject to a lease, contract, or other legal arrangement vesting right of possession or control, for security or otherwise, or if a mortgagor of a vehicle is entitled to possession, then the owner is deemed to be the person or business firm in whom is vested right of possession or control.

(13) "Preceding year" means the period of twelve consecutive months ending three months before the registration or license year for which proportional registration is sought.

(14) "Properly registered," as applied to the place of registration under the provisions of the Western Compact, means:

(a) In the case of a commercial vehicle, the jurisdiction in which it is registered if the commercial enterprise in which the vehicle is used has a place of business therein, and, if the vehicle is most frequently dispatched, garaged, serviced, maintained, operated, or otherwise controlled in or from that place of business, and the vehicle has been assigned to that place of business; or

(b) In the case of a commercial vehicle, the jurisdiction where, because of an agreement or arrangement between two or more jurisdictions, or pursuant to a declaration, the vehicle has been registered as required by that jurisdiction.

In case of doubt or dispute as to the proper place of registration of a commercial vehicle, the department shall make the final determination, but in making such determination, may confer with departments of the other jurisdictions affected.

(15) "Prorate percentage" is the factor that is applied to the total proratable fees and taxes to determine the apportionable or prorate fees required for registration in a particular jurisdiction. It is determined by dividing the in-jurisdiction miles for a particular jurisdiction by the total miles. This term is synonymous with the term "mileage percentage."

(16) "Registrant" means a person, business firm, or corporation in whose name or names a vehicle or fleet of vehicles is registered.

(17) "Registration year" means the twelve-month period during which the registration plates issued by the base jurisdiction are valid according to the laws of the base jurisdiction.

(18) "Total miles" means the total number of miles accumulated in all jurisdictions during the preceding year by all vehicles of the fleet while they were a part of the fleet. Mileage accumulated by vehicles of the fleet that did not engage in interstate operations is not included in the fleet miles.

(19) "Western Compact" means the Uniform Vehicle Registration, Proration, and Reciprocity Agreement. [1993 c 307 § 12; 1991 c 163 § 4; 1990 c 42 § 111; 1987 c 244 § 16; 1985 c 380 § 2.]

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

Effective dates—1987 c 244: See note following RCW 46.12.020.

46.87.030 Part-year registration—Credit for unused fees. (1) When application to register an apportionable or commercial vehicle is made after the third month of the owner's registration year, the Washington prorated fees may be reduced by one-twelfth for each full registration month that has elapsed at the time a temporary authorization permit (TAP) was issued or if no TAP was issued, at such time as an application for registration is received in the department. If a vehicle is being added to a currently registered fleet, the prorate percentage previously established for the fleet for such registration year shall be used in the computation of the proportional fees and taxes due.

(2) If any vehicle is withdrawn from a proportionally registered fleet during the period for which it is registered under this chapter, the registrant of the fleet shall notify the department on appropriate forms prescribed by the department. The department may require the registrant to surrender credentials that were issued to the vehicle. If a motor vehicle is permanently withdrawn from a proportionally registered fleet because it has been destroyed, sold, or

otherwise completely removed from the service of the fleet registrant, the unused portion of the licensing fee paid under RCW 46.16.070 with respect to the vehicle reduced by one-twelfth for each calendar month and fraction thereof elapsing between the first day of the month of the current registration year in which the vehicle was registered and the date the notice of withdrawal, accompanied by such credentials as may be required, is received in the department, shall be credited to the fleet proportional registration account of the registrant. Credit shall be applied against the licensing fee liability for subsequent additions of motor vehicles to be proportionally registered in the fleet during such registration year or for additional licensing fees due under RCW 46.16.070 or to be due upon audit under RCW 46.87.310. If any credit is less than fifteen dollars, no credit will be entered. In lieu of credit, the registrant may choose to transfer the unused portion of the licensing fee for the motor vehicle to the new owner, in which case it shall remain with the motor vehicle for which it was originally paid. In no event may any amount be credited against fees other than those for the registration year from which the credit was obtained nor is any amount subject to refund. [1993 c 307 § 13; 1987 c 244 § 18; 1986 c 18 § 23; 1985 c 380 § 3.]

Effective dates—1987 c 244: See note following RCW 46.12.020.

46.87.070 Registration of trailers, semitrailers, pole trailers. (Effective January 1, 1994.) (1) Washington-based trailers, semitrailers, or pole trailers shall be licensed in this state under the provisions of chapter 46.16 RCW except as herein provided. If these vehicles are being operated in jurisdictions that require the registration of such vehicles, the applicable vehicles may be considered as apportionable or commercial vehicles for the purpose of registration in those jurisdictions and this state. This provision does not apply to trailers, semitrailers, or pole trailers which have been issued permanent plates.

(2) Trailers, semitrailers, and pole trailers which are properly based in jurisdictions other than Washington, and which display currently registered license plates from such jurisdictions will be granted vehicle license reciprocity in this state without the need of further vehicle license registration. If pole trailers are not required to be licensed separately by a member jurisdiction, such vehicles may be operated in this state without displaying a current base license plate. [1993 c 123 § 1. Prior: 1991 c 339 § 9; 1991 c 163 § 5; 1990 c 42 § 112; 1987 c 244 § 22; 1985 c 380 § 7.]

Effective date of 1993 c 102 and 123—1993 1st sp.s. c 23: See note following RCW 46.16.070.

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

Effective dates—1987 c 244: See note following RCW 46.12.020.

46.87.080 Cab cards, validation tabs, special license plates—Design, procedures—Issuance, refusal, revocation. (1) Upon making satisfactory application and payment of applicable fees and taxes for proportional registration under this chapter, the department shall issue a cab card and validation tab for each vehicle, and to vehicles of Washington-based fleets, two distinctive apportionable license plates for each motor vehicle and one such plate for each trailer, semitrailer, pole trailer, or converter gear listed on the application. License plates shall be displayed on vehicles as required by RCW 46.16.240. The number and plate shall be of a design, size, and color determined by the department. The plates shall be treated with reflectorized material and clearly marked with the words "WASHINGTON" and "APPORTIONED," both words to appear in full and without abbreviation.

(2) The cab card serves as the certificate of registration for a proportionally registered vehicle. The face of the cab card shall contain the name and address of the registrant as contained in the records of the department, the license plate number assigned to the vehicle by the base jurisdiction, the vehicle identification number, and such other description of the vehicle and data as the department may require. The cab card shall be signed by the registrant, or a designated person if the registrant is a business firm, and shall at all times be carried in or on the vehicle to which it was issued. In the case of nonpowered vehicles, the cab card may be carried in or on the vehicle supplying the motive power instead of in or on the nonpowered vehicle.

(3) The apportioned license plates are not transferrable from vehicle to vehicle unless otherwise determined by rule and shall be used only on the vehicle to which they are assigned by the department for as long as they are legible or until such time as the department requires them to be removed and returned to the department.

(4) Distinctive validation tab(s) of a design, size, and color determined by the department shall be affixed to the apportioned license plate(s) as prescribed by the department to indicate the month, if necessary, and year for which the vehicle is registered. Foreign-based vehicles proportionally registered in this state under the provisions of the Western Compact shall display the validation tab on a backing plate or as otherwise prescribed by the department.

(5) Renewals shall be effected by the issuance and display of such tab(s) after making satisfactory application and payment of applicable fees and taxes.

(6) Fleet vehicles so registered and identified shall be deemed to be fully licensed and registered in this state for any type of movement or operation. However, in those instances in which a grant of authority is required for interstate or intrastate movement or operation, no such vehicle may be operated in interstate or intrastate commerce in this state unless the owner has been granted interstate operating authority by the interstate commerce commission in the case of interstate operations or intrastate operating authority by the Washington utility and transportation commission in the case of intrastate operations and unless the vehicle is being operated in conformity with that authority.

(7) The department may issue temporary authorization permits (TAPs) to qualifying operators for the operation of vehicles pending issuance of license identification. A fee of one dollar plus a one dollar filing fee shall be collected for each permit issued. The permit fee shall be deposited in the motor vehicle fund, and the filing fee shall be deposited in the highway safety fund. The department may adopt rules for use and issuance of the permits.

(8) The department may refuse to issue any license or permit authorized by subsection (1) or (7) of this section to any person: (a) Who formerly held any type of license or permit issued by the department pursuant to chapter 46.16,

46.85, 46.87, 82.36, 82.37, or 82.38 RCW that has been revoked for cause, which cause has not been removed; or (b) who is a subterfuge for the real party in interest whose license or permit issued by the department pursuant to chapter 46.16, 46.85, 46.87, 82.36, 82.37, or 82.38 RCW and has been revoked for cause, which cause has not been removed; or (c) who, as an individual licensee, or officer, director, owner, or managing employee of a nonindividual licensee, has had a license or permit issued by the department pursuant to chapter 46.16, 46.85, 46.87, 82.36, 82.37, or 82.38 RCW which has been revoked for cause, which cause has not been removed; or (d) who has an unsatisfied debt to the state assessed under either chapter 46.16, 46.85, 46.87, 82.36, 82.37, 82.38, or 82.44 RCW.

(9) The department may revoke the license or permit authorized by subsection (1) or (7) of this section issued to any person for any of the grounds constituting cause for denial of licenses or permits set forth in subsection (8) of this section.

(10) Before such refusal or revocation under subsection (8) or (9) of this section, the department shall grant the applicant a hearing and at least ten days written notice of the time and place of the hearing. [1993 c 307 § 14; 1987 c 244 § 23; 1985 c 380 § 8.]

Effective dates—1987 c 244: See note following RCW 46.12.020.

46.87.085 Staggered renewal periods. The department may extend or diminish vehicle license registration periods for the purpose of staggering renewal periods. The extension or diminishment of a vehicle license registration period must be by rule of the department. The rule shall provide for the collection of proportionally increased or decreased vehicle license registration fees and of excise or other taxes required to be paid at the time of registration.

It is the intent of the legislature that there shall be neither a significant net gain nor loss of revenue to the state general fund or the motor vehicle fund as the result of implementing and maintaining a staggered vehicle registration system. [1993 c 307 § 17.]

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

46.87.310 Application records—Preservation, contents, audit—Additional assessments, penalties, refunds. Any owner whose application for proportional registration has been accepted shall preserve the records on which the application is based for a period of four years following the preceding year or period upon which the application is based. These records shall be complete and shall include, but not be limited to, the following: Copies of proportional registration applications and supplements for all jurisdictions in which the fleet is prorated; proof of proportional or full registration with other jurisdictions; vehicle license or trip permits; temporary authorization permits; documents establishing the latest purchase year and cost of each fleet vehicle in ready-for-the-road condition; weight certificates indicating the unladen, ready-for-the-road, weight of each vehicle in the fleet; periodic summaries of mileage by fleet and by individual vehicles; individual trip reports, driver's daily logs, or other source documents maintained for each individual trip that provide trip dates, points of origin and destinations, total miles traveled, miles traveled in each jurisdiction, routes traveled, vehicle equipment number, driver's full name, and all other information pertinent to each trip. Upon request of the department, the owner shall make the records available to the department at its designated office for audit as to accuracy of records, computations, and payments. The department shall assess and collect any unpaid fees and taxes found to be due the state and provide credits or refunds for overpayments of Washington fees and taxes as determined in accordance with formulas and other requirements prescribed in this chapter. If the owner fails to maintain complete records as required by this section, the department shall attempt to reconstruct or reestablish such records. However, if the department is unable to do so and the missing or incomplete records involve mileages accrued by vehicles while they are part of the fleet, the department may assess an amount not to exceed the difference between the Washington proportional fees and taxes paid and one hundred percent of the fees and taxes. Further, if the owner fails to maintain complete records as required by this section, or if the department determines that the owner should have registered more vehicles in this state under this chapter, the department may deny the owner the right of any further benefits provided by this chapter until any final audit or assessment made under this chapter has been satisfied.

The department may audit the records of any owner and may make arrangements with agencies of other jurisdictions administering motor vehicle registration laws for joint audits of any such owner. No assessment for deficiency or claim for credit may be made for any period for which records are no longer required. Any fees, taxes, penalties, or interest found to be due and owing the state upon audit shall bear interest at the rate of one percent per month, or fraction thereof, from the first day of the calendar month after the amount should have been paid until the date of payment. If the audit discloses a deliberate and willful intent to evade the requirements of payment under RCW 46.87.140, a penalty of ten percent shall also be assessed.

If the audit discloses that an overpayment to the state in excess of five dollars has been made, the department shall certify the overpayment to the state treasurer who shall issue a warrant for the overpayment to the vehicle operator. Overpayments shall bear interest at the rate of eight percent per annum from the date on which the overpayment is incurred until the date of payment. [1993 c 307 § 15; 1987 c 244 § 44.]

Effective dates—1987 c 244: See note following RCW 46.12.020.

46.87.340 Assessments—Lien for nonpayment. If an owner of proportionally registered vehicles liable for the remittance of fees and taxes imposed by this chapter fails to pay the fees and taxes, the amount thereof, including any interest, penalty, or addition to the fees and taxes together with any additional costs that may accrue, constitutes a lien in favor of the state upon all franchises, property, and rights to property, whether the property is employed by the person for personal or business use or is in the hands of a trustee, receiver, or assignee for the benefit of creditors, from the date the fees and taxes were due and payable until the amount of the lien is paid or the property is sold to pay the

lien. The lien has priority over any lien or encumbrance whatsoever, except the lien of other state taxes having priority by law, and except that the lien is not valid as against any bona fide mortgagee, pledgee, judgment creditor, or purchaser whose rights have attached before the time the department has filed and recorded notice of the lien as provided in this chapter.

In order to avail itself of the lien created by this section, the department shall file with any county auditor a statement of claim and lien specifying the amount of delinquent fees and taxes, penalties, and interest claimed by the department. From the time of filing for record, the amount required to be paid constitutes a lien upon all franchises, property, and rights to property, whether real or personal, then belonging to or thereafter acquired by the person in the county. Any lien as provided in this section may also be filed in the office of the secretary of state. Filing in the office of the secretary of state is of no effect, however, until the lien or a copy of it has been filed with the county auditor in the county where the property is located. When a lien is filed in compliance with this section and with the secretary of state, the filing has the same effect as if the lien had been duly filed for record in the office of each county auditor of this state. [1993 c 307 § 16; 1987 c 244 § 47.]

Effective dates—1987 c 244: See note following RCW 46.12.020.

Chapter 46.90
WASHINGTON MODEL TRAFFIC ORDINANCE

Sections

46.90.005 Purpose. The purpose of this chapter is to encourage highway safety and uniform traffic laws by authorizing the department of licensing to adopt a comprehensive compilation of sound, uniform traffic laws to serve as a guide which local authorities may adopt by reference or any part thereof, including all future amendments or additions thereto. Any local authority which adopts that body of rules by reference may at any time exclude any section or sections of those rules that it does not desire to include in its local traffic ordinance. The rules are not intended to deny any local authority its legislative power, but rather to enhance safe and efficient movement of traffic throughout the state by having current, uniform traffic laws available. [1993 c 400 § 1; 1975 1st ex.s. c 54 § 1.]

Effective dates—1993 c 400: "(1) Sections 3 through 5 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 [May 15, 1993].

(2) Sections 1 and 2 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 July 1, 1993.

(3) Section 6 of this act takes effect July 1, 1994." [1993 c 400 § 7.]

46.90.010 Adoption of model traffic ordinance—Amendments. In consultation with the chief of the Washington state patrol and the traffic safety commission, the director shall adopt in accordance with chapter 34.05 RCW a model traffic ordinance for use by any city, town, or county. The addition of any new section to, or amendment or repeal of any section in, the model traffic ordinance is deemed to amend any city, town, or county, ordinance which has adopted by reference the model traffic ordinance or any part thereof, and it shall not be necessary for the legislative authority of any city, town, or county to take any action with respect to such addition, amendment, or repeal notwithstanding the provisions of RCW 35.21.180, 35A.12.140, 35A.13.180, and 36.32.120(7). [1993 c 400 § 2; 1975 1st ex.s. c 54 § 2.]

Effective dates—1993 c 400: See note following RCW 46.90.005.

46.90.100 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

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

46.90.106 through 46.90.275 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

46.90.300 Certain RCW sections adopted by reference. (Effective until July 1, 1994.) The following sections of the Revised Code of Washington as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.12.070, 46.12.080, 46.12.101, 46.12.102, 46.12.260, 46.12.300, 46.12.310, 46.12.320, 46.12.330, 46.12.340, 46.12.350, 46.12.380, 46.16.010, 46.16.011, 46.16.025, 46.16.028, 46.16.030, 46.16.088, 46.16.135, 46.16.140, 46.16.145, 46.16.170, 46.16.180, 46.16.240, 46.16.260, 46.16.290, 46.16.316, 46.16.381, 46.16.390, 46.16.500, 46.16.505, 46.16.710, 46.20.021, 46.20.022, 46.20.025, 46.20.027, 46.20.031, 46.20.041, 46.20.045, 46.20.190, 46.20.220, 46.20.308, 46.20.336, 46.20.338, 46.20.342, 46.20.343, 46.20.344, 46.20.391, 46.20.394, 46.20.410, 46.20.420, 46.20.430, 46.20.435, 46.20.500, 46.20.510, 46.20.550, 46.20.750, 46.25.010, 46.25.020, 46.25.030, 46.25.040, 46.25.050, 46.25.110, 46.25.120, 46.25.170, 46.29.605, 46.30.010, 46.30.020, 46.30.030, 46.30.040, 46.32.060, 46.32.070, 46.37.010, 46.37.020, 46.37.030, 46.37.040, 46.37.050, 46.37.060, 46.37.070, 46.37.080, 46.37.090, 46.37.100, 46.37.110, 46.37.120, 46.37.130, 46.37.140, 46.37.150, 46.37.160, 46.37.170, 46.37.180, 46.37.184, 46.37.185, 46.37.186, 46.37.187, 46.37.188, 46.37.190, 46.37.193, 46.37.196, 46.37.200, 46.37.210, 46.37.215, 46.37.220, 46.37.230, 46.37.240, 46.37.260, 46.37.270, 46.37.280,

46.37.290, 46.37.300, 46.37.310, 46.37.340, 46.37.351, 46.37.360, 46.37.365, 46.37.369, 46.37.375, 46.37.380, 46.37.390, 46.37.400, 46.37.410, 46.37.420, 46.37.425, 46.37.430, 46.37.435, 46.37.440, 46.37.450, 46.37.460, 46.37.465, 46.37.467, 46.37.480, 46.37.490, 46.37.500, 46.37.510, 46.37.513, 46.37.517, 46.37.520, 46.37.522, 46.37.523, 46.37.524, 46.37.525, 46.37.527, 46.37.528, 46.37.529, 46.37.530, 46.37.535, 46.37.537, 46.37.539, 46.37.540, 46.37.550, 46.37.560, 46.37.570, 46.37.590, 46.37.600, 46.37.610, 46.37.620, 46.44.010, 46.44.015, 46.44.020, 46.44.030, 46.44.034, 46.44.036, 46.44.037, 46.44.041, 46.44.042, 46.44.047, 46.44.050, 46.44.060, 46.44.070, 46.44.090, 46.44.091, 46.44.092, 46.44.093, 46.44.095, 46.44.096, *46.44.100, 46.44.105, 46.44.120, 46.44.130, 46.44.140, 46.44.170, 46.44.173, 46.44.175, 46.44.180, 46.48.170, 46.52.010, 46.52.020, 46.52.030, 46.52.040, 46.52.070, 46.52.080, 46.52.088, 46.52.090, 46.52.100, 46.79.120, and 46.80.010. [1993 c 400 § 3. Prior: 1991 c 293 § 9; 1991 c 293 § 8; 1991 c 118 § 2; 1991 c 118 § 1; 1989 c 178 § 28; 1988 c 24 § 1; 1987 c 30 § 1; 1986 c 24 § 1; 1985 c 19 § 1; prior: 1984 c 154 § 6; 1984 c 108 § 1; 1983 c 30 § 2; 1982 c 25 § 1; 1980 c 65 § 2; 1977 ex.s. c 60 § 1; 1975 1st ex.s. c 54 § 50.]

***Reviser's note:** RCW 46.44.100 was repealed by 1993 c 403 § 5.

Effective dates—1993 c 400: See note following RCW 46.90.005.

Effective date—1991 c 293: "Section 9 of this act shall take effect April 1, 1992." [1991 c 293 § 11.]

Effective date—1991 c 118: "Sections 1 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. Section 2 of this act shall take effect April 1, 1992." [1991 c 118 § 4.]

Severability—Effective dates—1989 c 178: See RCW 46.25.900 and 46.25.901.

Intent—Application—Severability—1984 c 154: See notes following RCW 46.16.381.

46.90.300 through 46.90.403 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

46.90.406 Certain RCW sections adopted by reference. (Effective until July 1, 1994.) 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 46.55.010, 46.55.020, 46.55.030, 46.55.035, 46.55.037, 46.55.040, 46.55.050, 46.55.060, 46.55.063, 46.55.070, 46.55.080, 46.55.085, 46.55.090, 46.55.100, 46.55.110, 46.55.113, 46.55.120, 46.55.130, 46.55.140, 46.55.150, 46.55.160, 46.55.170, 46.55.230, 46.55.240, 46.55.910, 46.61.005, 46.61.015, 46.61.020, 46.61.021, 46.61.022, 46.61.025, 46.61.030, 46.61.035, 46.61.050, 46.61.055, 46.61.060, 46.61.065, 46.61.070, 46.61.072, 46.61.075, and 46.61.080. [1993 c 400 § 4; 1991 c 118 § 3; 1988 c 24 § 2; 1986 c 24 § 2; 1980 c 65 § 3; 1977 ex.s. c 60 § 2; 1975 1st ex.s. c 54 § 64.]

Effective dates—1993 c 400: See note following RCW 46.90.005.

46.90.406 through 46.90.421 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

46.90.427 Certain RCW sections adopted by reference. (Effective until July 1, 1994.) The following sections of the Revised Code of Washington as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.61.300, 46.61.305, 46.61.310, 46.61.315, 46.61.340, 46.61.345, 46.61.350, 46.61.355, 46.61.365, 46.61.370, 46.61.371, 46.61.372, 46.61.375, 46.61.385, 46.61.400, 46.61.415, 46.61.425, 46.61.427, 46.61.428, 46.61.435, 46.61.440, 46.61.445, 46.61.450, 46.61.455, 46.61.460, 46.61.465, 46.61.470, 46.61.475, 46.61.500, 46.61.502, 46.61.504, 46.61.506, 46.61.515, 46.61.517, 46.61.519, 46.61.5191, 46.61.5195, 46.61.525, 46.61.530, 46.61.535, 46.61.540, 46.61.560, 46.61.570, and 46.61.575. [1993 c 400 § 5; 1988 c 24 § 3; 1985 c 19 § 2; 1984 c 108 § 2; 1982 c 25 § 2; 1980 c 65 § 4; 1977 ex.s. c 60 § 4; 1975 1st ex.s. c 54 § 71.]

Effective dates—1993 c 400: See note following RCW 46.90.005.

46.90.427 through 46.90.950 Repealed. (Effective July 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Title 47

PUBLIC HIGHWAYS AND TRANSPORTATION

Chapters

47.86 Air transportation commission.

Chapter 47.01
DEPARTMENT OF TRANSPORTATION

Sections

47.01.250 Consultation with designated state officials—Report to governor and legislature.

Identification of environmental costs of transportation projects—Pilot project—1993 c 59: "Recognizing the importance of maintaining the quality of life in Washington state, the citizens of this state demand protection and preservation of our scarce natural resources. Citizens also demand an efficient and effective transportation system. The departments of transportation, ecology, fisheries, and wildlife and the Puget Sound water quality authority have worked jointly to develop cooperative approaches for mitigating environmental impacts resulting from transportation projects. Nevertheless, many transportation projects are costing more than was budgeted due to unanticipated and extensive environmental considerations. It is the intent of the legislature to find a process for accessing, budgeting, and accounting for environmental costs related to significant transportation projects in order to determine whether the environmental costs exceed the transportation benefits of a project.

Therefore, the department of transportation shall undertake a pilot program in at least one transportation district that will serve as a case study for the entire department. The department shall identify and cost out the discrete environmental elements of a representative sampling of transportation projects. The environmental elements should include, but not necessarily be limited to, wetlands, storm water, hazardous waste, noise, fish, and wildlife. The department shall also consider an assessment of the cost impacts resulting from delays associated with permitting requirements.

It is the intent of the legislature that the environmental cost estimates be developed during a detailed scoping process that will include preliminary engineering and design. After the detailed scoping process and design report is complete, the department shall submit project-specific recommendations and cost estimates to the transportation commission before approval is granted for the construction phase of the projects.

Based upon the findings of the pilot program the transportation commission shall recommend policies to the legislative transportation committee regarding: (1) The current practice of appropriating design and construction dollars simultaneously; (2) identification of reasonable thresholds for environmental costs; (3) budget and accounting modifications that may be warranted in order to accurately capture environmental costs associated with transportation projects; and (4) modification to the priority array statutes, chapter 47.05 RCW." [1993 c 59 § 1.]

47.01.290 Public transportation plan. The state-interest component of the state-wide transportation plan must include a state public transportation plan that recognizes that while public transportation service is essentially a local responsibility in Washington, there is significant state interest in assuring that viable public transportation services are available throughout the state. The public transportation plan shall:

(1) Articulate the state vision of and interest in public transportation and provide quantifiable objectives, including benefits indicators;

(2) Identify the goals for public transportation and the roles of federal, state, regional, and local entities in achieving those goals;

(3) Recommend mechanisms for coordinating federal, state, regional, and local planning for public transportation;

(4) Recommend mechanisms for coordinating public transportation with other transportation services and modes;

(5) Recommend criteria, consistent with the goals identified in subsection (2) of this section and with RCW 82.44.180 (2) and (3), for existing federal authorizations administered by the department to transit agencies; and

(6) Recommend a state-wide public transportation facilities and equipment management system as required by federal law.

In developing the state public transportation plan, the department shall involve local jurisdictions, public and private providers of public transportation services, nonmotorized interests, and state agencies with an interest in public transportation, including but not limited to the departments of community development, social and health services, and ecology, the state energy office, the office of financial management, and the office of the governor.

The department shall submit an initial report to the legislative transportation committee by December 1, 1993, and shall provide annual reports summarizing the plan's progress each year thereafter. [1993 c 55 § 1.]

State-wide transportation planning: Chapter 47.06 RCW.

Chapter 47.05
PRIORITY PROGRAMMING FOR HIGHWAY DEVELOPMENT

Sections

47.05.010 Declaration of purpose. The legislature finds that solutions to state highway deficiencies have become increasingly complex and diverse and that anticipated transportation revenues will fall substantially short of the amount required to satisfy all transportation needs. Difficult investment trade-offs will be required.

It is the intent of the legislature that investment of state transportation funds to address deficiencies on the state highway system be based on a policy of priority programming having as its basis the rational selection of projects and services according to factual need and an evaluation of life cycle costs and benefits and which are systematically scheduled to carry out defined objectives within available revenue.

The priority programming system shall ensure preservation of the existing state highway system, provide mobility for people and goods, support the state's economy, and promote environmental protection and energy conservation.

The priority programming system shall implement the state-owned highway component of the state-wide multimodal transportation plan, consistent with local and regional transportation plans, by targeting state transportation

investment to appropriate multimodal solutions which address identified state highway system deficiencies.

The priority programming system for improvements shall incorporate a broad range of solutions that are identified in the state-wide multimodal transportation plan as appropriate to address state highway system deficiencies including but not limited to highway expansion, efficiency improvements, nonmotorized transportation facilities, high occupancy vehicle facilities, transit facilities and services, rail facilities and services, and transportation demand management programs. [1993 c 490 § 1; 1969 ex.s. c 39 § 1; 1963 c 173 § 1.]

47.05.021 Functional classification of highways. (1) The transportation commission is hereby directed to conduct periodic analyses of the entire state highway system, report thereon to the chairs of the transportation committees of the senate and house of representatives, including one copy to the staff of each of the committees, biennially and based thereon, to subdivide, classify, and subclassify according to their function and importance all designated state highways and those added from time to time and periodically review and revise the classifications into the following three functional classes:

(a) The "principal arterial system" shall consist of a connected network of rural arterial routes with appropriate extensions into and through urban areas, including all routes designated as part of the interstate system, which serve corridor movements having travel characteristics indicative of substantial state-wide and interstate travel;

(b) The "minor arterial system" shall, in conjunction with the principal arterial system, form a rural network of arterial routes linking cities and other activity centers which generate long distance travel, and, with appropriate extensions into and through urban areas, form an integrated network providing interstate and interregional service; and

(c) The "collector system" shall consist of routes which primarily serve the more important intercounty, intracounty, and intraurban travel corridors, collect traffic from the system of local access roads and convey it to the arterial system, and on which, regardless of traffic volume, the predominant travel distances are shorter than on arterial routes.

(2) In making the functional classification the transportation commission shall adopt and give consideration to criteria consistent with this section and federal regulations relating to the functional classification of highways, including but not limited to the following:

(a) Urban population centers within and without the state stratified and ranked according to size;

(b) Important traffic generating economic activities, including but not limited to recreation, agriculture, government, business, and industry;

(c) Feasibility of the route, including availability of alternate routes within and without the state;

(d) Directness of travel and distance between points of economic importance;

(e) Length of trips;

(f) Character and volume of traffic;

(g) Preferential consideration for multiple service which shall include public transportation;

(h) Reasonable spacing depending upon population density; and

(i) System continuity.

(3) The transportation commission shall designate a system of state highways that have state-wide significance. This state-wide system shall include interstate highways and other state-wide principal arterials that are needed to connect major communities across the state and support the state's economy.

(4) The transportation commission shall designate a freight and goods transportation system. This state-wide system shall include state highways, county roads, and city streets. The commission, in cooperation with cities and counties, shall review and make recommendations to the legislature regarding policies governing weight restrictions and road closures which affect the transportation of freight and goods. The first report is due by December 15, 1993, and biennially thereafter. [1993 c 490 § 2; 1987 c 505 § 50; 1979 ex.s. c 122 § 1; 1977 ex.s. c 130 § 1.]

Severability—1979 ex.s. c 122: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 122 § 10.]

Effective dates—1977 ex.s. c 130: "Section 1 of this 1977 act modifying the functional classification of state highways shall apply to the long range plan for highway improvements and to the six year program for highway construction commencing July 1, 1979 and to the preparation thereof and shall take effect July 1, 1977. Section 2 of this 1977 act shall take effect July 1, 1979." [1977 ex.s. c 130 § 3.] "Section 1 of this 1977 act" is codified as RCW 47.05.021; "Section 2 of this 1977 act" repealed RCW 47.05.020.

47.05.030 Six-year programs—Investments, improvements, preservation. The transportation commission shall adopt a comprehensive six-year investment program specifying program objectives and performance measures for the preservation and improvement programs defined in this section. In the specification of investment program objectives and performance measures, the transportation commission, in consultation with the Washington state department of transportation, shall define and adopt standards for effective programming and prioritization practices including a needs analysis process. The needs analysis process shall ensure the identification of problems and deficiencies, the evaluation of alternative solutions and trade-offs, and estimations of the costs and benefits of prospective projects. The investment program shall be revised biennially, effective on July 1st of odd-numbered years. The investment program shall be based upon the needs identified in the state-owned highway component of the state-wide multimodal transportation plan as defined in RCW 47.01.071(3).

(1) The preservation program shall consist of those investments necessary to preserve the existing state highway system and to restore existing safety features, giving consideration to lowest life cycle costing. The comprehensive six-year investment program for preservation shall identify projects for two years and an investment plan for the remaining four years.

(2) The improvement program shall consist of investments needed to address identified deficiencies on the state highway system to improve mobility, safety, support for the economy, and protection of the environment. The six-year investment program for improvements shall identify projects

for two years and major deficiencies proposed to be addressed in the six-year period giving consideration to relative benefits and life cycle costing.

The transportation commission shall approve and present the comprehensive six-year investment program to the legislature in support of the biennial budget request under RCW 44.40.070 and 44.40.080. [1993 c 490 § 3; 1987 c 179 § 2; 1979 ex.s. c 122 § 2; 1977 ex.s. c 151 § 44; 1975 1st ex.s. c 143 § 1; 1973 2nd ex.s. c 12 § 4; 1969 ex.s. c 39 § 3; 1965 ex.s. c 170 § 33; 1963 c 173 § 3.]

Severability—1979 ex.s. c 122: See note following RCW 47.05.021.

47.05.035 Allocation of funds, factors. In developing program objectives and performance measures, the transportation commission shall evaluate investment trade-offs between the preservation and improvement programs. In making these investment trade-offs, the commission shall evaluate, using cost-benefit techniques, roadway and bridge maintenance activities as compared to roadway and bridge preservation program activities and adjust those programs accordingly.

The commission shall allocate the estimated revenue between preservation and improvement programs giving primary consideration to the following factors:

(1) The relative needs in each of the programs and the system performance levels that can be achieved by meeting these needs;

(2) The need to provide adequate funding for preservation to protect the state's investment in its existing highway system;

(3) The continuity of future transportation development with those improvements previously programmed; and

(4) The availability of dedicated funds for a specific type of work. [1993 c 490 § 4; 1987 c 179 § 3; 1979 ex.s. c 122 § 3; 1975 1st ex.s. c 143 § 2.]

Severability—1979 ex.s. c 122: See note following RCW 47.05.021.

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

47.05.051 Six-year comprehensive investment program—Priority selection criteria—Improvement program criteria—Departure from criteria. The comprehensive six-year investment program shall be based upon the needs identified in the state-owned highway component of the state-wide multimodal transportation plan as defined in RCW 47.01.071(3) and priority selection systems that incorporate the following criteria:

(1) Priority programming for the preservation program shall take into account the following, not necessarily in order of importance:

(a) Extending the service life of the existing highway system;

(b) Ensuring the structural ability to carry loads imposed upon highways and bridges; and

(c) Minimizing life cycle costs. The transportation commission in carrying out the provisions of this section may delegate to the department of transportation the authority to select preservation projects to be included in the six-year program.

(2) Priority programming for the improvement program shall take into account the following:

(a) Support for the state's economy, including job creation and job preservation;

(b) The cost-effective movement of people and goods;

(c) Accident and accident risk reduction;

(d) Protection of the state's natural environment;

(e) Continuity and systematic development of the highway transportation network;

(f) Consistency with local comprehensive plans developed under chapter 36.70A RCW;

(g) Consistency with regional transportation plans developed under chapter 47.80 RCW;

(h) Public views concerning proposed improvements;

(i) The conservation of energy resources;

(j) Feasibility of financing the full proposed improvement;

(k) Commitments established in previous legislative sessions;

(l) Relative costs and benefits of candidate programs;

(m) Major projects addressing capacity deficiencies which prioritize allowing for preliminary engineering shall be reprioritized during the succeeding biennium, based upon updated project data. Reprioritized projects may be delayed or canceled by the transportation commission if higher priority projects are awaiting funding; and

(n) Major project approvals which significantly increase a project's scope or cost from original prioritization estimates shall include a review of the project's estimated revised priority rank and the level of funding provided. Projects may be delayed or canceled by the transportation commission if higher priority projects are awaiting funding.

(3) The commission may depart from the priority programming established under subsections (1) and (2) of this section: (a) To the extent that otherwise funds cannot be utilized feasibly within the program; (b) as may be required by a court judgment, legally binding agreement, or state and federal laws and regulations; (c) as may be required to coordinate with federal, local, or other state agency construction projects; (d) to take advantage of some substantial financial benefit that may be available; (e) for continuity of route development; or (f) because of changed financial or physical conditions of an unforeseen or emergent nature. The commission or secretary of transportation shall maintain in its files information sufficient to show the extent to which the commission has departed from the established priority. [1993 c 490 § 5; 1987 c 179 § 5; 1979 ex.s. c 122 § 5; 1975 1st ex.s. c 143 § 4.]

Severability—1979 ex.s. c 122: See note following RCW 47.05.021.

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

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

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

47.05.090 Application of 1993 c 490—Deviations. The provisions of chapter 490, Laws of 1993 modifying

procedures for priority programming for highway development as set forth in chapter 47.05 RCW, first apply to the comprehensive six-year state highway investment program for the periods 1995 to 2001. For the transition biennium ending June 30, 1995, the commission may deviate from the modified procedures prescribed by chapter 490, Laws of 1993. [1993 c 490 § 6.]

Chapter 47.06
STATE-WIDE TRANSPORTATION PLANNING

Sections

Public transportation plan: RCW 47.01.290.

47.06.010 Findings. The legislature recognizes that the ownership and operation of Washington's transportation system is spread among federal, state, and local government agencies, regional transit agencies, port districts, and the private sector. The legislature also recognizes that transportation planning authority is shared on the local, regional, and state levels, and that this planning must be a comprehensive and coordinated effort. While significant authority for transportation planning is vested with local agencies and regional transportation planning organizations under the growth management act, the legislature recognizes that certain transportation issues and facilities cross local and regional boundaries and are vital to the state-wide economy and the cross-state mobility of people and goods. Therefore, the state has an appropriate role in developing state-wide transportation plans that address state jurisdiction facilities and services as well as transportation facilities and services of state interest. These plans shall serve as a guide for short-term investment needs and provide a long-range vision for transportation system development. [1993 c 446 § 1.]

47.06.020 Role of department. The specific role of the department in transportation planning shall be (1) ongoing coordination and development of state-wide transportation policies that guide all Washington transportation providers; (2) ongoing development of a state-wide multimodal transportation plan that includes both state-owned and state-interest facilities and services; (3) coordinating the state high-capacity transportation planning and regional transportation planning programs; and (4) conducting special transportation planning studies that impact state transportation facilities or relate to transportation facilities and services of state-wide significance. Specific requirements for each of these state transportation planning components are described in this chapter. [1993 c 446 § 2.]

47.06.030 Transportation policy plan. The commission shall develop a state transportation policy plan that (1) establishes a vision and goals for the development of the state-wide transportation system consistent with the state's growth management goals, (2) identifies significant state-wide transportation policy issues, and (3) recommends state-wide transportation policies and strategies to the legislature to fulfill the requirements of RCW 47.01.071(1). The state transportation policy plan shall be the product of an ongoing process that involves representatives of significant transportation interests and the general public from across the state. [1993 c 446 § 3.]

47.06.040 State-wide multimodal transportation plan. The department shall develop a state-wide multimodal transportation plan under RCW 47.01.071(3) and in conformance with federal requirements, to ensure the continued mobility of people and goods within regions and across the state in a safe, cost-effective manner. The state-wide multimodal transportation plan shall consist of:

(1) A state-owned facilities component, which shall guide state investment for state highways including bicycle and pedestrian facilities, and state ferries; and

(2) A state-interest component, which shall define the state interest in aviation, marine ports and navigation, freight rail, intercity passenger rail, bicycle transportation and pedestrian walkways, and public transportation, and recommend actions in coordination with appropriate public and private transportation providers to ensure that the state interest in these transportation modes is met.

The plans developed under each component must be consistent with the state transportation policy plan and with each other, reflect public involvement, be consistent with regional transportation planning, high-capacity transportation planning, and local comprehensive plans prepared under chapter 36.70A RCW, and include analysis of intermodal connections and choices. A primary emphasis for these plans shall be the improvement and integration of all transportation modes to create a seamless intermodal transportation system for people and goods. [1993 c 446 § 4.]

47.06.050 State-owned facilities component. The state-owned facilities component of the state-wide transportation plan shall consist of:

(1) The state highway system plan, which identifies program and financing needs and recommends specific and financially realistic improvements to preserve the structural integrity of the state highway system, ensure acceptable operating conditions, and provide for enhanced access to scenic, recreational, and cultural resources. The state highway system plan shall contain the following elements:

(a) A system preservation element, which shall establish structural preservation objectives for the state highway system including bridges, identify current and future structural deficiencies based upon analysis of current conditions and projected future deterioration, and recommend program funding levels and specific actions necessary to preserve the

structural integrity of the state highway system consistent with adopted objectives. This element shall serve as the basis for the preservation component of the six-year highway program and the two-year biennial budget request to the legislature;

(b) A capacity and operational improvement element, which shall establish operational objectives, including safety considerations, for moving people and goods on the state highway system, identify current and future capacity, operational, and safety deficiencies, and recommend program funding levels and specific improvements and strategies necessary to achieve the operational objectives. In developing capacity and operational improvement plans the department shall first assess strategies to enhance the operational efficiency of the existing system before recommending system expansion. Strategies to enhance the operational efficiencies include but are not limited to access management, transportation system management, demand management, and high-occupancy vehicle facilities. The capacity and operational improvement element must conform to the state implementation plan for air quality and be consistent with regional transportation plans adopted under chapter 47.80 RCW, and shall serve as the basis for the capacity and operational improvement portions of the six-year highway program and the two-year biennial budget request to the legislature;

(c) A scenic and recreational highways element, which shall identify and recommend designation of scenic and recreational highways, provide for enhanced access to scenic, recreational, and cultural resources associated with designated routes, and recommend a variety of management strategies to protect, preserve, and enhance these resources. The department, affected counties, cities, and towns, regional transportation planning organizations, and other state or federal agencies shall jointly develop this element;

(d) A paths and trails element, which shall identify the needs of nonmotorized transportation modes on the state transportation systems and provide the basis for the investment of state transportation funds in paths and trails, including funding provided under chapter 47.30 RCW.

(2) The state ferry system plan, which shall guide capital and operating investments in the state ferry system. The plan shall establish service objectives for state ferry routes, forecast travel demand for the various markets served in the system, and develop strategies for ferry system investment that consider regional and state-wide vehicle and passenger needs, support local land use plans, and assure that ferry services are fully integrated with other transportation services. The plan shall assess the role of private ferries operating under the authority of the utilities and transportation commission and shall coordinate ferry system capital and operational plans with these private operations. The ferry system plan must be consistent with the regional transportation plans for areas served by the state ferry system, and shall be developed in conjunction with the ferry advisory committees. [1993 c 446 § 5.]

47.06.060 Aviation plan. The state-interest component of the state-wide multimodal transportation plan shall include an aviation plan, which shall fulfill the state-wide aviation planning requirements of the federal government, coordinate state-wide aviation planning, and identify the program needs for public use and state airports. [1993 c 446 § 6.]

47.06.070 Marine ports and navigation plan. The state-interest component of the state-wide multimodal transportation plan shall include a state marine ports and navigation plan, which shall assess the transportation needs of Washington's marine ports, including navigation, and identify transportation system improvements needed to support the international trade and economic development role of Washington's marine ports. [1993 c 446 § 7.]

47.06.080 Freight rail plan. The state-interest component of the state-wide multimodal transportation plan shall include a state freight rail plan, which shall fulfill the state-wide freight rail planning requirements of the federal government, identify freight rail mainline issues, identify light-density freight rail lines threatened with abandonment, establish criteria for determining the importance of preserving the service or line, and recommend priorities for the use of state rail assistance and state rail banking program funds, as well as other available sources of funds. The plan shall also identify existing intercity rail rights of way that should be preserved for future transportation use. [1993 c 446 § 8.]

47.06.090 Intercity passenger rail plan. The state-interest component of the state-wide multimodal transportation plan shall include an intercity passenger rail plan, which shall analyze existing intercity passenger rail service and recommend improvements to that service under the state passenger rail service program including depot improvements, potential service extensions, and ways to achieve higher train speeds. [1993 c 446 § 9.]

47.06.100 Bicycle transportation and pedestrian walkways plan. The state-interest component of the state-wide multimodal transportation plan shall include a bicycle transportation and pedestrian walkways plan, which shall propose a state-wide strategy for addressing bicycle and pedestrian transportation, including the integration of bicycle and pedestrian pathways with other transportation modes; the coordination between local governments, regional agencies, and the state in the provision of such facilities; the role of such facilities in reducing traffic congestion; and an assessment of state-wide bicycle and pedestrian transportation needs. This plan shall satisfy the federal requirement for a long-range bicycle transportation and pedestrian walkways plan. [1993 c 446 § 10.]

47.06.110 Public transportation plan. The state-interest component of the state-wide multimodal transportation plan shall include a state public transportation plan that:

(1) Articulates the state vision of an interest in public transportation and provides quantifiable objectives, including benefits indicators;

(2) Identifies the goals for public transit and the roles of federal, state, regional, and local entities in achieving those goals;

(3) Recommends mechanisms for coordinating state, regional, and local planning for public transportation;

(4) Recommends mechanisms for coordinating public transportation with other transportation services and modes;

(5) Recommends criteria, consistent with the goals identified in subsection (2) of this section and with RCW 82.44.180 (2) and (3), for existing federal authorizations administered by the department to transit agencies; and

(6) Recommends a state-wide public transportation facilities and equipment management system as required by federal law.

In developing the state public transportation plan, the department shall involve local jurisdictions, public and private providers of transportation services, nonmotorized interests, and state agencies with an interest in public transportation, including but not limited to the departments of community development, social and health services, and ecology, the state energy office, the office of the superintendent of public instruction, the office of the governor, and the office of financial management.

The department shall submit an initial report to the legislative transportation committee by December 1, 1993, and shall provide annual reports summarizing the plan's progress each year thereafter. [1993 c 446 § 11.]

Public transportation plan: RCW 47.01.290.

47.06.120 High-capacity transportation planning and regional transportation planning—Role of department. The department's role in high-capacity transportation planning and regional transportation planning is to administer state planning grants for these purposes, represent the interests of the state in these regional planning processes, and coordinate other department planning with these regional efforts, including those under RCW 81.104.060. [1993 c 446 § 12.]

47.06.130 Special planning studies. The department may carry out special transportation planning studies to resolve specific issues with the development of the state transportation system or other state-wide transportation issues. [1993 c 446 § 13.]

47.06.900 Captions not part of law—1993 c 446. Captions used in this chapter do not constitute any part of the law. [1993 c 446 § 16.]

Chapter 47.10
HIGHWAY CONSTRUCTION BONDS

Sections

47.10.761 Reserve funds—Purposes. It is the purpose of RCW 47.10.761 through 47.10.771 to provide reserve funds to the department for the following purposes:

(1) For construction, reconstruction, or repair of any state highway made necessary by slides, storm damage, or other unexpected or unusual causes;

(2) For construction or improvement of any state highway when necessary to alleviate or prevent intolerable traffic congestion caused by extraordinary and unanticipated economic development within any area of the state;

(3) To advance funds to any city or county to be used exclusively for the construction or improvement of any city street or county road when necessary to alleviate or prevent intolerable traffic congestion caused by extraordinary and unanticipated economic development within a particular area of the state. Before funds provided by the sale of bonds as authorized in RCW 47.10.761 through 47.10.770, are loaned to any city or county for the purposes specified herein, the department shall enter into an agreement with the city or county providing for repayment to the motor vehicle fund of such funds, together with the amount of bond interest thereon, from the city's or the county's share of the motor vehicle funds arising from excise taxes on motor vehicle fuels, over a period not to exceed twenty-five years; and

(4) To participate in projects on state highways or projects benefiting state highways that have been selected for funding by entities other than the Washington state department of transportation and require a financing contribution by the department of transportation. [1993 1st sp.s. c 11 § 1; 1984 c 7 § 111; 1967 ex.s. c 7 § 13.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.10.762 Issuance and sale of general obligation bonds. In order to provide reserve funds for the purposes specified in RCW 47.10.761, there shall be issued and sold general obligation bonds of the state of Washington in the sum of twenty-five million dollars or such amount thereof and at such times as may be determined to be necessary by the state transportation commission. The issuance, sale and retirement of said bonds shall be under the supervision and control of the state finance committee which, upon request being made by the Washington state transportation commission, shall provide for the issuance, sale and retirement of coupon or registered bonds to be dated, issued and sold from time to time in such amounts as may be necessary for the

purposes enumerated in RCW 47.10.761. [1993 1st sp.s. c 11 § 2; 1967 ex.s. c 7 § 14.]

CATEGORY C IMPROVEMENTS—1993 ACT

47.10.812 Issuance and sale of general obligation bonds. In order to provide funds necessary for the location, design, right of way, and construction of state highway improvements that are identified as special category C improvements, there shall be issued and sold upon the request of the Washington state transportation commission a total of two hundred forty million dollars of general obligation bonds of the state of Washington. [1993 c 431 § 1.]

47.10.813 Administration and amount of sale. Upon the request of the transportation commission, the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds authorized by RCW 47.10.812 through 47.10.817 in accordance with chapter 39.42 RCW. Bonds authorized by RCW 47.10.812 through 47.10.817 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 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. [1993 c 431 § 2.]

47.10.814 Proceeds—Deposit and use. The proceeds from the sale of bonds authorized by RCW 47.10.812 through 47.10.817 shall be deposited in the special category C account in the motor vehicle fund. The proceeds shall be available only for the purposes enumerated in RCW 47.10.812, for the payment of bond anticipation notes, if any, and for the payment of bond issuance costs, including the costs of underwriting. [1993 c 431 § 3.]

47.10.815 Statement of general obligation—Pledge of excise taxes. Bonds issued under the authority of RCW 47.10.812 through 47.10.817 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 on the bonds shall be first payable in the manner provided in RCW 47.10.812 through 47.10.817 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. Proceeds of such excise taxes are hereby pledged to the payment of any bonds and the interest thereon issued under the authority of RCW 47.10.812 through 47.10.817, 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 RCW 47.10.812 through 47.10.817. [1993 c 431 § 4.]

47.10.816 Designation of funds to repay bonds and interest. Both principal and interest on the bonds issued for the purposes of RCW 47.10.812 through 47.10.817 shall be payable from the highway bond retirement fund. The state finance committee may provide that a special account be created in the fund to facilitate payment of the principal and interest. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on the bonds in accordance with the bond proceedings. The state treasurer shall withdraw revenues from the special category C account in the motor vehicle fund and deposit in the highway bond retirement fund, or a special account in the fund, such amounts, and at such times, as are required by the bond proceedings.

Any funds required for bond retirement or interest on the bonds authorized by RCW 47.10.812 through 47.10.817 shall be taken from that portion of the motor vehicle fund that results from the imposition of excise taxes on motor vehicle and special fuels and that is distributed to the special category C account in the motor vehicle fund. Funds required shall never constitute a charge against any other allocations of motor vehicle fuel and special fuel tax revenues to the state, counties, cities and towns unless the amount arising from excise taxes on motor vehicle and special fuels distributed to the special category C account proves insufficient to meet the requirements for bond retirement or interest on any such bonds.

Any payments for bond retirement or interest on the bonds taken from other revenues from the motor vehicle fuel or special fuel taxes that are distributable to the state, counties, cities and towns, shall be repaid from the first revenues from the motor vehicle fuel or special fuel taxes distributed to the special category C account not required for bond retirement or interest on the bonds. [1993 c 431 § 5.]

47.10.817 Equal charge against fuel tax revenues. Bonds issued under the authority of RCW 47.10.812 through 47.10.816 and this section and any other general obligation bonds of the state of Washington that have been or that may be authorized and that pledge motor vehicle and special fuels excise taxes for the payment of principal and interest thereon shall be an equal charge against the revenues from such motor vehicle and special fuels excise taxes. [1993 c 431 § 6.]

47.10.818 Severability—1993 c 431. 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. [1993 c 431 § 8.]

INTERSTATE, OTHER HIGHWAY IMPROVEMENTS—1993 ACT

47.10.819 Issuance and sale of general obligation bonds. In order to provide funds necessary for the location, design, right of way, and construction of selected interstate and other highway improvements, there shall be issued and sold upon the request of the Washington state transportation commission a total of one hundred million dollars of general

obligation bonds of the state of Washington for the following purposes and specified sums:

(1) Not to exceed twenty-five million dollars to pay the state's and local governments' share of matching funds for the ten demonstration projects identified in the Intermodal Surface Transportation Efficiency Act of 1991.

(2) Not to exceed fifty million dollars to temporarily pay the regular federal share of construction in advance of federal-aid apportionments as authorized by this section.

(3) Not to exceed twenty-five million dollars for loans to local governments to provide the required matching funds to take advantage of available federal funds. These loans shall be on such terms and conditions as determined by the Washington state transportation commission, but in no event may the loans be for a period of more than ten years. The interest rate on the loans authorized under this subsection shall be equal to the interest rate on the bonds sold for such purposes. [1993 c 432 § 1.]

47.10.820 Administration and amount of sale. Upon the request of the transportation commission, the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds authorized by RCW 47.10.819 through 47.10.824 in accordance with chapter 39.42 RCW. Bonds authorized by RCW 47.10.819 through 47.10.824 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 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. [1993 c 432 § 2.]

47.10.821 Proceeds—Deposit and use. The proceeds from the sale of bonds authorized by RCW 47.10.819 through 47.10.824 shall be deposited in the motor vehicle fund. The proceeds shall be available only for the purposes enumerated in RCW 47.10.819, for the payment of bond anticipation notes, if any, and for the payment of bond issuance costs, including the costs of underwriting. [1993 c 432 § 3.]

47.10.822 Statement of general obligation—Pledge of excise taxes. Bonds issued under the authority of RCW 47.10.819 through 47.10.824 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 on the bonds shall be first payable in the manner provided in RCW 47.10.819 through 47.10.824 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. Proceeds of such excise taxes are hereby pledged to the payment of any bonds and the interest thereon issued under the authority of RCW 47.10.819 through 47.10.824, 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 RCW 47.10.819 through 47.10.824. [1993 c 432 § 4.]

47.10.823 Designation of funds to repay bonds and interest. Both principal and interest on the bonds issued for the purposes of RCW 47.10.819 through 47.10.824 shall be payable from the highway bond retirement fund. The state finance committee may provide that a special account be created in the fund to facilitate payment of the principal and interest. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on the bonds in accordance with the bond proceedings. The state treasurer shall withdraw revenues from the motor vehicle fund and deposit in the highway bond retirement fund, or a special account in the fund, such amounts, and at such times, as are required by the bond proceedings.

Any funds required for bond retirement or interest on the bonds authorized by RCW 47.10.819 through 47.10.824 shall be taken from that portion of the motor vehicle fund that results from the imposition of excise taxes on motor vehicle and special fuels and which is, or may be appropriated to the department of transportation for state highway purposes. Funds required shall never constitute a charge against any other allocations of motor vehicle fuel and special fuel tax revenues to the state, counties, cities, and towns unless the amount arising from excise taxes on motor vehicle and special fuels distributed to the state in the motor vehicle fund proves insufficient to meet the requirements for bond retirement or interest on any such bonds.

Any payments for bond retirement or interest on the bonds taken from other revenues from the motor vehicle fuel or special fuel taxes that are distributed to the state, counties, cities, and towns, shall be repaid from the first revenues from the motor vehicle fuel or special fuel taxes distributed to the motor vehicle fund not required for bond retirement or interest on the bonds. [1993 c 432 § 5.]

47.10.824 Equal charge against fuel tax revenues. Bonds issued under the authority of RCW 47.10.819 through 47.10.823 and this section and any other general obligation bonds of the state of Washington that have been or that may be authorized and that pledge motor vehicle and special fuels excise taxes for the payment of principal and interest thereon shall be an equal charge against the revenues from such motor vehicle and special fuels excise taxes. [1993 c 432 § 6.]

47.10.825 Severability—1993 c 432. 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. [1993 c 432 § 8.]

INTERSTATE HIGHWAY IMPROVEMENTS—1993 ACT

47.10.826 Issuance and sale of general obligation bonds—Time limit. In order to provide funds necessary for the location, design, right of way, and construction of state highway improvements that are identified as interstate improvements, there shall be issued and sold upon the request of the Washington state transportation commission a total of two hundred million dollars of general obligation bonds of the state of Washington. These funds shall be used to temporarily pay the regular federal share of construction of federal-aid interstate highway improvements to complete state routes 5, 82, 90, 182, 405, and 705 in advance of federal-aid apportionments under the provisions of 23 U.S.C. Sec. 115 or 122: PROVIDED, That if by December 31, 1996, none of these bonds have been sold this section and RCW 47.10.827 through 47.10.831 are null and void. [1993 c 6 § 1.]

47.10.827 Administration and amount of sale. Upon the request of the transportation commission, the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds authorized by RCW 47.10.826 through 47.10.831 in accordance with chapter 39.42 RCW. Bonds authorized by RCW 47.10.826 through 47.10.831 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 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. [1993 c 6 § 2.]

47.10.828 Proceeds—Deposit and use. The proceeds from the sale of bonds authorized by RCW 47.10.826 through 47.10.831 shall be deposited in the motor vehicle fund. The proceeds shall be available only for the purposes enumerated in RCW 47.10.826, for the payment of bond anticipation notes, if any, and for the payment of bond issuance costs, including the costs of underwriting. [1993 c 6 § 3.]

47.10.829 Statement of general obligation—Pledge of excise taxes. Bonds issued under the authority of RCW 47.10.826 through 47.10.831 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 on the bonds shall be first payable in the manner provided in RCW 47.10.826 through 47.10.831 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. Proceeds of such excise taxes are hereby pledged to the payment of any bonds and the interest thereon issued under the authority of RCW 47.10.826 through 47.10.831, 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 RCW 47.10.826 through 47.10.831. [1993 c 6 § 4.]

47.10.830 Designation of funds to repay bonds and interest. Both principal and interest on the bonds issued for the purposes of RCW 47.10.826 through 47.10.831 shall be payable from the highway bond retirement fund. The state finance committee may provide that a special account be created in the fund to facilitate payment of the principal and interest. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on the bonds in accordance with the bond proceedings. The state treasurer shall withdraw revenues from the motor vehicle fund and deposit in the highway bond retirement fund, or a special account in the fund, such amounts, and at such times, as are required by the bond proceedings.

Any funds required for bond retirement or interest on the bonds authorized by RCW 47.10.826 through 47.10.831 shall be taken from that portion of the motor vehicle fund that results from the imposition of excise taxes on motor vehicle and special fuels and which is, or may be appropriated to the department of transportation for state highway purposes. Funds required shall never constitute a charge against any other allocations of motor vehicle fuel and special fuel tax revenues to the state, counties, cities and towns unless the amount arising from excise taxes on motor vehicle and special fuels distributed to the state in the motor vehicle fund proves insufficient to meet the requirements for bond retirement or interest on any such bonds.

Any payments for bond retirement or interest on the bonds taken from other revenues from the motor vehicle fuel or special fuel taxes that are distributable to the state, counties, cities and towns, shall be repaid from the first revenues from the motor vehicle fuel or special fuel taxes distributed to the motor vehicle fund not required for bond retirement or interest on the bonds. [1993 c 6 § 5.]

47.10.831 Equal charge against fuel tax revenues. Bonds issued under the authority of RCW 47.10.826 through 47.10.830 and this section and any other general obligation bonds of the state of Washington that have been or that may be authorized and that pledge motor vehicle and special fuels excise taxes for the payment of principal and interest thereon shall be an equal charge against the revenues from such motor vehicle and special fuels excise taxes. [1993 c 6 § 6.]

47.10.832 Severability—1993 c 6. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1993 c 6 § 8.]

47.10.833 Effective date—1993 c 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 immediately [March 16, 1993]. [1993 c 6 § 9.]

Chapter 47.12
ACQUISITION AND DISPOSITION OF STATE HIGHWAY PROPERTY

Sections

47.12.063 Surplus real property program. (1) It is the intent of the legislature to continue the department's policy giving priority consideration to abutting property owners in agricultural areas when disposing of property through its surplus property program under this section.

(2) Whenever the department determines that any real property owned by the state of Washington and under the jurisdiction of the department is no longer required for transportation purposes and that it is in the public interest to do so, the department may sell the property or exchange it in full or part consideration for land or improvements or for construction of improvements at fair market value to any of the following governmental entities or persons:

(a) Any other state agency;

(b) The city or county in which the property is situated;

(c) Any other municipal corporation;

(d) The former owner of the property from whom the state acquired title;

(e) In the case of residentially improved property, a tenant of the department who has resided thereon for not less than six months and who is not delinquent in paying rent to the state;

(f) Any abutting private owner but only after each other abutting private owner (if any), as shown in the records of the county assessor, is notified in writing of the proposed sale. If more than one abutting private owner requests in writing the right to purchase the property within fifteen days after receiving notice of the proposed sale, the property shall be sold at public auction in the manner provided in RCW 47.12.283;

(g) To any person through the solicitation of written bids through public advertising in the manner prescribed by RCW 47.28.050;

(h) To any other owner of real property required for transportation purposes; or

(i) In the case of property suitable for residential use, any nonprofit organization dedicated to providing affordable housing to very low-income, low-income, and moderate-income households as defined in RCW 43.63A.510 and is eligible to receive assistance through the Washington housing trust fund created in chapter 43.185 RCW.

(3) Sales to purchasers may at the department's option be for cash, by real estate contract, or exchange of land or improvements. Transactions involving the construction of improvements must be conducted pursuant to chapter 47.28 RCW or Title 39 RCW, as applicable, and must comply with all other applicable laws and rules.

(4) Conveyances made pursuant to this section shall be by deed executed by the secretary of transportation and shall be duly acknowledged.

(5) All moneys received pursuant to the provisions of this section less any real estate broker commissions paid pursuant to RCW 47.12.320 shall be deposited in the motor vehicle fund. [1993 c 461 § 11; 1988 c 135 § 1; 1983 c 3 § 125; 1977 ex.s. c 78 § 1.]

Finding—1993 c 461: See note following RCW 43.63A.510.

47.12.064 Affordable housing—Inventory of suitable property. (1) The department shall identify and catalog real property that is no longer required for department purposes and is suitable for the development of affordable housing for very low-income, low-income, and moderate-income households as defined in RCW 43.63A.510. The inventory shall include the location, approximate size, and current zoning classification of the property. The department shall provide a copy of the inventory to the department of community development by November 1, 1993, and every November 1 thereafter.

(2) By November 1 of each year, beginning in 1994, the department shall purge the inventory of real property of sites that are no longer available for the development of affordable housing. The department shall include an updated listing of real property that has become available since the last update. As used in this section, "real property" means buildings, land, or buildings and land. [1993 c 461 § 10.]

Finding—1993 c 461: See note following RCW 43.63A.510.

Chapter 47.17
STATE HIGHWAY ROUTES

Sections

47.17.001 Criteria for changes to system. In considering whether to make additions, deletions, or other changes to the state highway system, the legislature shall be guided by the following criteria as contained in the Road Jurisdiction Committee Phase I report to the legislature dated January 1987:

(1) A rural highway route should be designated as a state highway if it meets any of the following criteria:

(a) Is designated as part of the national system of interstate and defense highways (popularly called the interstate system); or

(b) Is designated as part of the system of numbered United States routes; or

(c) Contains an international border crossing that is open twelve or more hours each day.

(2) A rural highway route may be designated as a state highway if it is part of an integrated system of roads and:

(a) Carries in excess of three hundred thousand tons annually and provides primary access to a rural port or intermodal freight terminal;

(b) Provides a major cross-connection between existing state highways;

(c) Connects places exhibiting one or more of the following characteristics:

(i) A population center of one thousand or greater;

(ii) An area or aggregation of areas having a population equivalency of one thousand or more, such as, but not limited to, recreation areas, military installations, and so forth;

(iii) A county seat;

(iv) A major commercial-industrial terminal in a rural area with a population equivalency of one thousand or greater; or

(d) Is designated as a scenic and recreational highway.

(3) An urban highway route that meets any of the following criteria should be designated as part of the state highway system:

(a) Is designated as part of the interstate system;

(b) Is designated as part of the system of numbered United States routes;

(c) Is an urban extension of a rural state highway into or through an urban area and is necessary to form an integrated system of state highways;

(d) Is a principal arterial that is a connecting link between two state highways and serves regionally oriented through traffic in urbanized areas with a population of fifty thousand or greater, or is a spur that serves regionally oriented traffic in urbanized areas.

(4) The following guidelines are intended to be used as a basis for interpreting and applying the criteria to specific routes:

(a) For any route wholly within one or more contiguous jurisdictions which would be proposed for transfer to the state highway system under these criteria, if local officials prefer, responsibility will remain at the local level.

(b) State highway routes maintain continuity of the system by being composed of routes that join other state routes at both ends or to arterial routes in the states of Oregon and Idaho and the Province of British Columbia.

(c) Public facilities may be considered to be served if they are within approximately two miles of a state highway.

(d) Exceptions may be made to include:

(i) Rural spurs as state highways if they meet the criteria relative to serving population centers of one thousand or greater population or activity centers with population equivalencies or an aggregated population of one thousand or greater;

(ii) Urban spurs as state highways that provide needed access to Washington state ferry terminals, state parks, major seaports, and trunk airports; and

(iii) Urban connecting links as state highways that function as needed bypass routing of regionally oriented through traffic and benefit truck routing, capacity alternative, business congestion, and geometric deficiencies.

(e) In urban and urbanized areas:

(i) Unless they are significant regional traffic generators, public facilities such as state hospitals, state correction centers, state universities, ferry terminals, and military bases do not constitute a criteria for establishment of a state highway; and

(ii) There may be no more than one parallel nonaccess controlled facility in the same corridor as a freeway or limited access facility as designated by the metropolitan planning organization.

(f) When there is a choice of two or more routes between population centers, the state route designation shall normally be based on the following considerations:

(i) The ability to handle higher traffic volumes;

(ii) The higher ability to accommodate further development or expansion along the existing alignment;

(iii) The most direct route and the lowest travel time;

(iv) The route that serves traffic with the most interstate, state-wide, and interregional significance;

(v) The route that provides the optimal spacing between other state routes; and

(vi) The route that best serves the comprehensive plan for community development in those areas where such a plan has been developed and adopted.

(g) A route designated in chapter 47.39 RCW as a scenic and recreational highway may be designated as a state highway in addition to a parallel state highway route. [1993 c 430 § 1; 1990 c 233 § 1.]

47.17.305 State route No. 160. A state highway to be known as state route number 160 is established as follows:

Beginning at a junction with state route number 16 in the vicinity south of Port Orchard, thence easterly on Sedgwick Road to the Washington state ferry dock at Point Southworth. [1993 c 430 § 2; 1970 ex.s. c 51 § 62; (1991 c 342 § 15 repealed by 1992 c 166 § 31).]

47.17.328 State route No. 166. A state highway to be known as state route number 166 is established as follows:

Beginning at a junction with state route number 16 in the vicinity west of Port Orchard, thence northeasterly to the eastern Port Orchard city limits. [1993 c 430 § 3.]

47.17.556 State route No. 304. A state highway to be known as state route number 304 is established as follows:

Beginning at a junction with state route number 3 in Bremerton, thence easterly to the ferry terminal in Bremerton. [1993 c 430 § 4.]

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

47.17.577 State route No. 397. A state highway to be known as state route number 397 is established as follows:

Beginning at Piert Road in the vicinity southeast of Finely, thence northwesterly and northerly across the Columbia River, thence easterly and northerly to a junction with state route number 395 in Pasco. [1993 c 430 § 5; 1991 c 342 § 31.]

Effective dates—1991 c 342: See note following RCW 47.26.167.

Chapter 47.24
CITY STREETS AS PART OF STATE HIGHWAYS

Sections

47.24.020 Jurisdiction, control of such streets. The jurisdiction, control, and duty of the state and city or town with respect to such streets shall be as follows:

(1) The department has no authority to change or establish any grade of any such street without approval of the governing body of such city or town, except with respect to limited access facilities established by the commission;

(2) The city or town shall exercise full responsibility for and control over any such street beyond the curbs and if no curb is installed, beyond that portion of the highway used for highway purposes. However, within incorporated cities and towns the title to a state limited access highway vests in the state, and, notwithstanding any other provision of this section, the department shall exercise full jurisdiction, responsibility, and control to and over such facility as provided in chapter 47.52 RCW;

(3) The department has authority to prohibit the suspension of signs, banners, or decorations above the portion of such street between the curbs or portion used for highway purposes up to a vertical height of twenty feet above the surface of the roadway;

(4) The city or town shall at its own expense maintain all underground facilities in such streets, and has the right to construct such additional underground facilities as may be necessary in such streets;

(5) The city or town has the right to grant the privilege to open the surface of any such street, but all damage occasioned thereby shall promptly be repaired either by the city or town itself or at its direction;

(6) The city or town at its own expense shall provide street illumination and shall clean all such streets, including storm sewer inlets and catch basins, and remove all snow, except that the state shall when necessary plow the snow on the roadway. In cities and towns having a population of twenty-two thousand five hundred or less according to the latest determination of population by the office of financial management, the state, when necessary for public safety, shall assume, at its expense, responsibility for the stability of the slopes of cuts and fills and the embankments within the right of way to protect the roadway itself. When the population of a city or town first exceeds twenty-two thousand five hundred according to the determination of population by the office of financial management, the city or town shall have three years from the date of the determination to plan for additional staffing, budgetary, and equipment requirements before being required to assume the responsibilities under this subsection. The state shall install, maintain, and operate all illuminating facilities on any limited access facility, together with its interchanges, located within the corporate limits of any city or town, and shall assume and pay the costs of all such installation, maintenance, and operation incurred after November 1, 1954;

(7) The department has the right to use all storm sewers on such highways without cost; and if new storm sewer facilities are necessary in construction of new streets by the department, the cost of the facilities shall be borne by the state and/or city as may be mutually agreed upon between the department and the governing body of the city or town;

(8) Cities and towns have exclusive right to grant franchises not in conflict with state laws, over, beneath, and upon such streets, but the department is authorized to enforce in an action brought in the name of the state any condition of any franchise which a city or town has granted on such street. No franchise for transportation of passengers in motor vehicles may be granted on such streets without the approval of the department, but the department shall not refuse to approve such franchise unless another street conveniently located and of strength of construction to sustain travel of such vehicles is accessible;

(9) Every franchise or permit granted any person by a city or town for use of any portion of such street by a public utility shall require the grantee or permittee to restore, repair, and replace to its original condition any portion of the street damaged or injured by it;

(10) The city or town has the right to issue overload or overwidth permits for vehicles to operate on such streets or roads subject to regulations printed and distributed to the cities and towns by the department;

(11) Cities and towns shall regulate and enforce all traffic and parking restrictions on such streets, but all regulations adopted by a city or town relating to speed, parking, and traffic control devices on such streets not identical to state law relating thereto are subject to the approval of the department before becoming effective. All regulations pertaining to speed, parking, and traffic control devices relating to such streets heretofore adopted by a city or town not identical with state laws shall become null and void unless approved by the department heretofore or within one year after March 21, 1963;

(12) The department shall erect, control, and maintain at state expense all route markers and directional signs, except street signs, on such streets;

(13) The department shall install, operate, maintain, and control at state expense all traffic control signals, signs, and traffic control devices for the purpose of regulating both pedestrian and motor vehicular traffic on, entering upon, or leaving state highways in cities and towns having a population of twenty-two thousand five hundred or less according to the latest determination of population by the office of financial management. Such cities and towns may submit to the department a plan for traffic control signals, signs, and traffic control devices desired by them, indicating the location, nature of installation, or type thereof, or a proposed amendment to such an existing plan or installation, and the department shall consult with the cities or towns concerning the plan before installing such signals, signs, or devices. Cities and towns having a population in excess of twenty-two thousand five hundred according to the latest determination of population by the office of financial management shall install, maintain, operate, and control such signals, signs, and devices at their own expense, subject to approval of the department for the installation and type only. When the population of a city or town first exceeds twenty-two thousand five hundred according to the determination of population by the office of financial management, the city or town shall have three years from the date of the determination to plan for additional staffing, budgetary, and equipment requirements before being required to assume the responsibilities under this subsection. For the purpose of this subsection, striping, lane marking, and channelization are considered traffic control devices;

(14) All revenue from parking meters placed on such streets belongs to the city or town;

(15) Rights of way for such streets shall be acquired by either the city or town or by the state as shall be mutually

agreed upon. Costs of acquiring rights of way may be at the sole expense of the state or at the expense of the city or town or at the expense of the state and the city or town as may be mutually agreed upon. Title to all such rights of way so acquired shall vest in the city or town: PROVIDED, That no vacation, sale, rental, or any other nontransportation use of any unused portion of any such street may be made by the city or town without the prior written approval of the department; and all revenue derived from sale, vacation, rental, or any nontransportation use of such rights of way shall be shared by the city or town and the state in the same proportion as the purchase costs were shared;

(16) If any city or town fails to perform any of its obligations as set forth in this section or in any cooperative agreement entered into with the department for the maintenance of a city or town street forming part of the route of a state highway, the department may notify the mayor of the city or town to perform the necessary maintenance within thirty days. If the city or town within the thirty days fails to perform the maintenance or fails to authorize the department to perform the maintenance as provided by RCW 47.24.050, the department may perform the maintenance, the cost of which is to be deducted from any sums in the motor vehicle fund credited or to be credited to the city or town. [1993 c 126 § 1; 1991 c 342 § 52; 1987 c 68 § 1; 1984 c 7 § 150; 1977 ex.s. c 78 § 7; 1967 c 115 § 1; 1963 c 150 § 1; 1961 c 13 § 47.24.020. Prior: 1957 c 83 § 3; 1955 c 179 § 3; 1953 c 193 § 1; 1949 c 220 § 5, part; 1945 c 250 § 1, part; 1943 c 82 § 10, part; 1937 c 187 § 61, part; Rem. Supp. 1949 § 6450-61, part.]

Effective dates—1991 c 342: See note following RCW 47.26.167.

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 47.26
DEVELOPMENT IN URBAN AREAS—URBAN ARTERIALS

Sections

47.26.121 Transportation improvement board—Membership—Appointments—Terms—Chair—Expenses. (1) There is hereby created a transportation improvement board of eighteen members, six of whom shall be county members and six of whom shall be city members. The remaining members shall be: (a) One representative appointed by the governor who shall be a state employee with responsibility for transportation policy, planning, or funding; (b) the assistant secretary of the department of transportation whose primary responsibilities relate to planning and public transportation; (c) the assistant secretary for local programs of the department of transportation; (d) a representative of a public transit system; (e) a private sector representative; and (f) a public member.

(2) Of the county members of the board, one shall be a county engineer or public works director; one shall be the executive director of the county road administration board; one shall be a county planning director or planning manager; one shall be a county executive, councilmember, or commissioner from a county with a population of one hundred twenty-five thousand or more; one shall be a county executive, councilmember, or commissioner of a county who serves on the board of a public transit system; and one shall be a county executive, councilmember, or commissioner from a county with a population of less than one hundred twenty-five thousand. All county members of the board, except the executive director of the county road administration board, shall be appointed. Not more than one county member of the board shall be from any one county. No more than two of the three county-elected officials may represent counties located in either the eastern or western part of the state as divided north and south by the summit of the Cascade mountains.

(3) Of the city members of the board one shall be a chief city engineer, public works director, or other city employee with responsibility for public works activities, of a city with a population of twenty thousand or more; one shall be a chief city engineer, public works director, or other city employee with responsibility for public works activities, of a city of less than twenty thousand population; one shall be a city planning director or planning manager; one shall be a mayor, commissioner, or city councilmember of a city with a population of twenty thousand or more; one shall be a mayor, commissioner, or city councilmember of a city who serves on the board of a public transit system; and one shall be a mayor, commissioner, or councilmember of a city of less than twenty thousand population. All of the city members shall be appointed. Not more than one city member of the board shall be from any one city. No more than two of the three city-elected officials may represent cities located in either the eastern or western part of the state as divided north and south by the summit of the Cascade mountains.

(4) The transit member shall be a general manager, executive director, or transit director of a public transit system.

(5) The private sector member shall be a citizen with business, management, and transportation related experience and shall be active in a business community-based transportation organization.

(6) The public member shall have professional experience in transportation or land use planning, a demonstrated interest in transportation issues, and involvement with community groups or grass roots organizations.

(7) Appointments of county, city, transit, private sector, and public representatives shall be made by the secretary of the department of transportation. Appointees shall be chosen from a list of two persons for each position nominated by the Washington state association of counties for county members, the association of Washington cities for city members, and the Washington state transit association for the transit member. The private sector and public members shall be sought through classified advertisements in selected

newspapers collectively serving all urban areas of the state, and other appropriate means. Persons applying for the private sector or the public member position must provide a letter of interest and a resume to the secretary of the department of transportation. In the case of a vacancy, the appointment shall be only for the remainder of the unexpired term in which the vacancy has occurred. A vacancy shall be deemed to have occurred on the board when any member elected to public office completes that term of office or is removed therefrom for any reason or when any member employed by a political subdivision terminates such employment for whatsoever reason or when a private sector or public member resigns or is unable or unwilling to serve.

(8) Appointments shall be for terms of four years. Terms of all appointed members shall expire on June 30th of even-numbered years. The initial term of appointed members may be for less than four years. No appointed member may serve more than two consecutive four-year terms.

(9) The board shall elect a chair from among its members for a two-year term.

(10) Expenses of the board, including administration of the transportation improvement program, shall be paid from the urban arterial account.

(11) For purposes of this section, "public transit system" means a city-owned transit system, county transportation authority, metropolitan municipal corporation, public transportation benefit area, or regional transit authority. [1993 c 172 § 1. Prior: 1991 c 363 § 124; 1991 c 308 § 1; 1990 c 266 § 4; 1988 c 167 § 1.]

Effective date—1993 c 172: "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, 1993." [1993 c 172 § 2.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Effective date—1991 c 308: "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, 1991." [1991 c 308 § 2.]

References to urban arterial board—1988 c 167: "References in the Revised Code of Washington to the urban arterial board shall be construed to mean the transportation improvement board." [1988 c 167 § 35.]

Savings—1988 c 167: "All rules and all pending business before the urban arterial board shall be continued and acted upon by the transportation improvement board. All existing contracts and obligations of the urban arterial board shall remain in full force and shall be performed by the transportation improvement board." [1988 c 167 § 36.]

Severability—1988 c 167: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1988 c 167 § 37.]

BOND ISSUE—TRANSPORTATION PROJECTS IN URBAN AREAS

47.26.500 Issuance authorized. In order to provide funds necessary to meet the urgent construction needs on state, county, and city transportation projects within urban areas, there are hereby authorized for issuance general obligation bonds of the state of Washington in the sum of fifty million dollars, which shall be issued and sold in such amounts and at such times as determined to be necessary by the state transportation improvement board. The amount of such bonds issued and sold under the provisions of RCW 47.26.500 through 47.26.507 in any biennium shall not exceed the amount of a specific appropriation therefor, from the proceeds of such bonds, for the construction of state, county, and city transportation projects in urban areas. The issuance, sale, and retirement of the bonds shall be under the supervision and control of the state finance committee which, upon request being made by the state transportation commission on behalf of the transportation improvement board, shall provide for the issuance, sale, and retirement of coupon or registered bonds to be dated, issued, and sold from time to time in such amounts as shall be requested by the state transportation commission. [1993 c 440 § 1.]

47.26.501 Term—Signatures—Registration—Negotiable instruments. Each of such bonds shall be made payable at any time not exceeding thirty years from the date of its issuance, with such reserved rights of prior redemption, bearing such interest, and such terms and conditions, as the state finance committee may prescribe to be specified therein. The bonds shall be signed by the governor and the state treasurer under the seal of the state, either or both of which signatures may be in printed facsimile, and any coupons attached to such bonds shall be signed by the same officers whose signatures thereon may be in printed facsimile. Any bonds may be registered in the name of the holder on presentation to the state treasurer or at the fiscal agency of the state of Washington in Seattle or New York City, as to principal alone, or as to both principal and interest under such rules as the state treasurer may adopt. Such bonds shall be payable at such places as the state finance committee may provide. All bonds issued hereunder shall be fully negotiable instruments. [1993 c 440 § 2.]

47.26.502 Denominations—Manner and terms of sale—State investment. The bonds issued under RCW 47.26.500 through 47.26.507 shall be in denominations to be prescribed by the state finance committee and may be sold in such manner and in such amounts and at such times and on such terms and conditions as the committee may prescribe. The state finance committee may obtain insurance, letters of credit, or other credit facility devices with respect to the bonds 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 the bonds. 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 promissory notes or other obligations relate. The state finance committee may authorize 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. Bonds issued under the provisions of RCW 47.26.500 through 47.26.507 shall be legal investment for any of the funds of the state, except the permanent school fund. [1993 c 440 § 3.]

47.26.503 Use of proceeds. The money arising from the sale of the bonds shall be deposited in the state treasury to the credit of the transportation improvement account in the motor vehicle fund, and such money shall be available only for the construction and improvement of state, county, and city transportation projects, and for payment of the expense incurred in the printing, issuance, and sale of any such bonds. The costs of obtaining insurance, letters of credit, or other credit enhancement devices with respect to the bonds shall be considered to be expenses incurred in the issuance and sale of the bonds. [1993 c 440 § 4.]

47.26.504 Statement of obligation—Pledge of excise taxes. Bonds issued under the provisions of RCW 47.26.500 through 47.26.507 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 on such bonds shall be first payable in the manner provided in RCW 47.26.500 through 47.26.507 from the proceeds of state excise taxes on motor vehicle and special fuels imposed by chapters 82.36, 82.37, and 82.38 RCW. The proceeds of such excise taxes are hereby pledged to the payment of any such bonds and the interest thereon, and the legislature hereby agrees to continue to impose the same excise taxes on motor vehicle and special fuels in amounts sufficient to pay, when due, the principal and interest on all such bonds. [1993 c 440 § 5.]

47.26.505 Funds for repayment—Transportation improvement account. Any funds required to repay such bonds, or the interest thereon when due, shall be taken from that portion of the motor vehicle fund which results from the imposition of excise taxes on motor vehicle and special fuels and which is distributed to the transportation improvement account in the motor vehicle fund, and shall never constitute a charge against any allocations of any other such funds in the motor vehicle fund to the state, counties, cities, and towns unless and until the amount of the motor vehicle fund arising from the excise tax on motor vehicle and special fuels and distributed to the transportation improvement account proves insufficient to meet the requirements for bond retirement or interest on any such bonds. [1993 c 440 § 6.]

47.26.506 Repayment procedure—Bond retirement fund. At least one year prior to the date any interest is due and payable on such bonds or before the maturity date of any such bonds, the state finance committee shall estimate, subject to the provisions of RCW 47.26.505 the percentage of the receipts in money of the motor vehicle fund, resulting from collection of excise taxes on motor vehicle and special fuels, for each month of the year which shall be required to meet interest or bond payments under RCW 47.26.500 through 47.26.507 when due, and shall notify the state treasurer of such estimated requirement. The state treasurer, subject to RCW 47.26.505, shall thereafter from time to time each month as such funds are paid into the motor vehicle fund, transfer such percentage of the monthly receipts from excise taxes on motor vehicle and special fuels of the motor vehicle fund to the highway bond retirement fund, maintained in the office of the state treasurer, which fund shall be available for payment of interest or bonds when due. If in any month it shall appear that the estimated percentage of money so made is insufficient to meet the requirements for interest or bond retirement, the treasurer shall notify the state finance committee forthwith and such committee shall adjust its estimates so that all requirements for interest and principal of all bonds issued shall be fully met at all times. [1993 c 440 § 7.]

47.26.507 Sums in excess of retirement requirements—Use. Whenever the percentage of the motor vehicle fund arising from excise taxes on motor vehicle and special fuels payable into the highway bond retirement fund, shall prove more than is required for the payment of interest on bonds when due, or current retirement of bonds, any excess may, in the discretion of the state finance committee, be available for the prior redemption of any bonds or remain available in the fund to reduce the requirements upon the fuel excise tax portion of the motor vehicle fund at the next interest or bond payment period. [1993 c 440 § 8.]

Chapter 47.30
TRAILS AND PATHS

Sections

47.30.070 Bicycle, equestrian, pedestrian paths as public highways. For purposes of 43 U.S.C. 912 and related provisions of federal law involving federally granted railroad rights of way, a bicycle, equestrian or pedestrian path shall be deemed to be a public highway under the laws of the state of Washington. [1993 c 224 § 14.]

Chapter 47.38
ROADSIDE AREAS—SAFETY REST AREAS

Sections

47.38.010 Rules governing use and control of rest areas, historic sites, viewpoints, etc. Pursuant to chapter 34.05 RCW, the department and the Washington state patrol shall jointly adopt rules governing the conduct and the safety of the traveling public relating to the use and control of rest areas and other areas as designated in RCW 47.12.250. Nothing herein may be construed as limiting the powers of the department as provided by law. [1993 c 116 § 1; 1984 c 7 § 204; 1967 ex.s. c 145 § 29.]

Severability—1984 c 7: See note following RCW 47.01.141.

Roadside areas—Safety rest areas, provisions of scenic and recreational highway act concerning: Chapter 47.39 RCW.

47.38.030 Penalty. Any person violating RCW 47.38.010 or any rule or regulation adopted pursuant to

RCW 47.38.010 shall be guilty of a misdemeanor: PROVIDED, That violation of a rule or regulation relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of a rule or regulation equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor. [1993 c 116 § 2; 1979 ex.s. c 136 § 102; 1967 ex.s. c 145 § 31.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 47.39
SCENIC AND RECREATIONAL HIGHWAY ACT OF 1967

Sections

47.39.020 Designation of portions of existing highways as part of system. The following portions of highways are designated as part of the scenic and recreational highway system:

(1) State route number 2, beginning at the crossing of Woods creek at the east city limits of Monroe, thence in an easterly direction by way of Stevens pass to a junction with state route number 97 in the vicinity of Peshastin; also

Beginning at the junction with state route number 17, in the vicinity of Coulee City, thence easterly to the junction with state route number 155;

(2) State route number 3, beginning at a junction with state route number 101 in the vicinity of Shelton, thence northeasterly and northerly to a junction with state route number 104 in the vicinity of Port Gamble;

(3) State route number 4, beginning at the junction with state route number 101, thence easterly through Cathlamet to Coal Creek road, approximately .5 miles west of the Longview city limits;

(4) State route number 6, beginning at the junction with state route number 101 in Raymond, thence easterly to the junction with state route number 5, in the vicinity of Chehalis;

(5) State route number 7, beginning at the junction with state route number 12 in Morton, thence northerly to the junction with state route number 507;

(6) 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;

(7) State route number 9, beginning at the junction with state route number 530 in Arlington, thence northerly to the end of the route at the Canadian border;

(8) State route number 10, beginning at Teanaway junction, thence easterly to a junction with state route number 97 west of Ellensburg;

(9) State route number 11, beginning at the junction with state route number 5 in the vicinity of Burlington, thence in a northerly direction to the junction with state route number 5;

(10) State route number 12, beginning at a junction with a county road approximately 2.8 miles west of the crossing of the Wynoochee 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 a junction with state route number 5, thence easterly by way of Morton, Randle, and Packwood to the junction with state route number 410, approximately 3.5 miles west of Naches; also

Beginning at the junction with state route number 124 in the vicinity of the Tri-Cities, thence easterly through Wallula and Touchet to a junction with a county road approximately 2.4 miles west of a junction with state route number 129 at Clarkston;

(11) State route number 14, beginning at the crossing of Gibbons creek approximately 0.9 miles east of Washougal, thence easterly along the north bank of the Columbia river to a point in the vicinity of Plymouth;

(12) State route number 17, beginning at a junction with state route number 395 in the vicinity of Mesa, thence northerly to the junction with state route number 97 in the vicinity of Brewster;

(13) State route number 19, the Chimacum-Beaver Valley road, beginning at the junction with state route number 104, thence northerly to the junction with state route number 20;

(14) State route number 20, beginning at the junction with state route number 101 to the ferry zone in Port Townsend; also

Beginning at the Keystone ferry slip on Whidbey Island, thence northerly and easterly to a junction with state route number 153 southeast of Twisp; also

Beginning at a junction with state route number 97 near Tonasket, thence easterly and southerly to a junction with state route number 2 at Newport;

(15) State route number 25, beginning at the Spokane river bridge, thence northerly through Cedonia, Gifford, Kettle Falls, and Northport, to the Canadian border;

(16) State route number 31, beginning at the junction with state route number 20 in Tiger, thence northerly to the Canadian border;

(17) State route number 82, beginning at the junction with state route number 395 south of the Tri-Cities area, thence southerly to the end of the route at the Oregon border;

(18) State route number 90, beginning at the junction with East Sunset Way in the vicinity east of Issaquah, thence easterly to Thorp road 9.0 miles west of Ellensburg;

(19) State route number 97, beginning at the Oregon border, in a northerly direction through Toppenish and Wapato to the junction with state route number 82 at Union Gap; also

Beginning at the junction with state route number 10, 2.5 miles north of Ellensburg, in a northerly direction to the junction with state route number 2, 4.0 miles east of Leavenworth;

(20) State route number 97 alternate, beginning at the junction with state route number 2 in the vicinity of Monitor, thence northerly to the junction with state route number 97, approximately 5.0 miles north of Chelan;

(21) State route number 101, beginning at the Astoria-Megler bridge, thence north to Fowler street in Raymond; also

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 junction with state route number 5 in the vicinity of Olympia;

(22) 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 Kingston ferry crossing;

(23) 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;

(24) State route number 109, beginning at a junction with state route number 101 in Hoquiam to a junction with state route number 101 in the vicinity of Queets;

(25) 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;

(26) State route number 116, beginning at the junction with the Chimacum-Beaver Valley road, thence in an easterly direction to Fort Flagler State Park;

(27) State route number 119, beginning at the junction with state route number 101 at Hoodsport, thence northwesterly to the Mount Rose development intersection;

(28) State route number 122, Harmony road, between the junction with state route number 12 near Mayfield dam and the junction with state route number 12 in Mossyrock;

(29) State route number 123, beginning at the junction with state route number 12 in the vicinity of Morton, thence northerly to the junction with state route number 410;

(30) State route number 129, beginning at the Oregon border, thence northerly to the junction with state route number 12 in Clarkston;

(31) State route number 141, beginning at the junction with state route number 14 in Bingen, thence northerly to the end of the route at the Skamania county line;

(32) State route number 142, beginning at the junction with state route number 14 in Lyle, thence northeasterly to the junction with state route number 97, .5 miles from Goldendale;

(33) 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;

(34) State route number 155, beginning at a junction with state route number 2 in the vicinity north of Coulee City, thence northerly and westerly to the junction with state route number 215;

(35) State route number 194, beginning at the Port of Almota to the junction with state route number 195 in the vicinity of Pullman;

(36) State route number 202, beginning at the junction with state route number 522, thence in an easterly direction to the junction with state route number 90 in the vicinity of North Bend;

(37) State route number 211, beginning at the junction with state route number 2, thence northerly to the junction with state route number 20 in the vicinity of Usk;

(38) State route number 231, beginning at the junction with state route number 23, in the vicinity of Sprague, thence in a northerly direction to the junction with state route number 2, approximately 2.5 miles west of Reardan;

(39) State route number 261, beginning at the junction with state route number 12 in the vicinity of Delaney, thence northwesterly to the junction with state route number 260;

(40) State route number 262, beginning at the junction with state route number 26, thence northeasterly to the junction with state route number 17 between Moses Lake and Othello;

(41) State route number 272, beginning at the junction with state route number 195 in Colfax, thence easterly to the Idaho state line, approximately 1.5 miles east of Palouse;

(42) State route number 305, beginning at the Winslow ferry dock to the junction with state route number 3 approximately 1.0 mile north of Poulsbo;

(43) State route number 395, 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;

(44) 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;

(45) State route number 410, beginning 4.0 miles east of Enumclaw, thence in an easterly direction to the junction with state route number 12, approximately 3.5 miles west of Naches;

(46) State route number 501, beginning at the junction with state route number 5 in the vicinity of Vancouver, thence northwesterly on the New Lower River road around Vancouver Lake;

(47) State route number 503, beginning at the junction with state route number 500, thence northerly by way of Battle Ground and Yale to the junction with state route number 5 in the vicinity of Woodland;

(48) State route number 504, beginning at a junction with state route number 5 at Castle Rock, to the end of the route on Johnston Ridge, approximately milepost 52;

(49) State route number 505, beginning at the junction with state route number 504, thence northwesterly by way of Toledo to the junction with state route number 5;

(50) State route number 508, beginning at the junction with state route number 5, thence in an easterly direction to the junction with state route number 7 in Morton;

(51) State route number 525, beginning at the ferry toll booth on Whidbey Island to a junction with state route number 20 east of the Keystone ferry slip;

(52) State route number 542, beginning at the junction with state route number 5, thence easterly to the vicinity of Austin pass in Whatcom county;

(53) State route number 547, beginning at the junction with state route number 542 in Kendall, thence northwesterly to the junction with state route number 9 in the vicinity of the Canadian border;

(54) State route number 706, beginning at the junction with state route number 7 in Elbe, in an easterly direction to the end of the route at Mt. Rainier National Park;

(55) 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;

(56) State route number 971, Navarre Coulee road, between the junction with state route number 97 and the junction with South Lakeshore road. [1993 c 430 § 7; 1992 c 26 § 2; 1991 c 342 § 54; 1990 c 240 § 3; 1975 c 63 § 8; 1973 1st ex.s. c 151 § 10; 1971 ex.s. c 73 § 29; 1970 ex.s. c 51 § 177; 1969 ex.s. c 281 § 6; 1967 ex.s. c 85 § 2.]

Effective dates—1991 c 342: See note following RCW 47.26.167.

Legislative finding—1990 c 240: See note following RCW 47.39.070.

47.39.080 Funding priorities—Signage. Recognizing that the Intermodal Surface Transportation Efficiency Act of 1991 establishes a national "Scenic Byways" grant program and a new apportionment program called "Transportation Enhancement Activities," the department of transportation shall place high priority on obtaining funds from those sources for further development of a scenic and recreational highways program, including highway heritage projects on the designated scenic and recreational highway system. The department shall consider the use of the designated system by bicyclists and pedestrians in connection with nonmotorized routes in the state trail plan, and the state bicycle plan which are also eligible for ISTEA funding. Appropriate signage may be used at intersections of nonmotorized and motorized systems to demonstrate the access, location, and the interconnectivity of various modes of travel for transportation and recreation. [1993 c 430 § 8.]

47.39.090 Consultation with other agencies and parties—Identification of tourist routes. 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, state-wide bicycling organizations, and other interested parties. The scenic and recreational highways program may 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. [1993 c 430 § 9.]

Chapter 47.42
HIGHWAY ADVERTISING CONTROL ACT—SCENIC VISTAS ACT

Sections

47.42.020 Definitions. The definitions set forth in this section apply throughout this chapter.

(1) "Department" means the Washington state department of transportation.

(2) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

(3) "Interstate system" means any state highway which is or does become part of the national system of interstate and defense highways as described in section 103(d) of title 23, United States Code.

(4) "Maintain" means to allow to exist.

(5) "Person" means this state or any public or private corporation, firm, partnership, association, as well as any individual or individuals.

(6) "Primary system" means any state highway which is or does become part of the federal-aid primary system as described in section 103(b) of title 23, United States Code.

(7) "Scenic system" means (a) any state highway within any public park, federal forest area, public beach, public recreation area, or national monument, (b) any state highway or portion thereof outside the boundaries of any incorporated city or town designated by the legislature as a part of the scenic system, or (c) any state highway or portion thereof outside the boundaries of any incorporated city or town designated by the legislature as a part of the scenic and recreational highway system except for the sections of highways specifically excluded in RCW 47.42.025 or located within areas zoned by the governing county for predominantly commercial and industrial uses, and having development visible to the highway, as determined by the department.

(8) "Sign" means any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing that is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main-traveled way of the interstate system or other state highway.

(9) "Commercial and industrial areas" means any area zoned commercial or industrial by a county or municipal code, or if unzoned or zoned for general uses by a county or municipal code, that area occupied by three or more separate and distinct commercial or industrial activities, or any combination thereof, within a space of five hundred feet and the area within five hundred feet of such activities on both sides of the highway. The area shall be measured from the outer edges of the regularly used buildings, parking lots, or storage or processing areas of the commercial or industrial activity and not from the property lines of the parcels upon which the activities are located. Measurements shall be along or parallel to the edge of the main traveled way of the highway. The following shall not be considered commercial or industrial activities:

(a) Agricultural, forestry, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands;

(b) Transient or temporary activities;

(c) Railroad tracks and minor sidings;

(d) Signs;

(e) Activities more than six hundred and sixty feet from the nearest edge of the right of way;

(f) Activities conducted in a building principally used as a residence.

If any commercial or industrial activity that has been used in defining or delineating an unzoned area ceases to operate for a period of six continuous months, any signs located within the former unzoned area become nonconforming and shall not be maintained by any person.

(10) "Roadside area information panel or display" means a panel or display located so as not to be readable from the main traveled way, erected in a safety rest area, scenic overlook, or similar roadside area, for providing motorists with information in the specific interest of the traveling public.

(11) "Temporary agricultural directional sign" means a sign on private property adjacent to state highway right of way to provide directional information to places of business offering for sale seasonal agricultural products on the property where the sale is taking place. [1993 c 430 § 10; 1991 c 94 § 1; 1990 c 258 § 1; 1987 c 469 § 2; 1985 c 376 § 2; 1984 c 7 § 222; 1977 ex.s. c 258 § 1; 1974 ex.s. c 80 § 1; 1971 ex.s. c 62 § 1; 1961 c 96 § 2.]

Legislative findings and intent—1990 c 258: See note following RCW 47.40.100.

Legislative intent—1985 c 376: "It is the intent of the legislature that state highway information and directional signs provide appropriate guidance to all motorists traveling throughout the state. Such guidance should include the identity, location, and types of recreational, cultural, educational, entertainment, or unique or unusual commercial activities whose principle source of visitation is derived from motorists not residing in the immediate locale of the activity. Such informational and directional signs shall comply with Title 23, United States Code and the rules adopted by the department under RCW 47.42.060." [1985 c 376 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.42.100 Preexisting signs—Moratorium. (1) No sign lawfully erected in a protected area as defined by section 2, chapter 96, Laws of 1961 (before the amendment thereof), prior to March 11, 1961, within a commercial or industrial zone within the boundaries of any city or town, as such boundaries existed on September 21, 1959, wherein the use of real property adjacent to the interstate system is subject to municipal regulation or control but which does not comply with the provisions of this chapter or any regulations promulgated hereunder, shall be maintained by any person after March 11, 1965.

(2) No sign lawfully erected in a protected area as defined by section 2, chapter 96, Laws of 1961 (before the amendment thereof), prior to March 11, 1961, other than within a commercial or industrial zone within the boundaries of a city or town as such boundaries existed on September 21, 1959, wherein the use of real property adjacent to the interstate system is subject to municipal regulation or control but which does not comply with the provisions of this chapter or any regulations promulgated hereunder, shall be maintained by any person after three years from March 11, 1961.

(3) No sign lawfully erected in a scenic area as defined by section 2, chapter 96, Laws of 1961 (before the amendment thereof), prior to the effective date of the designation of such area as a scenic area shall be maintained by any person after three years from the effective date of the designation of any such area as a scenic area.

(4) No sign visible from the main traveled way of the interstate system, the primary system (other than type 3 signs along any portion of the primary system within an incorporated city or town or within a commercial or industrial area), or the scenic system which was there lawfully maintained immediately prior to May 10, 1971, but which does not comply with the provisions of chapter 47.42 RCW as now or hereafter amended, shall be maintained by any person (a) after three years from May 10, 1971, or (b) with respect to any highway hereafter designated by the legislature as a part of the scenic system, after three years from the effective date of the designation. Signs located in areas zoned by the governing county for predominantly commercial or industrial uses, that do not have development visible to the highway, as determined by the department, and that were lawfully installed after May 10, 1971, visible to any highway now or hereafter designated by the legislature as part of the scenic system, shall be allowed to be maintained. [1993 c 430 § 11; 1974 ex.s. c 154 § 3; 1974 ex.s. c 138 § 3; 1971 ex.s. c 62 § 11; 1963 ex.s. c 3 § 55; 1961 c 96 § 10.]

47.42.140 Scenic areas designated. The following portions of state highways are designated as a part of the scenic system:

(1) State route number 2 beginning at the crossing of Woods creek at the east city limits of Monroe, thence in an easterly direction by way of Stevens pass to a junction with state route number 97 in the vicinity of Peshastin.

(2) State route number 7 beginning at a junction with state route number 706 at Elbe, thence in a northerly direction to a junction with state route number 507 south of Spanaway.

(3) State route number 11 beginning at the Blanchard overcrossing, thence in a northerly direction to the limits of Larabee state park (north line of section 36, township 37 north, range 2 east).

(4) State route number 12 beginning at Kosmos southeast of Morton, thence in an easterly direction across White pass to the Oak Flat junction with state route number 410 northwest of Yakima.

(5) State route number 90 beginning at the westerly junction with 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 106 beginning at the junction with state route number 101 in the vicinity of Union, thence northeasterly to the junction with state route number 3 in the vicinity of Belfair.

(8) 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.

(9) 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.

(10) State route number 206, Mt. Spokane Park Drive, beginning at the junction with state route number 2 near the

north line 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.

(11) 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.

(12) 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.

(13) 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.

(14) 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. [1993 c 430 § 12; 1992 c 26 § 3; 1975 c 63 § 9; 1974 ex.s. c 138 § 4. Prior: 1971 ex.s. c 73 § 28; 1971 ex.s. c 62 § 18; 1961 c 96 § 14. Cf. 1974 ex.s. c 154 § 4.]

Chapter 47.46
PUBLIC-PRIVATE TRANSPORTATION INITIATIVES

Sections

47.46.010 Finding. The legislature finds and declares:

It is essential for the economic, social, and environmental well-being of the state and the maintenance of a high quality of life that the people of the state have an efficient transportation system.

The ability of the state to provide an efficient transportation system will be enhanced by a public-private sector program providing for private entities to undertake all or a portion of the study, planning, design, development, financing, acquisition, installation, construction or improvement, operation, and maintenance of transportation systems and facility projects.

A public-private initiatives program will provide benefits to both the public and private sectors. Public-private initiatives provide a sound economic investment opportunity for the private sector. Such initiatives will provide the state with increased access to property development and project opportunities, financial and development expertise, and will supplement state transportation revenues, allowing the state to use its limited resources for other needed projects.

The public-private initiatives program, to the fullest extent possible, should encourage and promote business and employment opportunities for Washington state citizens.

The public-private initiatives program should be implemented in cooperation and consultation with affected local jurisdictions.

The secretary of transportation should be permitted and encouraged to test the feasibility of building privately funded transportation systems and facilities or segments thereof through the use of innovative agreements with the private sector. The secretary of transportation should be vested with the authority to solicit, evaluate, negotiate, and administer public-private agreements with the private sector relating to the planning, construction, upgrading, or reconstruction of transportation systems and facilities.

The department of transportation should be encouraged to take advantage of new opportunities provided by federal legislation under section 1012 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). That section establishes a new program authorizing federal participation in construction or improvement or improvement of publicly or privately owned toll roads, bridges, and tunnels, and allows states to leverage available federal funds as a means for attracting private sector capital. [1993 c 370 § 1.]

47.46.020 Definition. As used in this chapter, "transportation systems and facilities" means capital-related improvements and additions to the state's transportation infrastructure, including but not limited to highways, roads, bridges, vehicles, and equipment, marine-related facilities, vehicles, and equipment, park and ride lots, transit stations and equipment, transportation management systems, and other transportation-related investments. [1993 c 370 § 2.]

47.46.030 Demonstration projects—Selection. The secretary or a designee shall solicit proposals from, and negotiate and enter into agreements with, private entities to undertake as appropriate, together with the department and other public entities, all or a portion of the study, planning, design, construction, operation, and maintenance of transportation systems and facilities, using in whole or in part private sources of financing.

The public-private initiative program may develop up to six demonstration projects. Each proposal shall be weighed on its own merits, and each of the six agreements shall be negotiated individually, and as a stand-alone project. The commission shall approve each of the selected projects.

Proposals and demonstration projects may be selected by the public and private sectors at their discretion. All projects designed, constructed, and operated under this authority must comply with all applicable rules and statutes in existence at the time the agreement is executed, including but not limited to the following provisions: Chapter 39.12 RCW, this title, RCW 41.06.380, chapter 47.64 RCW, RCW 49.60.180, and 49 C.F.R. Part 21.

The secretary or a designee shall consult with legal, financial, and other experts within and outside state government in the negotiation and development of the agreements. [1993 c 370 § 3.]

47.46.040 Demonstration projects—Terms of agreements. Agreements shall provide for private ownership of the projects during the construction period. After

completion and final acceptance of each project or discrete segment thereof, the agreement shall provide for state ownership of the transportation systems and facilities and lease to the private entity unless the state elects to provide for ownership of the facility by the private entity during the term of the agreement.

The state shall lease each of the demonstration projects, or applicable project segments, to the private entities for operating purposes for up to fifty years.

The department may exercise any power possessed by it to facilitate the development, construction, financing operation, and maintenance of transportation projects under this chapter. Agreements for maintenance services entered into under this section shall provide for full reimbursement for services rendered by the department or other state agencies. Agreements for police services under the agreement may be entered into with any qualified law enforcement agency, and shall provide for full reimbursement for services rendered by that agency. The department may provide services for which it is reimbursed, including but not limited to preliminary planning, environmental certification, and preliminary design of the demonstration projects.

The plans and specifications for each project constructed under this section shall comply with the department's standards for state projects. A facility constructed by and leased to a private entity is deemed to be a part of the state highway system for purposes of identification, maintenance, and enforcement of traffic laws and for the purposes of applicable sections of this title. Upon reversion of the facility to the state, the project must meet all applicable state standards. Agreements shall address responsibility for reconstruction or renovations that are required in order for a facility to meet all applicable state standards upon reversion of the facility to the state.

For the purpose of facilitating these projects and to assist the private entity in the financing, development, construction, and operation of the transportation systems and facilities, the agreements may include provisions for the department to exercise its authority, including the lease of facilities, rights of way, and airspace, exercise of the power of eminent domain, granting of development rights and opportunities, granting of necessary easements and rights of access, issuance of permits and other authorizations, protection from competition, remedies in the event of default of either of the parties, granting of contractual and real property rights, liability during construction and the term of the lease, authority to negotiate acquisition of rights of way in excess of appraised value, and any other provision deemed necessary by the secretary.

The agreements entered into under this section may include provisions authorizing the state to grant necessary easements and lease to a private entity existing rights of way or rights of way subsequently acquired with public or private financing. The agreements may also include provisions to lease to the entity airspace above or below the right of way associated or to be associated with the private entity's transportation facility. In consideration for the reversion rights in these privately constructed facilities, the department may negotiate a charge for the lease of airspace rights during the term of the agreement for a period not to exceed fifty years. If, after the expiration of this period, the department continues to lease these airspace rights to the private entity, it shall do so only at fair market value. The agreement may also provide the private entity the right of first refusal to undertake projects utilizing airspace owned by the state in the vicinity of the public-private project.

Agreements under this section may include any contractual provision that is necessary to protect the project revenues required to repay the costs incurred to study, plan, design, finance, acquire, build, install, operate, enforce laws, and maintain toll highways, bridges, and tunnels and which will not unreasonably inhibit or prohibit the development of additional public transportation systems and facilities. Agreements under this section must secure and maintain liability insurance coverage in amounts appropriate to protect the project's viability and may address state indemnification of the private entity for design and construction liability where the state has approved relevant design and construction plans. Nothing in this chapter limits the right of the secretary and his or her agents to render such advice and to make such recommendations as they deem to be in the best interests of the state and the public. [1993 c 370 § 4.]

47.46.050 Financial arrangements. The department may enter into agreements using federal, state, and local financing in connection with the projects, including without limitation, grants, loans, and other measures authorized by section 1012 of ISTEA, and to do such things as necessary and desirable to maximize the funding and financing, including the formation of a revolving loan fund to implement this section.

Agreements entered into under this section shall authorize the private entity to lease the facilities within a designated area or areas from the state and to impose user fees or tolls within the designated area to allow a reasonable rate of return on investment, as established through a negotiated agreement between the state and the private entity. The negotiated agreement shall determine a maximum rate of return on investment, based on project characteristics. If the negotiated rate of return on investment is not affected, the private entity may establish and modify toll rates and user fees.

Agreements may establish "incentive" rates of return beyond the negotiated maximum rate of return on investment. The incentive rates of return shall be designed to provide financial benefits to the affected public jurisdictions and the private entity, given the attainment of various safety, performance, or transportation demand management goals. The incentive rates of return shall be negotiated in the agreement.

Agreements shall require that over the term of the ownership or lease the user fees or toll revenues be applied to payment of the private entity's capital outlay costs for the project, including interest expense, the costs associated with operations, toll collection, maintenance and administration of the facility, reimbursement to the state for the costs of project review and oversight, technical and law enforcement services, establishment of a fund to assure the adequacy of maintenance expenditures, and a reasonable return on investment to the private entity. The use of any excess toll revenues or user fees may be negotiated between the parties.

After expiration of the lease of a facility to a private entity, the secretary may continue to charge user fees or tolls

for the use of the facility, with these revenues to be used for operations and maintenance of the facility, or to be paid to the local transportation planning agency, or any combination of such uses. [1993 c 370 § 5.]

47.46.900 Effective date—1993 c 370. 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, 1993. [1993 c 370 § 7.]

Chapter 47.56
STATE TOLL BRIDGES, TUNNELS, AND FERRIES

Sections

47.56.770 Refunding bonds—Authorized. The state finance committee is authorized to issue refunding bonds and use other available money to refund, defease, and redeem all of those toll bridge authority, ferry, and Hood Canal bridge refunding revenue bonds under RCW 47.56.771 through 47.56.774. [1993 c 4 § 2.]

Legislative declaration—1993 c 4: "It is declared that it is in the best interest of the state to modify the debt service and reserve requirements, sources of payment, covenants, and other terms of the outstanding toll bridge authority, ferry, and Hood Canal bridge refunding revenue bonds." [1993 c 4 § 1.]

Effective date—1993 c 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 [March 12, 1993]." [1993 c 4 § 11.]

47.56.771 Refunding bonds—General obligation—Signatures, negotiability—Payment of principal and interest—Pledge of excise taxes. (1) The refunding bonds authorized under RCW 47.56.770 shall be general obligation bonds of the state of Washington and shall be issued in a total principal amount not to exceed fifteen million dollars. The exact amount of refunding bonds to be issued shall be determined by the state finance committee after calculating the amount of money deposited with the trustee for the bonds to be refunded which can be used to redeem or defease outstanding toll bridge authority, ferry, and Hood Canal bridge revenue bonds after the setting aside of sufficient money from that fund to pay the first interest installment on the refunding bonds. The refunding bonds shall be serial in form maturing at such time, in such amounts, having such denomination or denominations, redemption privileges, and having such terms and conditions as determined by the state finance committee. The last maturity date of the refunding bonds shall not be later than January 1, 2002.

(2) The refunding bonds shall be signed by the governor and the state treasurer under the seal of the state, which signatures shall be made manually or in printed facsimile. The bonds shall be registered in the name of the owner in accordance with chapter 39.46 RCW. The refunding bonds shall distinctly state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state, and shall contain an unconditional promise to pay the principal thereof and the interest thereon when due. The refunding bonds shall be fully negotiable instruments.

(3) The principal and interest on the refunding bonds shall be first payable in the manner provided in this section from the proceeds of state excise taxes on motor vehicle and special fuels imposed by chapters 82.36, 82.37, and 82.38 RCW.

(4) The principal of and interest on the refunding bonds shall be paid first from the state excise taxes on motor vehicle and special fuels deposited in the ferry bond retirement fund. There is hereby pledged the proceeds of state excise taxes on motor vehicle and special fuels imposed under chapters 82.36, 82.37, and 82.38 RCW to pay the refunding bonds and interest thereon, and the legislature hereby agrees to continue to impose the same excise taxes on motor vehicle and special fuels in amounts sufficient to pay, when due, the principal and interest on the refunding bonds. Not less than fifteen days prior to the date any interest or principal and interest payments are due, the state finance committee shall certify to the state treasurer such amount of additional money as may be required for debt service, and the treasurer shall thereupon transfer from the motor vehicle fund such amount from the proceeds of such excise taxes into the ferry bond retirement fund. Any proceeds of such excise taxes required for these purposes shall first be taken from that portion of the motor vehicle fund which results from the imposition of the excise taxes on motor vehicle and special fuels and which is distributed to the Puget Sound capital construction account. If the proceeds from excise taxes distributed to the state are ever insufficient to meet the required payments on principal or interest on the refunding bonds when due, the amount required to make the payments on the principal or interest shall next be taken from that portion of the motor vehicle fund which results from the imposition of excise taxes on motor vehicle and special fuels and which is distributed to the state, counties, cities, and towns pursuant to RCW 46.68.100 as now existing or hereafter amended. Any payments of the principal or interest taken from the motor vehicle or special fuel tax revenues which are distributable to the counties, cities, and towns shall be repaid from the first money distributed to the state not required for redemption of the refunding bonds or interest thereon. The legislature covenants that it shall at all times provide sufficient revenues from the imposition of such excise taxes to pay the principal and interest due on the refunding bonds. [1993 c 4 § 3.]

Legislative declaration—Effective date—1993 c 4: See notes following RCW 47.56.770.

47.56.772 Refunding bonds—Liquidation of existing bond funds. Upon the issuance of refunding bonds as authorized by RCW 47.56.770, the department of transportation may liquidate the existing bond fund and other funds and accounts established in the proceedings which authorized

the issuance of the outstanding toll bridge authority, ferry, and Hood Canal bridge refunding revenue bonds and apply the money contained in those funds and accounts to the defeasance and redemption of outstanding toll bridge authority, ferry, and Hood Canal refunding revenue bonds, except that prior to such bond redemption, money sufficient to pay the first interest installment on the refunding bonds shall be deposited in the ferry bond retirement fund. Money remaining in such funds not used for such bond defeasance and redemption or first interest installment on the refunding bonds shall be transferred to and deposited in the marine operating fund under RCW 47.56.775. [1993 c 4 § 4.]

Legislative declaration—Effective date—1993 c 4: See notes following RCW 47.56.770.

47.56.773 Refunding bonds—Repayment to Puget Sound capital construction account. Any money appropriated from the Puget Sound capital construction account under section 10, chapter 4, Laws of 1993 and expended to pay expenses of issuing the refunding bonds authorized by RCW 47.56.770, and any money in the Puget Sound capital construction account subsequently used to pay principal and interest on the refunding bonds authorized by RCW 47.56.770 shall be repaid to the Puget Sound capital construction account for use by the department of transportation. [1993 c 4 § 5.]

Legislative declaration—Effective date—1993 c 4: See notes following RCW 47.56.770.

47.56.774 Various bond issues—Charge against fuel tax revenues. Except as otherwise provided by statute, the refunding bonds issued under authority of RCW 47.56.770, the bonds authorized by RCW 47.60.560 through 47.60.640, the bonds authorized by RCW 47.26.420 through 47.26.427, and any general obligation bonds of the state of Washington which have been or may be authorized by the legislature after the enactment of those sections and which pledge motor vehicle and special fuel excise taxes for the payment of principal thereof and interest thereon shall be an equal charge and lien against the revenues from such motor vehicle and special fuel excise taxes. [1993 c 4 § 6.]

Legislative declaration—Effective date—1993 c 4: See notes following RCW 47.56.770.

47.56.775 Marine operating fund created. The marine operating fund, temporarily created by section 39(1), chapter 15, Laws of 1991 sp. sess., is created in the state treasury. [1993 c 4 § 7.]

Legislative declaration—Effective date—1993 c 4: See notes following RCW 47.56.770.

Chapter 47.60

PUGET SOUND FERRY AND TOLL BRIDGE SYSTEM

Sections

47.60.120 Other crossings—Infringement of existing franchises—Waivers. (1) If the department acquires or constructs, maintains, and operates any ferry crossings upon or toll bridges over Puget Sound or any of its tributary or connecting waters, there shall not be constructed, operated, or maintained any other ferry crossing upon or bridge over any such waters within ten miles of any such crossing or bridge operated or maintained by the department excepting such bridges or ferry crossings in existence, and being operated and maintained under a lawfully issued franchise at the time of the location of the ferry crossing or construction of the toll bridge by the department.

(2) The ten-mile distance in subsection (1) of this section means ten statute miles measured by airline distance. The ten-mile restriction shall be applied by comparing the two end points (termini) of a state ferry crossing to those of a private ferry crossing.

(3) The Washington utilities and transportation commission may, upon written petition of a commercial ferry operator certificated or applying for certification under chapter 81.84 RCW, and upon notice and hearing, grant a waiver from the ten-mile restriction. The waiver must not be detrimental to the public interest. In making a decision to waive the ten-mile restriction, the commission shall consider, but is not limited to, the impact of the waiver on transportation congestion mitigation, air quality improvement, and the overall impact on the Washington state ferry system. The commission shall act upon a request for a waiver within ninety days after the conclusion of the hearing. A waiver is effective for a period of five years from the date of issuance. At the end of five years the waiver becomes permanent unless appealed within thirty days by the commission on its own motion, the department, or an interested party.

(4) The department shall not maintain and operate any ferry crossing or toll bridge over Puget Sound or any of its tributary or connecting waters that would infringe upon any franchise lawfully issued by the state and in existence and being exercised at the time of the location of the ferry crossing or toll bridge by the department, without first acquiring the rights granted to such franchise holder under the franchise. [1993 c 427 § 1; 1984 c 7 § 307; 1961 c 13 § 47.60.120. Prior: 1949 c 179 § 6; Rem. Supp. 1949 § 6584-35.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.770 Jumbo ferry construction—Notice. Whenever the department is authorized to construct one or more new jumbo ferry vessels under this chapter, it shall publish a notice of its intent once a week for at least two consecutive weeks in at least one trade paper and one other paper, both of general circulation in the state. The notice shall contain, but not be limited to, the following information:

(1) The number of jumbo ferry vessels to be constructed and the proposed delivery date for each vessel;

(2) A short summary of the requirements for prequalification of bidders including a statement that prequalification is a prerequisite to consideration by the

department of any bid, and a statement that the bidder shall submit its bid for the vessel in compliance with the plans and specifications supplied by the state; and

(3) An address and telephone number that may be used to obtain the bid package. [1993 c 493 § 1.]

Effective date—1993 c 493: "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 [May 18, 1993]." [1993 c 493 § 8.]

47.60.772 Jumbo ferry construction—Bidding documents. The department shall send to any firm that requests it bidding documents specifying the criteria for the jumbo ferry vessels. The bid documents shall include, but not be limited to, the following information:

(1) Solicitation of a bid to deliver to the department vessels that are constructed as specified by the plans and specifications provided by the department;

(2) A requirement that bids submitted should include one bid for the construction of three vessels;

(3) The proposed delivery date for each vessel, the port on Puget Sound where delivery will be taken, and the location where acceptance sea trials will be held;

(4) The amount and form of required contract security under RCW 39.08.100;

(5) A copy of the vessel construction contract that will be signed by the successful bidder;

(6) The date by which bids for ferry vessel construction must be received by the department in order to be considered;

(7) A requirement that the contractor comply with all applicable laws, rules, and regulations including, but not limited to those pertaining to the environment, worker health and safety, and prevailing wages;

(8) A requirement that the vessels be constructed within the boundaries of the state of Washington except that equipment furnished by the state and components, products, and systems that are standard manufactured items are not subject to the in-state requirement under this subsection. For the purposes of this section, "constructed" means: The fabrication, by the joining together by welding or fastening of all steel parts from which the total vessel is constructed, including, but not limited to, all shell frames, longitudinals, bulkheads, webs, piping runs, wire ways, and ducting. "Constructed" also means the installation of all components and systems, including, but not limited to, equipment and machinery, castings, electrical, electronics, deck covering, lining, paint and joiner work, required by the contract. "Constructed" also means the interconnection of all equipment, machinery, and services, such as piping, wiring, and ducting;

(9) A requirement that all warranty work on the vessel be performed within the boundaries of the state of Washington, insofar as practicable;

(10) A statement that any bid submitted constitutes an offer and remains open until ninety days after the deadline for submitting bids, unless the firm submitting it withdraws it by formal written notice that is received by the department before the date and time specified for opening of the bids, together with an explanation of the requirement that all bids submitted be accompanied by a bid deposit in the amount of five percent of the bid amount; and

(11) A listing of all equipment to be furnished by the state. [1993 c 493 § 2.]

Effective date—1993 c 493: See note following RCW 47.60.770.

47.60.774 Jumbo ferry construction—Procedure on conclusion of evaluation. (1) Upon concluding its evaluation, the department may:

(a) Select the firm submitting the lowest responsible bid for the construction of new jumbo ferries, taking into consideration the requirements stated in the bid documents and rank the remaining firms, judging them by the same standards;

(b) Reject all bids not in compliance with the requirements contained in the bid documents;

(c) Reject all bids.

(2) The department shall immediately notify those firms that were not selected as the firm presenting the lowest responsible bid. The department's selection is conclusive unless appeal from it is taken by an aggrieved firm to the superior court of Thurston county within five days after receiving notice of the department's final decision. The appeal shall be heard summarily within ten days after it is taken and on five days' notice to the department. The court shall hear any appeal on the administrative record that was before the department. The court may affirm the decision of the department, or it may reverse the decision if it determines the action of the department was arbitrary or capricious. [1993 c 493 § 4.]

Effective date—1993 c 493: See note following RCW 47.60.770.

47.60.776 Jumbo ferry construction—Contract. (1) Upon selecting the firm that has submitted the lowest responsible bid for the construction of new jumbo ferries, and ranking the remaining firms in order of preference, the department shall:

(a) Sign a contract with the firm presenting the lowest responsible bid; or

(b) If a final agreement satisfactory to the department cannot be signed with the firm presenting the lowest responsible bid, the department may sign a contract with the firm ranked next lowest bidder. If necessary, the department may repeat this procedure with each firm in order until the list of firms has been exhausted, or reject all bids.

(2) In developing a contract for the construction of ferry vessels, the department may, subject to the provisions of RCW 39.25.020, authorize the use of foreign-made materials and components, products, and systems that are standard manufactured items in the construction of ferries in order to minimize costs. [1993 c 493 § 5.]

Effective date—1993 c 493: See note following RCW 47.60.770.

47.60.778 Jumbo ferry construction—Bid deposits. Bids submitted by firms under this section constitute an offer and shall remain open for ninety days. When submitted, each bid shall be accompanied by a deposit in cash, certified check, cashier's check, or surety bond in an amount equal to five percent of the bid amount, and no bid may be considered unless the deposit is enclosed. If the department awards a contract to a firm and the firm fails to enter into a contract or fails to furnish a satisfactory contract security as required by RCW 39.08.100, its deposit shall be forfeited to

the state and be deposited by the state treasurer to the credit of the Puget Sound capital construction account. Upon the execution of a ferry construction contract for the construction of new jumbo ferries, all bid deposits shall be returned. [1993 c 493 § 6.]

Effective date—1993 c 493: See note following RCW 47.60.770.

Chapter 47.64
MARINE EMPLOYEES—PUBLIC EMPLOYMENT RELATIONS

Sections

47.64.270 Insurance and health care. Until December 31, 1996, absent a collective bargaining agreement to the contrary, the department of transportation shall provide contributions to insurance and health care plans for ferry system employees and dependents, as determined by the state health care authority, under chapter 41.05 RCW; and the ferry system management and employee organizations may collectively bargain for other insurance and health care plans, and employer contributions may exceed that of other state agencies as provided in RCW 41.05.050, subject to RCW 47.64.180. On January 1, 1997, ferry employees shall enroll in certified health plans under the provisions of chapter 492, Laws of 1993. To the extent that ferry employees by bargaining unit have absorbed the required offset of wage increases by the amount that the employer's contribution for employees' and dependents' insurance and health care plans exceeds that of other state general government employees in the 1985-87 fiscal biennium, employees shall not be required to absorb a further offset except to the extent the differential between employer contributions for those employees and all other state general government employees increases during any subsequent fiscal biennium. If such differential increases in the 1987-89 fiscal biennium or the 1985-87 offset by bargaining unit is insufficient to meet the required deduction, the amount available for compensation shall be reduced by bargaining unit by the amount of such increase or the 1985-87 shortage in the required offset. Compensation shall include all wages and employee benefits. [1993 c 492 § 224; 1988 c 107 § 21; 1987 c 78 § 2; 1983 c 15 § 18.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Implementation—Effective dates—1988 c 107: See RCW 41.05.901.

Intent—1987 c 78: "The legislature finds that the provisions of RCW 47.64.270 have been subject to misinterpretation. The objective of this act is to clarify the intent of RCW 47.64.270 as originally enacted." [1987 c 78 § 1.]

Effective date—1987 c 78: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1987." [1987 c 78 § 3.]

Chapter 47.66
MULTIMODAL TRANSPORTATION PROGRAMS

Sections

47.66.010 Legislative declaration. There is significant state interest in assuring that viable multimodal transportation programs are available throughout the state. The legislature recognizes the need to create a mechanism to fund multimodal transportation programs and projects. The legislature further recognizes the complexities associated with current funding mechanisms and seeks to create a process that would allow for all transportation programs and projects to compete for limited resources. [1993 c 393 § 3.]

47.66.020 Selection committee—Membership. (1) There is hereby created a multimodal transportation programs and projects selection committee composed of twenty-one members: (a) One member appointed by the governor; (b) the assistant secretary responsible for planning from the department of transportation, the assistant secretary responsible for program development from the department of transportation, the assistant secretary responsible for marine transportation from the department of transportation, and the assistant secretary responsible for local programs from the department of transportation; (c) one representative from a transit system in an urbanized area with a population over two hundred thousand and one representative from a rural or small urban transit system in an area with a population less than two hundred thousand; (d) one member representing the ports; (e) one member representing nonmotorized transportation; (f) one mayor or member of a city legislative authority representing cities with populations over twenty thousand and currently a member of a metropolitan planning organization board; (g) one mayor or member of a city legislative authority representing cities and currently a member of a transit board; (h) one mayor or member of a city legislative authority representing cities with populations under twenty thousand; (i) chief city engineer, public works director, or other city employee with responsibility for public works activity; (j) one city planner; (k) one county executive or member of a county legislative authority representing counties with populations over one hundred twenty-five thousand and currently a member of a metropolitan planning organization board; (l) one county executive or member of a county legislative authority representing counties and currently a member of a transit board; (m) one county executive or member of a county legislative authority representing counties with populations under one hundred twenty-five thousand; (n) one county public works director, or county engineer or executive director for the county road administration board; (o) one county planner; (p) the executive director of the transportation improvement board; and (q) one member representing special needs transportation.

(2) All appointments of counties, cities, transit systems, and ports shall be made by the governor from a recommendation of an individual for each position submitted from their respective state-wide associations: The Washington association of counties, the association of Washington cities, the Washington state transit association, the community transportation association of the Northwest, and the Washington public ports association. The nonmotorized transportation member shall be appointed by the committee, using a public selection process. To the extent possible, the committee shall be broadly diverse in its representation, particularly with regard to geographic balance.

(3) Initial appointments shall be made no later than July 1, 1993, except for the nonmotorized representative who shall be appointed by September 1, 1993. The terms of appointment shall be for four years except that for initial appointments, the governor shall adjust term lengths to ensure that members' terms are staggered. In case of a vacancy the appointment shall be made by the appointing authority. A vacancy shall be deemed to have occurred on the committee when any member elected to public office leaves that office or is removed therefrom for any reason or when any member employed by a political subdivision terminates such employment for whatever reason.

(4) The committee shall elect a chair from among its members for a two-year term. [1993 c 393 § 4.]

47.66.030 Committee—Authority—Expenses. (1)(a) The multimodal transportation programs and projects selection committee is authorized and responsible for the final selection of programs and projects funded from the central Puget Sound public transportation account; public transportation systems account; high capacity transportation account; and the intermodal surface transportation and efficiency act of 1991, surface transportation program, statewide competitive.

(b) The committee may establish subcommittees of the full committee as well as technical advisory committees to carry out the mandates of this chapter.

(2)(a) Expenses of the committee, including administrative expenses for managing the program, shall be paid from the transportation fund.

(b) Members of the committee shall receive no compensation for their services on the committee, but shall be reimbursed for travel expenses incurred while attending meetings of the committee or while engaged on other business of the committee when authorized by the committee in accordance with RCW 43.03.050 and 43.03.060. [1993 c 393 § 5.]

47.66.040 Selection process—Local matching funds. (1) The multimodal transportation programs and projects selection committee shall select programs and projects based on a competitive process consistent with the mandates governing each account or source of funds. The competition shall be consistent with the following criteria:

(a) Local, regional, and state transportation plans;

(b) Local transit development plans; and

(c) Local comprehensive land use plans.

(2) The following criteria shall be considered by the committee in selecting programs and projects:

(a) Objectives of the growth management act, the high capacity transportation act, the commute trip reduction act, transportation demand management programs, federal and state air quality requirements, and federal Americans with disabilities act and related state accessibility requirements; and

(b) Energy efficiency issues, freight and goods movement as related to economic development, regional significance, rural isolation, the leveraging of other funds including funds administered by this committee, and safety and security issues.

(3) The committee shall determine the appropriate level of local match required for each program and project based on the source of funds. [1993 c 393 § 6.]

47.66.050 Duties of department. The department of transportation shall be responsible for providing staff support to the multimodal transportation programs and projects selection committee which shall be paid from the transportation fund and include, but not be limited to: (1) Assisting the committee in determining short and long-term funding needs; (2) assisting the committee in developing a selection process that adheres to criteria set in statute and other criteria set by the committee; (3) administering grants and ensuring that contracts are executed in a timely manner; (4) distribution of funds and status of accounts; (5) staff recommendations on policy and programs as appropriate; and (6) submitting to the legislative transportation committee an initial report no later than October 15, 1993, that includes but is not limited to: A committee membership roster, schedule of committee activities for the year, an explicit list of criteria for program and project selection created by the committee, program and project grants including projected grant duration, and the proposed process and procedures to be incorporated into the Washington State Administrative Code. Every year thereafter an annual report shall be submitted to the legislative transportation committee no later than January 1 that summarizes the activities of the committee. [1993 c 393 § 7.]

47.66.060 Schedule. The multimodal transportation programs and projects selection committee shall convene no later than August 1, 1993, and shall review the revenues available to the accounts under the committee's jurisdiction and adopt rules and procedures governing the program and project selection process that are consistent with state and federal requirements. The committee shall adopt procedures to be incorporated into the Washington Administrative Code.

Applicants shall submit applications for programs and projects to the committee for consideration no later than September 1, 1993.

The committee shall review and select applications, and award funds, based upon criteria common among fund sources or unique to each fund source, no later than November 1, 1993.

The committee shall be responsible for establishing subsequent annual schedules to ensure compliance with the responsibilities outlined in this chapter and with consideration to other program and project selection timelines. [1993 c 393 § 8.]

47.66.900 Effective date—1993 c 393. 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 [May 15, 1993]. [1993 c 393 § 10.]

Chapter 47.68

AERONAUTICS

(Formerly: Chapter 14.04 RCW, Aeronautics commission)

Sections

47.68.020 Definitions. As used in this chapter, unless the context clearly indicates otherwise:

(1) "Aeronautics" means the science and art of flight and including but not limited to transportation by aircraft; the operation, construction, repair, or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing, and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports or air navigation facilities; and instruction in flying or ground subjects pertaining thereto.

(2) "Aircraft" means any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air.

(3) "Airport" means any area of land or water which is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or right-of-way, together with all airport buildings and facilities located thereon.

(4) "Department" means the state department of transportation.

(5) "Secretary" means the state secretary of transportation.

(6) "State" or "this state" means the state of Washington.

(7) "Air navigation facility" means any facility, other than one owned or operated by the United States, used in, available for use in, or designed for use in aid of air navigation, including any structures, mechanisms, lights, beacons, markers, communicating systems, or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience, to the safe taking-off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities.

(8) "Operation of aircraft" or "operate aircraft" means the use, navigation, or piloting of aircraft in the airspace over this state or upon any airport within this state.

(9) "Airman or airwoman" means any individual who engages, as the person in command, or as pilot, mechanic, or member of the crew in the navigation of aircraft while under way, and any individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft engines, airframes, propellers, or appliances, and any individual who serves in the capacity of aircraft dispatcher or air-traffic control tower operator; but does not include any individual employed outside the United States, or any individual employed by a manufacturer of aircraft, aircraft engines, airframes, propellers, or appliances to perform duties as inspector or mechanic in connection therewith, or any individual performing inspection or mechanical duties in connection with aircraft owned or operated by the person.

(10) "Aeronautics instructor" means any individual who for hire or reward engages in giving instruction or offering to give instruction in flying or ground subjects pertaining to aeronautics, but excludes any instructor in a public school, university, or institution of higher learning duly accredited and approved for carrying on collegiate work, who instructs in flying or ground subjects pertaining to aeronautics, while in the performance of his or her duties at such school, university, or institution.

(11) "Air school" means any person who advertises, represents, or holds out as giving or offering to give instruction in flying or ground subjects pertaining to aeronautics whether for or without hire or reward; but excludes any public school, university, or institution of higher learning duly accredited and approved for carrying on collegiate work.

(12) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

(13) "Municipal" means pertaining to a municipality, and "municipality" means any county, city, town, authority, district, or other political subdivision or public corporation of this state.

(14) "Airport hazard" means any structure, object of natural growth, or use of land, which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off.

(15) "State airway" means a route in the navigable airspace over and above the lands or waters of this state, designated by the department as a route suitable for air navigation. [1993 c 208 § 4; 1984 c 7 § 342; 1947 c 165 § 1; Rem. Supp. 1947 § 10964-81. Formerly RCW 14.04.020.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.68.230 Aircraft, airman, and airwoman certificates required. It shall be unlawful for any person to operate or cause or authorize to be operated any civil aircraft within this state unless such aircraft has an appropriate effective certificate, permit or license issued by the United States, if such certificate, permit or license is required by the United States, and a current registration certificate issued by the secretary of transportation, if registration of the aircraft with the department of transportation is required by this chapter. It shall be unlawful for any person to engage in aeronautics as an airman or airwoman in the state unless the person has an appropriate effective airman or airwoman certificate, permit, rating or license issued by the United States authorizing him or her to engage in the particular class of aeronautics in which he or she is engaged, if such

certificate, permit, rating or license is required by the United States and a current airman's or airwoman's registration certificate issued by the department of transportation as required by RCW 47.68.233 or 47.68.234.

Where a certificate, permit, rating or license is required for an airman or airwoman by the United States or by RCW 47.68.233 or 47.68.234, it shall be kept in his or her personal possession when he or she is operating within the state. Where a certificate, permit or license is required by the United States or by this chapter for an aircraft, it shall be carried in the aircraft at all times while the aircraft is operating in the state and shall be conspicuously posted in the aircraft where it may be readily seen by passengers or inspectors. Such certificates shall be presented for inspection upon the demand of any peace officer, or any other officer of the state or of a municipality or member, official or employee of the department of transportation authorized pursuant to this chapter to enforce the aeronautics laws, or any official, manager or person in charge of any airport, or upon the reasonable request of any person. [1993 c 208 § 5; 1987 c 220 § 1; 1979 c 158 § 205; 1967 ex.s. c 68 § 2; 1967 ex.s. c 9 § 7; 1949 c 49 § 11; 1947 c 165 § 23; Rem. Supp. 1949 § 10964-103. Formerly RCW 14.04.230.]

47.68.234 Registration of airman and airwoman. The department shall require that every airman or airwoman that is not registered under RCW 47.68.233 and who is a resident of this state, or every nonresident airman or airwoman who is regularly performing duties as an airman or airwoman within this state, be registered with the department. The department shall charge an annual fee not to exceed ten dollars for each registration. A registration certificate issued under this section is to be renewed annually during the month of the registrant's birthdate.

The department shall use the registration fee imposed under this section for the purposes of: (1) Search and rescue of lost and downed aircraft and airmen or airwomen under the direction and supervision of the secretary; and (2) safety and education.

Registration is affected [effected] by filing with the department a certified written statement that contains the information reasonably required by the department. The department shall issue certificates of registration and, in connection with the certificates, shall provide requirements for the possession and exhibition of the certificates.

Failure to register as provided in this section is a violation of RCW 47.68.230 and subjects the offender to the penalties incident to this section. [1993 c 208 § 3.]

47.68.240 Penalties for violations. Any person violating any of the provisions of this chapter, or any of the rules, regulations, or orders issued pursuant thereto, shall be guilty of a misdemeanor and shall be punished as provided under chapter 9A.20 RCW, except that any person violating any of the provisions of RCW 47.68.220, 47.68.230, or 47.68.255 shall be guilty of a gross misdemeanor which shall be punished as provided under chapter 9A.20 RCW. In addition to, or in lieu of, the penalties provided in this section, or as a condition to the suspension of a sentence which may be imposed pursuant thereto, for violations of RCW 47.68.220 and 47.68.230, the court in its discretion may prohibit the violator from operating an aircraft within the state for such period as it may determine but not to exceed one year. Violation of the duly imposed prohibition of the court may be treated as a separate offense under this section or as a contempt of court. [1993 c 238 § 3; 1987 c 202 § 216; 1983 c 3 § 145; 1947 c 165 § 24; Rem. Supp. 1947 § 10964-104. Formerly RCW 14.04.240.]

Intent—1987 c 202: See note following RCW 2.04.190.

47.68.250 Registration of aircraft. Every aircraft shall be registered with the department for each calendar year in which the aircraft is operated or is based within this state. A fee of four dollars shall be charged for each such registration and each annual renewal thereof.

Possession of the appropriate effective federal certificate, permit, rating, or license relating to ownership and airworthiness of the aircraft, and payment of the excise tax imposed by Title 82 RCW for the privilege of using the aircraft within this state during the year for which the registration is sought, and payment of the registration fee required by this section shall be the only requisites for registration of an aircraft under this section.

The registration fee imposed by this section shall be payable to and collected by the secretary. The fee for any calendar year must be paid during the month of January, and shall be collected by the secretary at the time of the collection by him or her of the said excise tax. If the secretary is satisfied that the requirements for registration of the aircraft have been met, he or she shall thereupon issue to the owner of the aircraft a certificate of registration therefor. The secretary shall pay to the state treasurer the registration fees collected under this section, which registration fees shall be credited to the aeronautics account in the general fund.

It shall not be necessary for the registrant to provide the secretary with originals or copies of federal certificates, permits, ratings, or licenses. The secretary shall issue certificates of registration, or such other evidences of registration or payment of fees as he or she may deem proper; and in connection therewith may prescribe requirements for the possession and exhibition of such certificates or other evidences.

The provisions of this section shall not apply to:

(1) An aircraft owned by and used exclusively in the service of any government or any political subdivision thereof, including the government of the United States, any state, territory, or possession of the United States, or the District of Columbia, which is not engaged in carrying persons or property for commercial purposes;

(2) An aircraft registered under the laws of a foreign country;

(3) An aircraft which is owned by a nonresident and registered in another state: PROVIDED, That if said aircraft shall remain in and/or be based in this state for a period of ninety days or longer it shall not be exempt under this section;

(4) An aircraft engaged principally in commercial flying constituting an act of interstate or foreign commerce;

(5) An aircraft owned by the commercial manufacturer thereof while being operated for test or experimental purposes, or for the purpose of training crews for purchasers of the aircraft;

(6) An aircraft being held for sale, exchange, delivery, test, or demonstration purposes solely as stock in trade of an aircraft dealer licensed under Title 14 RCW;

(7) An aircraft based within the state that is in an unairworthy condition, is not operated within the registration period, and has obtained a written exemption issued by the secretary.

The secretary shall be notified within one week of any change in ownership of a registered aircraft. The notification shall contain the N, NC, NR, NL, or NX number of the aircraft, the full name and address of the former owner, and the full name and address of the new owner. For failure to so notify the secretary, the registration of that aircraft may be canceled by the secretary, subject to reinstatement upon application and payment of a reinstatement fee of ten dollars by the new owner. [1993 c 208 § 7; 1987 c 220 § 3; 1979 c 158 § 206; 1967 ex.s. c 9 § 8; 1955 c 150 § 11; 1949 c 49 § 12; 1947 c 165 § 25; Rem. Supp. 1949 § 10964-105. Formerly RCW 14.04.250.]

Severability—1987 c 220: See note following RCW 47.68.230.

Aircraft dealers: Chapter 14.20 RCW.

Definition of terms: RCW 14.20.010, 47.68.020.

47.68.255 Evasive registration. A person who is required to register an aircraft under this chapter and who registers an aircraft in another state or foreign country evading the Washington aircraft excise tax is guilty of a gross misdemeanor. [1993 c 238 § 2.]

Chapter 47.76
RAIL FREIGHT SERVICE

Sections

47.76.010 Recodified as RCW 47.76.200. See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.76.020 Recodified as RCW 47.76.220. See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.76.030 Recodified as RCW 47.76.250. See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.76.040 Recodified as RCW 47.76.280. See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.76.050 Recodified as RCW 47.76.290. See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.76.060 Recodified as RCW 47.76.300. See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.76.070 Recodified as RCW 47.76.310. See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.76.080 Recodified as RCW 47.76.320. See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.76.090 Recodified as RCW 47.76.330. See Supplementary Table of Disposition of Former RCW Sections, this volume.

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

47.76.110 Recodified as RCW 47.76.210. See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.76.120 Recodified as RCW 47.76.230. See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.76.130 Recodified as RCW 47.76.240. See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.76.140 Recodified as RCW 47.76.260. See Supplementary Table of Disposition of Former RCW Sections, this volume.

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

47.76.160 Recodified as RCW 47.76.270. See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.76.170 Recodified as RCW 47.76.340. See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.76.190 Recodified as RCW 47.76.350. See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.76.200 Legislative findings. The legislature finds that a balanced multimodal transportation system is required to maintain the state's commitment to the growing mobility needs of its citizens and commerce. Freight rail systems are important elements of this multimodal system. Washington's economy relies heavily upon the freight rail system to ensure movement of the state's agricultural, chemical, and natural resource products to local, national, and international markets. Since 1970, Washington has lost nearly one-third of its five thousand two hundred rail miles to abandonment and bankruptcies, leaving approximately three thousand four hundred rail miles.

Abandonment of rail lines and rail freight service may alter the delivery to market of many commodities. In addition, the resultant motor vehicle freight traffic increases the burden on state highways and county roads. In many cases, the cost of upgrading the state highways and county roads exceeds the cost of maintaining rail freight service. Thus, the economy of the state will be best served by a policy of maintaining and encouraging a healthy rail freight system by creating a mechanism which keeps rail freight lines operating if the benefits of the service outweigh the cost.

Recognizing the implications of this trend for freight mobility and the state's economic future, the legislature believes that better freight rail planning, better cooperation to preserve rail lines, and increased financial assistance from the state are necessary to maintain and improve the freight rail system within the state. [1993 c 224 § 1; 1983 c 303 § 4. Formerly RCW 47.76.010.]

Severability—1983 c 303: See RCW 36.60.905.

47.76.210 State freight rail program. The Washington state department of transportation shall implement a state freight rail program for rail coordination, planning, and technical assistance. [1990 c 43 § 2. Formerly RCW 47.76.110.]

Construction—Severability—Headings—1990 c 43: See notes following RCW 47.76.100.

47.76.220 State rail plan—Contents. (1) The department of transportation shall prepare and periodically update a state rail plan, the objective of which is to identify, evaluate, and encourage essential rail service. The plan shall:

(a) Identify and evaluate those rail freight lines that may be abandoned or have recently been abandoned;

(b) Quantify the costs and benefits of maintaining rail service on those lines that are likely to be abandoned; and

(c) Establish priorities for determining which rail lines should receive state support. The priorities should include the anticipated benefits to the state and local economy, the anticipated cost of road and highway improvements necessitated by the abandonment of the rail line, the likelihood the rail line receiving funding can meet operating costs from freight charges, surcharges on rail traffic, and other funds authorized to be raised by a county or port district, and the impact of abandonment on changes in energy utilization and air pollution.

(2) The state rail plan may be prepared in conjunction with the rail plan prepared by the department pursuant to the federal Railroad Revitalization and Regulatory Reform Act. [1993 c 224 § 2; 1985 c 432 § 1; 1983 c 303 § 5. Formerly RCW 47.76.020.]

Severability—1983 c 303: See RCW 36.60.905.

47.76.230 Freight rail planning. (1) The department of transportation shall continue its responsibility for the development and implementation of the state rail plan and programs, and the utilities and transportation commission shall continue its responsibility for intrastate rates, service, and safety issues.

(2) The department of transportation shall maintain an enhanced data file on the rail system. Proprietary annual station traffic data from each railroad and the modal use of major shippers shall be obtained to the extent that such information is available.

(3) The department of transportation shall provide technical assistance, upon request, to state agencies and local interests. Technical assistance includes, but is not limited to, the following:

(a) Abandonment cost-benefit analyses, to include the public and private costs and benefits of maintaining the service, providing alternative service including necessary road improvement costs, or of taking no action;

(b) Assistance in the formation of county rail districts and port districts; and

(c) Feasibility studies for rail service continuation and/or rail service assistance.

(4) With funding authorized by the legislature, the department of transportation shall develop a cooperative process to conduct community and business information programs and to regularly disseminate information on rail matters. The following agencies and jurisdictions shall be involved in the process:

(a) The state departments of community development and trade and economic development;

(b) Local jurisdictions and local economic development agencies; and

(c) Other interested public and private organizations. [1990 c 43 § 3. Formerly RCW 47.76.120.]

Construction—Severability—Headings—1990 c 43: See notes following RCW 47.76.100.

47.76.240 Freight rail preservation program. The state, counties, local communities, railroads, labor, and shippers all benefit from continuation of rail service and should participate in its preservation. Lines which provide

benefits to the state and local jurisdictions, such as avoided roadway costs, reduced traffic congestion, economic development potential, environmental protection, and safety, should be assisted through the joint efforts of the state, local jurisdictions, and the private sector.

State funding for rail service or corridor preservation must benefit the state's interests, which include reducing public roadway maintenance and repair costs, increasing economic development opportunities, preserving jobs, and enhancing safety, and is contingent upon appropriate local participation. Before spending state moneys on projects the department shall seek federal, local, and private funding participation to the greatest extent possible.

(1) The department of transportation shall continue to monitor the status of the state's light density line system through the state rail plan and various analyses, and shall seek alternatives to abandonment prior to interstate commerce commission proceedings, where feasible.

(2) The utilities and transportation commission shall intervene in interstate commerce commission proceedings on abandonments, when necessary, to protect the state's interest.

(3) As conditions warrant, the following criteria shall be used for identifying the state's essential rail system:

(a) Established regional and short-line carriers excluding private operations which are not common carriers;

(b) Former state project lines, which are lines that have been studied and have received funds from the state and federal governments;

(c) Lines serving major agricultural and forest product areas or terminals, with such terminals generally being within a fifty-mile radius of producing areas, and sites associated with commodities shipped by rail;

(d) Lines serving ports, seaports, and navigable river ports;

(e) Lines serving power plants or energy resources;

(f) Lines used for passenger service;

(g) Mainlines connecting to the national and Canadian rail systems;

(h) Major intermodal service points or hubs; and

(i) The military's strategic rail network.

(4) Local jurisdictions may implement rail service preservation projects in the absence of state participation.

(5) The department of transportation shall continue to monitor projects for which it provides assistance. [1993 c 224 § 3; 1990 c 43 § 4. Formerly RCW 47.76.130.]

Construction—Severability—Headings—1990 c 43: See notes following RCW 47.76.100.

47.76.250 Essential rail assistance account—Purposes. (1) The essential rail assistance account is created in the state treasury. Moneys in the account may be appropriated only for the purposes specified in this section.

(2) Moneys appropriated from the account to the department of transportation may be used by the department or distributed by the department to cities, county rail districts, counties, and port districts for the purpose of:

(a) Acquiring, rebuilding, rehabilitating, or improving branch rail lines;

(b) Purchasing or rehabilitating railroad equipment necessary to maintain essential rail service;

(c) Construction of transloading facilities to increase business on light density lines or to mitigate the impacts of abandonment; or

(d) Preservation, including operation, of viable light density lines, as identified by the Washington state department of transportation, in compliance with this chapter.

(3) The department, cities, county rail districts, counties, and port districts may grant franchises to private railroads for the right to operate on lines acquired under this chapter.

(4) The department, cities, county rail districts, counties, and port districts may grant trackage rights over rail lines acquired under this chapter.

(5) If rail lines or rail rights of way are used by county rail districts, port districts, state agencies, or other public agencies for the purposes of rail operations and are later abandoned, the rail lines or rail rights of way cannot be used for any other purposes without the consent of the underlying fee title holder or reversionary rights holder, or compensation has been made to the underlying fee title holder or reversionary rights holder.

(6) Projects should be prioritized on the basis of local financial commitment to the project as well as cost/benefit ratio. Counties, local communities, railroads, shippers, and others who benefit from the project should participate financially.

(7) Moneys received by the department from franchise fees, trackage rights fees, and loan payments shall be redeposited in the essential rail assistance account. Repayment of loans made under this section shall occur within a period not longer than fifteen years, as set by the department. The repayment schedule and rate of interest, if any, shall be determined before the distribution of the moneys.

(8) The state shall maintain a contingent interest in a line that has outstanding grants or loans. The owner may not use the line as collateral, remove track, bridges, or associated elements for salvage, or use it in any other manner subordinating the state's interest without permission from the department. [1993 c 224 § 4; 1991 sp.s. c 13 § 22; 1991 c 363 § 125; 1990 c 43 § 11. Prior: 1985 c 432 § 2; 1985 c 57 § 64; 1983 c 303 § 6. Formerly RCW 47.76.030.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Construction—Severability—Headings—1990 c 43: See notes following RCW 47.76.100.

Effective date—1985 c 57: See note following RCW 18.04.105.

Severability—1983 c 303: See RCW 36.60.905.

County rail districts: Chapter 36.60 RCW.

Port districts, acquisition and operation of facilities: RCW 53.08.020.

47.76.260 Rail corridors of state-wide significance. In rail banking situations where it is not practicable to implement or continue freight rail service operations until some future date and the line's right of way is available for acquisition or meets the criteria of this chapter:

(1) The department of transportation shall identify and evaluate rail corridors of state-wide significance in the state rail plan.

(2) The department shall preserve corridors of state-wide significance by acquiring the rights of way with funds

specifically appropriated from the essential rail banking account created in RCW 47.76.270.

(3) Acquisition of rights of way may also include track, bridges, and associated elements.

(4) All corridors acquired by governmental entities for future rail use shall be identified in the rail bank program.

(5) Any rail rights of way acquired with state money will be for present or future rail purposes and can only be used for other purposes with the consent of the Washington state department of transportation and the consent of the underlying fee title holder or reversionary rights holder, or if compensation has been made to the underlying fee title holder or reversionary rights holder. [1993 c 224 § 5; 1990 c 43 § 5. Formerly RCW 47.76.140.]

Construction—Severability—Headings—1990 c 43: See notes following RCW 47.76.100.

47.76.270 Essential rail banking account—Creation, uses. (1) The essential rail banking 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 the purposes specified in this section.

(2) Moneys in the account may be used by the department to:

(a) Acquire rail rights of way;

(b) Provide funding to cities, port districts, counties, and county rail districts to acquire rail rights of way; or

(c) Provide for essential corridor maintenance including drainage management and fire and weed control when necessary.

(3) Use of the moneys pursuant to subsection (2) of this section shall be for rights of way that meet the following criteria:

(a) The right of way has been identified and evaluated in the state rail plan prepared pursuant to this chapter;

(b) The right of way may be or has been abandoned; and

(c) The right of way has potential for future rail service. The department of transportation shall immediately report any expenditure of essential rail banking account funds on rail banking projects to the legislative transportation committee. The report shall include a description of the project, the project's rank in relation to other potential projects, the amount of funds expended, the terms and parties to the transaction, and any other information that the legislative transportation committee may require.

(4) The department may also expend funds from the receipt of a donation of funds sufficient to cover the property acquisition and management costs. The department may receive donations of funds for this purpose, which shall be conditioned upon, and made in consideration for the repurchase rights contained in RCW 47.76.280.

(5) The department or the participating local jurisdiction shall be responsible for maintaining the right of way, including provisions for drainage management, for fire and weed control, and for liability associated with ownership.

(6) Nothing in this section and in RCW 47.76.260 and 47.76.250 shall be interpreted or applied so as to impair the reversionary rights of abutting landowners, if any, without just compensation.

(7) The department shall develop guidelines for expenditure of essential rail banking funds in the best interest of the state.

(8) Moneys loaned under this section must be repaid to the state by the city, port district, county, or county rail district. The repayment must occur within a period not longer than fifteen years, as set by the department, of the distribution of the moneys and deposited in the essential rail banking account. The repayment schedule and rate of interest, if any, must be set at the time of the distribution of the moneys.

(9) The state shall maintain a contingent interest in any property that has outstanding grants or loans. The owner may not use the line as collateral, remove track, bridges, and associated elements for salvage, or use the line in any other manner subordinating the state's interest without permission from the department. [1993 c 224 § 6; 1991 sp.s. c 13 § 120; 1991 c 363 § 127; 1990 c 43 § 7. Formerly RCW 47.76.160.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Construction—Severability—Headings—1990 c 43: See notes following RCW 47.76.100.

47.76.280 Sale or lease for use as rail service—Time limit. The department may sell or lease property acquired under this chapter to a county rail district established under chapter 36.60 RCW, a county, a port district, or any other public or private entity authorized to operate rail service. Any public or private entity which originally donated funds to the department under this chapter shall receive credit against the purchase price for the amount donated to the department, less management costs, in the event such public or private entity purchases the property from the department.

If no county rail district, county, port district, or other public or private entity authorized to operate rail service purchases or leases the property within six years after its acquisition by the department, the department may sell or lease such property in the manner provided in RCW 47.76.290. Failing this, the department may sell or convey all such property in the manner provided in RCW 47.76.300 or 47.76.320. [1993 c 224 § 7; 1991 sp.s. c 15 § 61; 1991 c 363 § 126; 1985 c 432 § 3. Formerly RCW 47.76.040.]

Construction—Severability—1991 sp.s. c 15: See note following RCW 46.68.110.

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

47.76.290 Sale or lease for other use—Authorized buyers, notice, terms, deed, deposit of moneys. (1) If real property acquired by the department under this chapter is not sold to a public or private entity authorized to operate rail service within six years of its acquisition by the department, the department may sell or lease the property at fair market value to any of the following governmental entities or persons:

(a) Any other state agency;

(b) The city or county in which the property is situated;

(c) Any other municipal corporation;

(d) The former owner, heir, or successor of the property from whom the property was acquired;

(e) Any abutting private owner or owners.

(2) Notice of intention to sell under this section shall be given by publication in one or more newspapers of general circulation in the area in which the property is situated not less than thirty days prior to the intended date of sale.

(3) Sales to purchasers may, at the department's option, be for cash or by real estate contract.

(4) Conveyances made under this section shall be by deed executed by the secretary of transportation and shall be duly acknowledged.

(5) All moneys received under this section shall be deposited in the essential rail banking account of the general fund. [1993 c 224 § 8; 1991 sp.s. c 15 § 62; 1985 c 432 § 4. Formerly RCW 47.76.050.]

Construction—Severability—1991 sp.s. c 15: See note following RCW 46.68.110.

47.76.300 Sale for other use—Governmental entity. If real property acquired by the department under this chapter is not sold to a public or private entity authorized to operate rail service within six years of its acquisition by the department, the department may transfer and convey the property to the United States, its agencies or instrumentalities, to any other state agency, or to any county or city or port district of this state when, in the judgment of the secretary, the transfer and conveyance is consistent with the public interest. Whenever the secretary makes an agreement for any such transfer or conveyance, the secretary shall execute and deliver to the grantee a deed of conveyance, easement, or other instrument, duly acknowledged, as necessary to fulfill the terms of the agreement. All moneys paid to the state of Washington under this section shall be deposited in the essential rail banking account of the general fund. [1993 c 224 § 9; 1991 sp.s. c 15 § 63; 1985 c 432 § 5. Formerly RCW 47.76.060.]

Construction—Severability—1991 sp.s. c 15: See note following RCW 46.68.110.

47.76.310 Rent or lease of lands. The department is authorized subject to the provisions and requirements of zoning ordinances of political subdivisions of government, to rent or lease any lands acquired under this chapter, upon such terms and conditions as the department determines. [1993 c 224 § 10; 1991 sp.s. c 15 § 64; 1985 c 432 § 6. Formerly RCW 47.76.070.]

Construction—Severability—1991 sp.s. c 15: See note following RCW 46.68.110.

47.76.320 Sale at public auction. (1) If real property acquired by the department under this chapter is not sold, conveyed, or leased to a public or private entity within six years of its acquisition by the department, the department may, in its discretion, sell the property at public auction in accordance with subsections (2) through (5) of this section.

(2) The department shall first give notice of the sale by publication on the same day of the week for two consecutive weeks, with the first publication at least two weeks before the date of the auction, in a legal newspaper of general circulation in the area where the property to be sold is located. The notice shall be placed in both the legal notices section and the real estate classified section of the newspaper. The notice shall contain a description of the property, the time and place of the auction, and the terms of the sale. The sale may be for cash or by real estate contract.

(3) In accordance with the terms set forth in the notice, the department shall sell the property at the public auction to the highest and best bidder if the bid is equal to or higher than the appraised fair market value of the property.

(4) If no bids are received at the auction or if all bids are rejected, the department may, in its discretion, enter into negotiations for the sale of the property or may list the property with a licensed real estate broker. No property may be sold by negotiations or through a broker for less than the property's appraised fair market value. Any offer to purchase real property under this subsection shall be in writing and may be rejected at any time before written acceptance by the department.

(5) Conveyances made under this section shall be by deed executed by the secretary of transportation and shall be duly acknowledged.

(6) All moneys received under this section shall be deposited in the essential rail banking account of the general fund. [1993 c 224 § 11; 1991 sp.s. c 15 § 65; 1985 c 432 § 7. Formerly RCW 47.76.080.]

Construction—Severability—1991 sp.s. c 15: See note following RCW 46.68.110.

47.76.330 Eminent domain exemptions. Transfers of ownership of property acquired under this chapter are exempt from chapters 8.25 and 8.26 RCW. [1993 c 224 § 12; 1991 sp.s. c 15 § 66; 1985 c 432 § 8. Formerly RCW 47.76.090.]

Construction—Severability—1991 sp.s. c 15: See note following RCW 46.68.110.

47.76.340 Evaluating program performance. The department shall evaluate the state freight rail program performance at the end of six years (in 1996) with respect to past and current conditions and future needs. The results of this evaluation shall be presented to the legislative transportation committee. [1993 c 224 § 13; 1990 c 43 § 8. Formerly RCW 47.76.170.]

Construction—Severability—Headings—1990 c 43: See notes following RCW 47.76.100.

47.76.350 Monitoring federal rail policies. The department of transportation shall continue to monitor federal rail policies and congressional action and communicate to Washington's congressional delegation and federal transportation agencies the need for a balanced transportation system and associated funding. [1990 c 43 § 10. Formerly RCW 47.76.190.]

Construction—Severability—Headings—1990 c 43: See notes following RCW 47.76.100.

Chapter 47.79
HIGH-SPEED GROUND TRANSPORTATION

Sections

47.79.010 Legislative declaration. The legislature recognizes that major intercity transportation corridors in this state are becoming increasingly congested. In these corridors, population is expected to grow by nearly forty percent over the next twenty years, while employment will grow by nearly fifty percent. The estimated seventy-five percent increase in intercity travel demand must be accommodated to ensure state economic vitality and protect the state's quality of life.

The legislature finds that high-speed ground transportation offers a safer, more efficient, and environmentally responsible alternative to increasing highway capacity. High-speed ground transportation can complement and enhance existing air transportation systems. High-speed ground transportation can be compatible with growth management plans in counties and cities served by such a system. Further, high-speed ground transportation offers a reliable, all-weather service capable of significant energy savings over other intercity modes. [1993 c 381 § 1.]

47.79.020 Program established—Goals. The legislature finds that there is substantial public benefit to establishing a high-speed ground transportation program in this state. The program shall implement the recommendations of the high-speed ground transportation steering committee report dated October 15, 1992. The program shall be administered by the department of transportation in close cooperation with the utilities and transportation commission and affected cities and counties.

The high-speed ground transportation program shall have the following goals:

(1) Implement high-speed ground transportation service offering top speeds over 150 m.p.h. between Everett and Portland, Oregon by 2020. This would be accomplished by meeting the intermediate objectives of a maximum travel time between downtown Portland and downtown Seattle of two hours and thirty minutes by the year 2000 and maximum travel time of two hours by the year 2010;

(2) Implement high-speed ground transportation service offering top speeds over 150 m.p.h. between Everett and Vancouver, B.C. by 2025;

(3) Implement high-speed ground transportation service offering top speeds over 150 m.p.h. between Seattle and Spokane by 2030.

The department of transportation shall, subject to legislative appropriation, implement such projects as necessary to achieve these goals in accordance with the implementation plans identified in RCW 47.79.030 and 47.79.040. [1993 c 381 § 2.]

47.79.030 Project priority—Funding sources. The legislature finds it important to develop public support and awareness of the benefits of high-speed ground transportation by developing high-quality intercity passenger rail service as a first step. This high-quality intercity passenger rail service shall be developed through incremental upgrading of the existing service. The department of transportation shall, subject to legislative appropriation, develop a prioritized list of projects to improve existing passenger rail service and begin new passenger rail service, to include but not be limited to:

(1) Improvement of depots;

(2) Improved grade crossing protection or grade crossing elimination;

(3) Enhanced train signals to improve rail corridor capacity and increase train speeds;

(4) Revised track geometry or additional trackage to improve ride quality and increase train speeds; and

(5) Contract for new or improved service in accordance with federal requirements to improve service frequency.

Service enhancements and station improvements must be based on the extent to which local comprehensive plans contribute to the viability of intercity passenger rail service, including providing efficient connections with other transportation modes such as transit, intercity bus, and roadway networks. Before spending state moneys on these projects, the department of transportation shall seek federal, local, and private funding participation to the greatest extent possible. Funding priorities for station improvements must also be based on the level of local and private in-kind and cash contributions. [1993 c 381 § 3.]

47.79.040 Rail passenger plan. The legislature recognizes the need to plan for the high-speed ground transportation service and the high-quality intercity rail passenger service set forth in RCW 47.79.020 and 47.79.030. The department of transportation shall, subject to legislative appropriation, develop a rail passenger plan through the conduct of studies addressing, but not limited to, the following areas:

(1) Refined ridership estimates;

(2) Preliminary location and environmental analysis on new corridors;

(3) Detailed station location assessments in concert with affected local jurisdictions;

(4) Coordination with the air transportation commission on state-wide air transportation policy and its effects on high-speed ground transportation service; and

(5) Coordination with the governments of Oregon and British Columbia, when appropriate, on alignment, station location, and environmental analysis. [1993 c 381 § 4.]

47.79.900 Effective date—1993 c 381. 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, 1993. [1993 c 381 § 5.]

Chapter 47.86
AIR TRANSPORTATION COMMISSION

47.86.010 through 47.86.020 Repealed. (Effective April 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.86.030 Studies, reports—When due. (Effective until April 1, 1994.) 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, 1993, with completed reports to be presented to the legislative transportation committee 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. [1993 1st sp.s. c 23 § 18; 1992 c 190 § 3; 1991 c 231 § 7; 1990 c 298 § 41.]

Effective dates—1993 1st sp.s. c 23: "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 [May 28, 1993], except for sections 60 and 61, which shall take effect January 1, 1994." [1993 1st sp.s. c 23 § 65.]

47.86.030 Repealed. (Effective April 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.86.035 through 47.86.060 Repealed. (Effective April 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.86.900 through 47.86.901 Repealed. (Effective April 1, 1994.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Title 48
INSURANCE

Chapters